September 2018

REPAIRING THE ROAD TO REDEMPTION IN CALIFORNIA

CALIFORNIANS FOR SAFETY AND JUSTICE

CALIFORNIANS FOR SAFETY AND JUSTICE'S Second Chances Project's goal is to eliminate barriers to stability and empowerment in California for people with convictions. We engage in public education policy advocacy to reduce barriers and advocate for investments in community well-being for all Californians.

To this end, Californians for Safety and Justice brought together a group of content expert stakeholders to pool knowledge and conduct research based on the experiences of people with convictions and opportunities for reform.

The Second Chances Advisory Committee met six times between May and October of 2017 to discuss and collect current institutional research and experiential knowledge on the lifetime consequences of having a conviction in California. This report is the culmination of that work.

We hope to tangibly improve the lives of the estimated 8 million people living in California with prior convictions who currently face over 4,800 restrictions to participation in society.

Second Chances Advisory Committee

Acknowledgements

Christine Karamagi prepared this report with assistance from Selena Teji and Vishnu Sridharan.

About Californians for Safety and Justice

Californians for Safety and Justice (CSJ) is a nonprofit project of the Tides Center working to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. As part of that work, we support innovative efforts to increase safety and reduce costs by providing toolkits, trainings and peer-to-peer learning, and developing collaborative partnerships. Learn more at safeandjust.org.

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EXECUTIVE SUMMARY

In recent years, California has taken important steps to reduce its prison population and invest in a wide range of new safety priorities. Reforms such as Public Safety Realignment (AB 109), Proposition 47, and Proposition 57 have put the state on a new path to shared safety that emphasizes treatment and rehabilitation over long prison sentences that do not prevent crime or help victims heal and recover.

Yet for the nearly one in five Californians (an estimated 8 million people) still living with an old criminal conviction, their past involvement with the criminal justice system has hidden but long-lasting effects.

Californians with convictions face over 4,800 laws that impose harmful collateral consequences long after successful completion of a sentence, most of which have no foundation in public safety and serve no purpose other than to make it harder for people to rebuild their lives. Importantly, most people living with a conviction have completed their sentence and lived crime free for years or even decades. Most have been convicted of misdemeanor or low-level felony offenses, and the vast majority have never served time in prison.

To address this crisis, Californians for Safety and Justice (CSJ) convened a group of leading experts to develop a first-of-its-kind study on the impact of collateral consequences and the opportunity to advance solutions that will eliminate barriers to success and offer real second chances to millions of Californians.

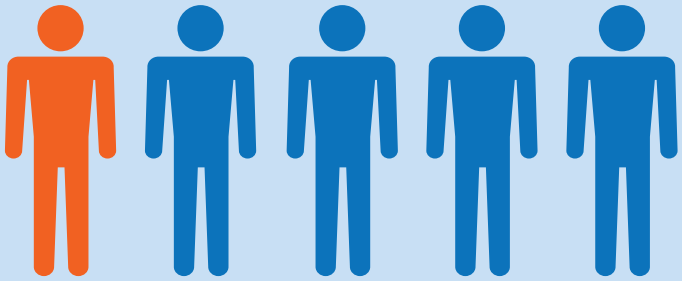
Based on the experiences of people living with criminal records and the challenges they face in overcoming those convictions, this groundbreaking research highlights the most pernicious roadblocks, the long-term effects on individuals, families, and communities and recommendations to increase legal remedies and remove unnecessary restrictions.

The impacts of a criminal conviction and barriers to success

The collateral consequences of convictions are wide ranging and far reaching, including the loss of civil rights, parental rights, public benefits, employment opportunities, housing eligibility, and the freedom to live and work without restriction.

Convictions can prevent someone from serving in the military, working in hundreds of regulated industries or becoming a government employee or contractor. An old conviction can prevent someone from adopting or fostering a grandchild, driving a car or even accessing victims' services. For immigrant Californians, a conviction can also lead to deportation, even if the conviction is for a low-level crime and the person is not a risk to public safety.

> **"YOU HAVE TO DO NOT ONE THING, YOU HAVE TO DO EVERYTHING,** where it's all aimed at turning lives around. That's public safety."
>
> **GOV. JERRY BROWN**



1 in 5 Californians (an estimated 8 million people) still living with an old criminal conviction

While some of these restrictions may make sense in certain cases, most do far more harm than good. In fact, keeping people in the shadows of old convictions imposes significant costs on families, businesses, and communities. According to one study, the United States loses $87 billion in lost Gross Domestic Product (GDP) every year because of restrictions on people with criminal convictions.

Most importantly, the vast majority of collateral consequences cannot be justified from a crime prevention standpoint. After people have completed their sentence and paid their dues to society, economic and family stability reduce the likelihood of returning to crime. Stable housing and employment for people with convictions have been shown to reduce recidivism, whereas restrictions that limit access to job opportunities, civic participation, education, and other pro-social activities have been shown to exacerbate the challenges they face.

Rather than protecting public safety, blanket restrictions and systemic barriers contribute to the cycle of crime. Beyond housing and jobs, people with convictions also struggle to afford childcare, health insurance and medical care – including drug or mental health treatment – and educational opportunities that can help them become productive and contributing members of families, communities and the economy.

As part of this study, CSJ commissioned a survey of people with criminal convictions to better understand the most common barriers to success.[1] Findings from phone and online surveys of more than 2,000 Californians in September 2017 revealed that nearly eight in ten people with a criminal conviction (76%) have been negatively impacted. Among the challenges that people face are:

5 in 10 (46%)
have difficulty finding a job

5 in 10 (45%)
struggle to pay fines and fees

4 in 10 (40%)
have trouble sleeping or other health issues

4 in 10 (35%)
have difficulty obtaining occupational licenses

2 in 10 (24%)
have difficulty finding housing

People with criminal records come from all walks of life. However, the survey also found that convictions disproportionately impact people of color, people living in urban areas, people without a college degree and people who are low income. In addition, national researchers estimate that as many as 36 million children have at least one parent with a conviction—nearly half of all children in the country.

All told, the collateral consequences of old criminal convictions are overwhelmingly counterproductive and unfair, do not protect public safety, and limit the ability of many law-abiding people to take care of themselves and their families.

The path forward and recommendations for reform

Recent law changes have created new opportunities for people with convictions to clear or change their records. Today, there are more than 2 million people in California who are eligible to clear their records, and reduce the harm caused by old convictions. Public education on these opportunities, as well as increased access to legal assistance and other forms of support, are critical to helping people overcome the bureaucratic hurdles that exist.

Dismissals and other forms of expungement can limit the amount and type of information that shows up on background checks, but in California old convictions can never truly be erased. Dismissed convictions can still be used in criminal or deportation proceedings, do not restore certain rights (e.g., the right to serve on a jury), and can still be seen and considered by public and private employers in many cases.

California should build on the efforts of many local governments and private employers to reduce collateral consequences, increase opportunities for rehabilitation, and facilitate full expungement and record change. When people with convictions have paid their debt to society, they deserve a full chance at success and the opportunities available to other Californians.

Recommendations include:

- **Sunset convictions.** California must end its current system that imposes punishments—through lifelong collateral consequences—far beyond sentence completion. The most fair and effective approach is to adopt uniform policies that call for automatic, mandatory destruction, or "purging," of stale arrests or criminal history information upon conclusion of a sentence or when a person has remained crime free for a specified time.

- **Consolidate the expungement process.** California's existing "clean slate" laws are complicated and fail to effectively remove collateral consequences. California must replace its outdated system with a new, comprehensive remedy that includes a unified process rather than the dozens of existing processes. The remedy would require a single filing for a given petitioner, not separate filings for multiple cases and would include reporting protections.

- **Reduce barriers to obtaining occupational licenses.** To ensure that all qualified people are given a fair chance to pursue careers, and to strengthen California's workforce, licensing boards should be permitted to use criminal history only when that criminal history is plausibly related to a person's ability to successfully work in the licensed profession. Specifically, licensing boards should not be permitted to deny a license for most felony convictions older than seven years and misdemeanor convictions older than three years.

- **Extend funding for workforce development agencies.** Funds dedicated to workforce development programs, reentry, and rehabilitation should be extended to people with conviction records who are not under supervision. Additionally, funding should be expanded to include substance abuse assistance, temporary and overnight housing, community college and vocational education programs, expungements and clean slate remedies, and supportive services.

- **Reduce immigration consequences through expungement.** Immigrants with California convictions should not suffer mandatory, permanent, and lifetime banishment from the United States. Tearing immigrant families apart on the basis of a family member's criminal history destabilizes communities, decreasing public safety. California needs to pursue real policy reform by expanding the legal vehicles to vacate old convictions and decreasing the hurdles for immigrants to erase or mitigate the ongoing and lifelong damage that can be caused by even a single low-level conviction.

- **Reduce criminal justice debt.** Californians are subject to fines and fees at every stage of the criminal justice process. It is critical for California to reduce the number and amount of financial obligations facing people with convictions, as well as provide greater relief for those struggling to make payments on court-ordered debt or the

> **"MY WIFE AND CHILDREN EXPERIENCE THE SAME CONSEQUENCES I DO.** When I am denied housing, they are denied housing too."
>
> **TERRANCE STEWART**
> Organizer, Inland Empire Congregations for Change

associated costs (interest, late fees, collection fees, etc.). indigent defendants should be exempt from user fees (i.e., fines imposed for the sole purpose of raising revenue) and any court-ordered fines or victim restitution should be based on an individual's ability to pay. Additional pressures such as arrest warrants and driver license restrictions should be eliminated and more opportunities should be offered to reduce debt through community service and other exemption waivers.

- **Advance criminal justice reforms that prioritize reducing the cycle of crime and improving community health and well being.** California should expand mental health and substance abuse treatment options and invest in affordable and supportive housing. Investing in these new safety priorities could result in public cost savings, improved health status, and reduced involvement in the criminal justice system.

8 in 10 people with a criminal conviction (76 percent) have experienced barriers to success

Personal Story: **Anthony Turner**

THE FIRST JOB HE HAD TAKEN AWAY FROM HIM was as a community health worker for the City of Los Angeles. Just three weeks after he took the position, Anthony Turner was fired because of his criminal record. Next, he got a job as a ticket taker at the Staples Center, and the same thing happened. He went through training and got his uniform and work schedule. Then, just days before he was supposed to start, he was informed that he couldn't work there.

Unfortunately for Anthony, California's ban-the-box law only applies to job applications; it means employers can't make hiring decisions based on an individual's criminal history. Once someone is on the job, however, different rules apply. With Anthony under community supervision after serving nearly 10 years in prison on drug charges, his employers decided he was a risk.

It's not just jobs that Anthony has been denied. He also is having trouble finding a place to live. Based on his drug charges, he is not allowed to receive any cash benefits, including food stamps and housing assistance. After applying for housing four times and being turned away, Anthony is currently living with his father. "Your record should not ban you from the opportunity to get a place to live," Anthony says. "It's complete discrimination."

> "**WE HAVE A HUGE PROBLEM WITH MASS INCARCERATION** in this country. We need to change this."

Recently, Anthony was connected with a program funded by the Amity Foundation to support people who were incarcerated to get back on their feet. Through his contacts at Amity Foundation, he started working as a volunteer with Californians for Safety and Justice, providing peer mentoring for other formerly incarcerated people and presenting clinics on issues such as record expungement. Anthony also served in a six-month internship with the Drug Policy Alliance.

"Looking ahead I want to remain an activist and humanitarian," he says. "I want to continue to help our communities."

But to help others, Anthony also needs to help himself, and he is having a tough go of it because of his criminal record. Based on his experience, Anthony believes that formerly incarcerated people should have an opportunity to clear their records.

"We have a huge problem with mass incarceration in this country," Anthony says. "We need to change this."

INTRODUCTION

Nearly one in five Californians (an estimated 8 million people) are living with a record of prior convictions.[2] They come from all walks of life—young, old, wealthy, poor, mothers and fathers—and their convictions range in severity, from misdemeanors to felonies; some are decades old. Yet for many, having a prior conviction, no matter how far in the past, has become akin to a scarlet letter that prevents them from being able to fully participate in society, often for the rest of their lives.

Driven by tough-on-crime era politics, California spent the 1980s and 1990s passing stringent sentencing laws, increasing the number of felonies and expanding the number of people going into prisons and jails.[3] Between 1984 and 1991, more than 1,000 felony sentencing laws were passed, including more than 100 sentence enhancements across 21 separate sections of California law.[4] Incarceration rates and prison spending skyrocketed through the decade, with poor communities and communities of color bearing the brunt of the laws.[5]

For far too many, the consequences of a conviction last far longer than the sentence itself. Millions of Californians with prior convictions struggle for a fair chance at rebuilding their lives. Once people with convictions have paid their debt to society, they find the road to redemption blocked by restrictions, limitations and bans across nearly every facet of life.

> **"I WASN'T INFORMED ABOUT THE LONG-TERM CONSEQUENCES OF MY CONVICTION** before or after I accepted a plea deal for seven years and eight months in 2004. It wasn't until my release in 2012 that I learned about the hidden sentence I would experience for the rest of my life.
>
> When I was released I had a plan to succeed but little by little my plan crumbled. I couldn't become a welder, an auto body and paint technician or a barber. I couldn't even scrub toilets and mop floors at the local hospital.
>
> The more I tried to contribute to my community, the more I faced barriers. The most socially isolating are the ones that have to do with political and civic participation, like never being able to adopt a child relative or coach your child's soccer team."
>
> **JAY JORDAN**
> Director, Second Chances Project, Californians for Safety and Justice

Widely adopted in America until the end of the 19th century, "civil death" was a punishment associated with the conviction of felony or treason.[6] In the period prior to execution, the state essentially ended an individual's legal life: people convicted had to forfeit any property and wealth to the state, they could neither transmit their estate nor inherit and their civil rights were completely extinguished.[7] By the mid-twentieth century many civil death statutes were repealed or voided as prison terms replaced capital punishment.[8]

In many ways, the concept of civil death has surreptitiously re-emerged. Since the 1980s legislators increasingly enacted laws to restrict the movement and rights of people with convictions after the full-term of their sentence had been completed.[9] From the 1980s to 1996, an increased number of states increased criminal registration and made a felony conviction grounds for divorce, termination of parental rights and being denied rights to public employment, voting, holding public office and serving as a juror.[10]

Today, Californians with convictions face over 4,800 laws that place post-sentence completion restrictions on their lives through state and federal laws.[11]

Of those restrictions, 58% limit employment and occupational licenses that open the door to critical workforce sectors like healthcare and finance. 73% are lifetime bans.[12] These barriers have long-lasting, deep ripple effects. When people are disenfranchised from work, school, family life and civic responsibility, our communities suffer. The cycle of poverty persists and future generations bear the consequences. The overall health of the community declines. People short on alternatives—many of them crushed under court-ordered debt—end up back in jail or prison.

Due to the rise in mass convictions and increase in governmental regulation, the impacts of these laws are profound. For instance, losing the ability to apply for work with the government or in a regulated industry can make earning a livelihood in many parts of the state extremely difficult. This was not the case in the past when fewer businesses and professions were regulated or required a government contract.[13] Also, technological advancements, such as the Internet and data automation, have made conviction records more available to the government and public than in the past.[14]

In November 2014, California voters passed Proposition 47, a measure that reclassified numerous low-level crimes from felonies to misdemeanors and authorized people with prior felony convictions for these crimes to apply for record change. This landmark ballot measure and subsequent efforts to help people with old felony convictions change their criminal records helped shine a spotlight on the roadblocks to stability millions of individuals with convictions face.[15] Since the measure passed, hundreds of thousands of people have been able to apply for record change. But the opportunity to change some old records has also highlighted how many more hurdles people with convictions face and how much more needs to be done to make second chances real. Options to remove or "clean up" old convictions are sparse and often coupled with steep financial and legal hurdles. Even when an old conviction can be changed, it is not removed. Many legal hurdles to stability are still in place. There remains no real pathway to expungement in California.

Today, in California, most people agree that placing these types of restrictions on people after they have paid their debt to society is counterproductive, unfair and unsafe.

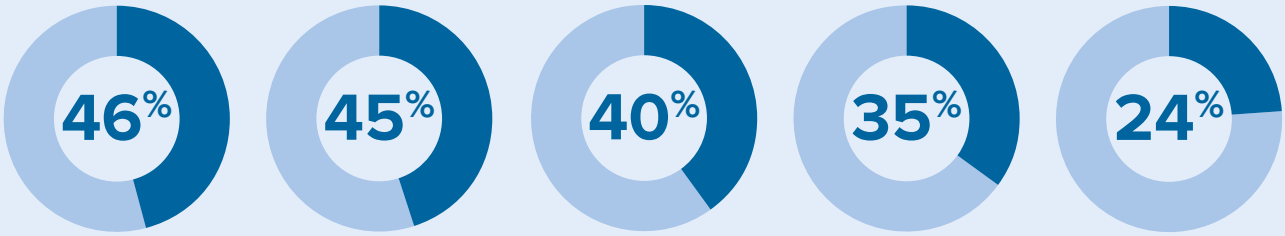
This report examines the current landscape of barriers that prevent people with convictions from getting a fair chance at rebuilding and reclaiming their lives after they have completed their sentence. The report provides an overview and analysis of legal resources individuals with records have to reduce these restrictions; examines innovations in mitigating the barriers affecting people with convictions; and lays out concrete steps state and local governments can take right now to create a pathway to stability for people with convictions that will improve the economy, public safety and community well-being for all Californians.

We need all Californians to be contributing members of our society in order for California to thrive. It's time to remove the scarlet letter of a prior conviction and build stronger communities.

WHO ARE PEOPLE WITH CONVICTIONS?

Californians for Safety and Justice commissioned a first-of-its-kind survey of people impacted by the criminal justice system in September 2017.[16]

The negative impacts that people with felony convictions experience include:



difficulty finding a job

struggle paying fines or fees

health issues including difficulty sleeping

difficulty obtaining an occupational license

difficulty finding housing

The negative impacts of a felony conviction disproportionately impact people of color, people living in urban areas, people without a college degree, and people who are low income. The largest disparities relate to finding a job or housing.

People of color are

29% more likely than white people to report difficulty finding a job

61% more likely to report difficulty finding housing

Respondents with household incomes less than $25,000 vs. those with incomes greater than $75,000 are

2X as likely to report difficulty finding a job

3X as likely to report difficulty finding housing

Personal Story: **Cymone Reyes**

CYMONE IS A COUNSELING COORDINATOR WORKING WITH LGBT YOUTH. As a transgender woman, she loves being able to help young LGBT people navigate their way to a successful and rewarding life. But lately she's finding it harder to do her job as effectively as possible. The reason: Cymone has a criminal record.

In 2003, a friend moved in with Cymone. The friend was having a tough time and became a heavy drug user. Before long, it got so bad that Cymone gave him 30 days to move out. It was during that 30-day period that Cymone and the friend went to look at a car she was interested in buying. To Cymone's surprise, the friend stole the vehicle. Cymone and the friend were both arrested and spent three years in jail.

She completed her sentence and since her release, Cymone has been trying to rebuild her life. However, because of her conviction, she is not allowed to go into group homes, schools and juvenile detention centers to asses and intake new and potential clients; her conviction makes it hard for her to do her job.

> "**ONCE WE'VE PROVEN OURSELVES, THERE SHOULD BE A TIME PERIOD,** there should be a way to expunge it or seal it to remove the mark for all intents and purposes."

Before her conviction, Cymone was starting the process of adopting a child, but she says getting approved for adoption is now out of the question.

Reflecting on her conviction and her years in prison, Cymone has a new appreciation for how people can get caught up in situations largely beyond their control. She says getting arrested and going to jail is a disorienting experience; your life stops and it's hard to find a way back to normal. She believes formerly incarcerated people need rehabilitation services, treatment, therapy, halfway houses and other supports. She also believes there should be a way to clear your record so you can get a good job and build a better future.

"Once we've proven ourselves, there should be a time period, there should be a way to expunge it or seal it to remove the mark for all intents and purposes," she says.

Cymone had never committed a crime or gotten in trouble with the law before that incident, and she has not gotten in trouble since. She has maintained a clean record ever since she served her time and completed her sentence. But she still faces big barriers because of that mark on her record, and she wants it gone.

ROADBLOCKS: WHAT ARE THE BARRIERS TO STABILITY PEOPLE WITH CONVICTIONS FACE?

Employment

Access to gainful employment is strongly correlated with a reduced likelihood that people re-entering society from the criminal justice system will return to crime. Communities with higher employment rates experience lower crime rates and lower rates of recidivism.[17] Still, despite the positive impacts employment opportunities for people with convictions can have on public safety, numerous legal restrictions make it difficult for people with convictions to gain employment. In addition to outright prohibitions on employment in certain fields, employers are less likely to hire a candidate with a conviction history.[18] Studies show that an estimated 72% of U.S. employers use background checks[19] to screen their applicants and many are unwilling to hire applicants with convictions.[20]

Nearly 75% of formerly incarcerated individuals are still unemployed a year after release.[21] The effects of barriers to employment vary by race, and African Americans are most negatively impacted.[22] Even when an individual is hired, their conviction can make it difficult to move up the ladder as promotions can (re)trigger background checks.[23]

State laws and regulations have created a number of the obstacles that block people with records from gaining employment. Through occupational licensure, states regulate which individuals can practice a trade or profession by requiring specific qualifications. Nationally, there are an estimated 32,000 laws regarding the consideration of criminal records in occupational and business licensing.[24] Of these, more than a third are automatic exclusions such as blanket bans for applicants with any type of a felony conviction.[25]

> **"APPLICATIONS THAT HAVE THE BOX CHECKED OFTEN GO TO THE BOTTOM OF THE RESUME PILE.** Blanket practices from employers prevent you from being considered."
>
> **LUIS BARRERA CASTAÑÓN**
> Director of Strategic Operations
> Goodwill Industries of Southern California

Due to these overly broad restrictions, people with convictions are being excluded from entire industries. Rapidly growing sectors—healthcare, education and finance—have some of the strictest background check restrictions for state licenses.[26] For example, Registered Nurse positions rank second in anticipated overall growth from 2014 to 2024, with 439,000 new jobs expected. However, in 47 states, including California, a felony conviction is grounds to deny a nursing license.[27]

> "Many of our clean slate participants are working in the in-home care industry **BUT THEY CAN'T TURN IT INTO A MEDICAL CAREER.** So, while there is a growing industry, many people are locked out of it."
>
> **ELLEN MCDONNELL**
> Assistant Public Defender, Contra Costa Public Defender's Office

CALIFORNIA: AMONG THE MOST BURDENSOME LICENSING LAWS

California requires licenses for approximately 300 occupations[28] and 21% of its 19 million workers.[29] The Department of Consumer Affairs (DCA) with its 40 boards, bureaus, commissions and programs oversees most licensing in the state.[30] In 2012, California required licenses for more low-income jobs than almost any other state in the nation and ranked seventh in "most burdensome licensing laws" nationwide.[31] On average, a California applicant paid $300 in licensing fees, spent 549 days in education and/or training and had to pass one exam in order to become licensed.[32]

> **"I NEED A FORM OF LICENSURE ADVOCACY.** I think the ceiling needs to come off. I have a Master's Degree and I'm getting my Doctorate. I still can't teach. I taught my grandmother how to teach. I've had a love of teaching since I was a baby. I wish someone would advocate for me that I deserve to teach."
>
> **MARILYN BARNES**
> Executive Director, Black is Still Beautiful

Housing

Experts in reentry often list barriers to stable housing as among the most difficult barriers people with convictions face. Stable housing, like employment, is strongly correlated with reduced recidivism and increased capacity for people with convictions to become contributing members of society.

When people with convictions are barred from housing, they lose out on a platform that can ensure their employment, health, family reunification and community inclusion—and their likelihood of recidivism increases.[33] As a result, many, particularly individuals reentering after incarceration, experience homelessness and transient living.[34] Living on the streets brings its own dangers, which can make it difficult to remain law-abiding.[35] Nationally, an estimated 25%-50% of people who are homeless were formerly incarcerated.[36]

In California, the ongoing housing affordability crisis has exacerbated barriers to housing for people with convictions.[37] Housing assistance programs are vital options for people with convictions. A 2014 study showed that the reentry services most likely to show positive outcomes for people with convictions were housing assistance programs, particularly those packaged with job training and health screenings.[38]

The nation's two major housing assistance programs are the Public Housing Program (Public Housing) and the Section 8 Housing Choice Voucher Program (Section 8). Whereas Public Housing participants are provided rental housing,[39] Section 8 participants typically search for their own housing in the private market and the local Public Housing Agency administering the program pays a housing subsidy directly to the landlord.[40]

Currently, federal law prohibits individuals with certain convictions from participating in either program indefinitely or for a specified period.[41] It also gives

> "My wife and children experience the same consequences I do. **WHEN I AM DENIED HOUSING, THEY ARE DENIED HOUSING TOO."**
>
> **TERRANCE STEWART**
> Organizer, Inland Empire Congregations for Change

local public housing authorities and private landlords broad discretion in screening prospective tenants for eligibility.[42] While some of these prohibitions may be geared toward protecting tenants' safety, the broad discretion in eligibility screening can exclude people who pose no risk to their neighbors and who have remained law-abiding.[43] For instance, an analysis of Oakland Housing Authority's screening showed that 75% of individuals "screened out" in the first round due to a conviction history request an informal hearing. Of these individuals, 64% were able to appeal and have the decision reversed.[44]

Education

A wealth of evidence indicates educational programming is one of the most effective approaches to reducing recidivism.[45] Still, individuals with convictions, particularly if they have been incarcerated, must overcome significant obstacles in accessing educational and vocational training programs. Lower educational attainment is directly associated with increased arrest and incarceration rates, particularly for men.[46] Nationally, roughly 40% of incarcerated individuals lack a high school diploma or GED; among individuals with a high school diploma or GED, 46% lack post secondary education.[47] Decreased access to education makes it harder for an individual to access well paying jobs, forge strong community ties and disengage from risk-taking behaviors—thus increasing the likelihood of crime involvement.[48]

Federal law creates barriers to education for people with convictions. In 1994, Congress passed the Violent Crime Control and Law Enforcement Act (VCCLEA), H.R. 3355, Pub.L. 103–322, which President Clinton signed into law on September 13, 1994.[49] The VCCLEA included a provision that amended Section 401 of the Higher Education Act to prohibit awarding Pell Grants to individuals who are incarcerated.[50] These federal grants are awarded for undergraduate and vocational study based on need; they are not loans and do not have to be repaid. In 1998, the Higher Education Act was amended to prevent students with drug convictions from receiving federal financial aid to attend an institution of higher learning.[51] The Act was later amended to only apply to those who committed a drug offense while receiving federal financial aid.[52]

In addition to financing challenges, individuals with convictions face stigma due to criminal history screening in higher education. In 2006, the Common Application, the undergraduate college admission application used by more than 600 institutions across the country, began asking applicants to disclose their past adjudications and convictions.[53] A 2010-2011 survey of 124 heads of admissions found that a majority of respondents were reluctant to admit otherwise qualified applicants as a result of their conviction history.[54] Proponents of criminal history screening in

> **"IF EDUCATION IS ONE OF THE MOST IMPORTANT FACTORS** in breaking the intergenerational cycles of crime, poverty and hopelessness, why are we taking the opportunity away from people with convictions?"
>
> **TIMOTHY SMITH**
> Director of Reentry Strategic Partnerships
> Building Opportunity for Self-Sufficiency

higher education admissions have argued that it makes campuses safer, however research on the correlation between criminal history screening and improved campus safety shows no link.[55]

As a result of criminal history screening, some applicants with convictions limit their applications to institutions that do not ask about criminal history records, or do not apply to their first choice schools. Even upon gaining admission, students with convictions still have to jump through many hoops. Some institutions place students with convictions on supervision or disciplinary probation.[56] At community colleges, students with felony convictions cannot work for a work-study program or volunteer in an official capacity for youth programs. It is also almost impossible to get a campus job at a community college with a felony conviction.[57]

Public benefits

When people with convictions are denied public benefits, they are restricted from accessing resources that can help them make ends meet during dire economic circumstances. This makes it harder to stabilize their lives and avoid re-arrest. A recent study on newly released individuals with drug convictions found that eligibility for welfare and food stamps significantly reduces the risk of returning to prison within a year by up to 10%.[58]

Both federal and state law ban individuals with certain convictions from receiving public benefits. In 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).[59] The law places a lifetime ban on Temporary Assistance to Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP) benefits to individuals convicted in state or federal courts of a felony involving the possession, use or distribution of a controlled substance. The PRWORA gave states the discretion to fully enforce the ban, opt out of it or modify it.[60] At the time, California chose not to opt out and fully implemented PRWORA's lifetime ban.[61] In 2014, responding to years of pressure from advocacy groups,[62] California changed course by fully opting out of the PRWORA ban on people with drug convictions.[63]

Under California law, individuals with certain convictions related to Medi-Cal benefits may lose their eligibility[64] and individuals who lose their job as a result of a conviction may be ineligible for unemployment benefits.[65]

California law also permanently bans individuals convicted of crimes involving fraud, dishonesty, misrepresentation or money-laundering from receiving TANF and SNAP benefits.[66] Individuals who flee to avoid prosecution, custody or confinement after conviction are permanently ineligible for public assistance unless pardoned by the governor.[67]

Immigration

Contrary to some public commentary, decades of research confirms that there is no relationship between immigration and increased crime.[68] Immigrants—both legal and undocumented—commit less crime and are less likely to be incarcerated or engage in criminal behavior than native-born Americans.[69] U.S. cities with growing immigrant populations have been experiencing a decline in crime rates, specifically violent and property crime rates.[70] Research suggests that this is due to immigrants' strong familial ties, political participation, orientation to the justice system and positive economic impact.[71]

> **"THERE'S MISINFORMATION THAT A FELONY CONVICTION** is what makes an individual deportable, however, it's the federal designation. Even an infraction may make an individual deportable."
>
> **ROSE CAHN**
> Criminal and Immigrant Justice Attorney, Immigrant Legal Resource Center

CALIFORNIA IS HOME TO MORE IMMIGRANTS THAN ANY OTHER STATE

California is home to about 25% of the nation's immigrants – more than 10 million individuals.[81] Approximately a quarter of the nation's green card holders[82] and over a third of the nation's undocumented population,[83] who make up an estimated 10% of California's workforce,[84] live in California. Half of California's children live in a home with at least one foreign-born parent.[85]

Immigration is governed by federal laws, which when applied to state classifications can create severe barriers. Immigrants with convictions—including longtime lawful permanent residents ("green card holders")—and immigrants listed in a California gang database[72] can face deportation for even minor offenses such as failing to pay a public transportation fee ("turnstile jumping").[73] This is particularly relevant in California, which is home to about 25% of the nation's immigrants, more than 10 million individuals.[74]

In many cases, judges are required to detain and deport individuals regardless of the particular circumstances of the case or the impact deportation will have on the individual and their family.[75] Deportation can have a devastating impact on families, separating children from their parents, leaving families without a primary income and permanently barring the deported person from returning to their family in the United States.[76] The mental and physical health of family members left behind, especially children, suffer as they oftentimes experience stress, depression, social withdrawal and disruptions in eating and sleeping.[77]

The federal "aggravated felony" designation results in mandatory deportation; requires mandatory immigration detention; and strips an immigration judge of the discretion to even consider the length of a green card holder's residence in the United States, the nature of the crime, or the impact deportation would have on innocent U.S. children. This federal designation can include many low level nonviolent state offenses, such as cultivation of marijuana, tax fraud, and misdemeanor grand theft.[78]

For some cases, even if an individual had no convictions on their record, arrests alone can be relevant to deportation proceedings if they provide evidence of drug abuse, prostitution, or, for youth, involvement in drug sales.[79] For undocumented immigrants, just being arrested could expose them to deportation proceedings regardless of their guilt or innocence.[80]

Fines and fees

Individuals with convictions, including traffic violations, are almost always required to pay fines and fees as part of their punishment ("court-ordered debt").[86] Approximately 80 distinct statutes or subdivisions, spread throughout various California statutory codes, authorize courts to impose fines and fees in criminal cases.[87] The specific fines and fees imposed and their amounts often vary from county to county.[88]

Certain statutes allow for an "ability to pay" determination to be conducted for certain fines and fees. Other statutes, such as misdemeanor traffic violations,[89] are not subject to an "ability to pay" determination. In many cases, even where defendants have the legal right to an "ability to pay" determination, courts do not conduct the hearings as provided by law. As a result, fines and fees are not reduced.[90] These practices disproportionately impact low-income communities of color who are further ensnared in poverty as they have little to no means of paying their court-ordered debt.[91] Families often bear the burdens

> **"I HAVE A CLIENT THAT JUST CAN'T GET OFF PROBATION** because they can't afford the fees to pay it. So their probation just continued."
>
> **STEVE KIM**
> Executive Director, Project Kinship

of court-ordered debt, which can total nearly a year's income in some cases.[92] Even if an individual pays off their court-ordered debt, it is often at the expense of meeting other necessities.

People who are unable to pay court-ordered debt face a maze of consequences that diminish economic stability and increase the likelihood of recidivism.[93] If court-ordered debt has not been paid within 20 days of the due date, collection programs begin adding sanctions to compel payment.[94] Pressure tactics include additional fees, wage garnishment by the Federal Tax Board, bank levies, driver's license holds and suspensions.[95] In 2015, the California Department of Motor Vehicles (DMV) reported that over 4 million drivers licenses were suspended in recent years for failure to pay court-ordered debt or appear on a citation—affecting about one in six California drivers.[96]

Failure to pay can stand in the way of clearing one's conviction record, gaining employment and obtaining public assistance.[97] It can damage credit reports.[98] Unlike consumer debt, which can be discharged, court-ordered debt is usually not dischargeable in bankruptcy and may not be subject to statutes of limitation.[99] Outstanding court-ordered debt can also lead to re-incarceration, revocation of parole[100] or extension of any form of community supervision.[101] Data from the Judicial Council of California shows that, in ten counties, approximately 700 people per month were booked in jail and detained for an average of three days in fiscal year 2015-2016 related to a failure to pay and driving with a suspended license.[102] This consumes scarce law enforcement and corrections resources that would otherwise go toward monitoring individuals who actually pose a significant public safety risk.[103]

A recent study conducted in 12 states, including California, shows that the average debt incurred because of a criminal conviction is $13,607.[104] In California, the base fine for adult felony offenses currently ranges from $300 to $10,000. Misdemeanor base fines range from $150 to $1,000.[105] Additional charges, such as forfeitures, penalty surcharges, assessments, restitution orders, etc., significantly increase the total amount owed.

Figure 1. Calculation of court-ordered debt for a misdemeanor DUI in California[106]

A misdemeanor DUI, with a base fine of $390, could result in a total court-ordered debt of over $6000 due to additional charges.[107]

Base fine for a misdemeanor DUI		**$390**
Standard Charges		
Alcohol class or driving education alcohol drug class*	Up to $4000	$4000
State Penalty Assessment	$10 for every $10 of a base fine	$390
County Penalty Assessment	$7 for every $10 of a base fine	$273
Court Construction Penalty Assessment	$5 for every $10 of a base fine	$195
Proposition 69 DNA Penalty Assessment	$1 for every $10 of a base fine	$39
DNA Identification Fund Penalty Assessment	$4 for every $10 of a base fine	$156
EMS Penalty Assessment	$2 for every $10 of a base fine	$78
EMAT Penalty Assessment	$4 per conviction	$4
State Surcharge	20% of base fine	$78
Court Operations Assessment	$40 per conviction	$40
Conviction Assessment Fee	$35 per infraction conviction; $30 per felony or misdemeanor conviction	$30
Night Court Fee	$1 per fine and fee imposed	$1
Restitution Fine	$150 minimum per misdemeanor conviction; $300 minimum per felony conviction	$150
	Total	**$5434**
Other potential additional charges		
Mothers against Drunk Driving court-ordered program	Up to $70	$70
Breathalyzer car installation	Up to $100	$100
County Alcohol and Drug Program Penalty	Up to $100	$100
DUI Lab Test Penalty Assessment	Actual costs up to $50 for specific violations	$50
Alcohol Education Penalty Assessment	Up to $50	$50
	Total	**$370**
Total amount owed (base fine plus charges)		**$6194**

*Classes are mandatory for people convicted of a DUI offense in California and can lead to incarceration if an individual does not complete the class.

Note: The fines and fees depicted in this graph are not an exhaustive list of all the fines and fees that an individual convicted of a misdemeanor DUI might be charged.

PAYING FOR YOUR OWN INCARCERATION[110]

Individuals with convictions may be subject to fines and fees while incarcerated.

- Approximately **$15–19** for a 15-minute phone call.
- **$3–$5** to see a doctor while in jail or in California Department of Corrections and Rehabilitation.
- **$2.75** for a "starter kit" upon entry. Kit contents differ amongst facilities but usually contain a small comb, toothbrush, toothpaste and pre-stamped envelope.
- **$65+** for glasses in California Department of Corrections and Rehabilitation.
- **$500+** for orthopedic shoes (e.g. if an individual is diabetic).
- Jail custodian fee of **$110–$150** per day per individual.
  - Riverside county charges individuals incarcerated in jails a fee of **$110.40** per night to reimburse the county for food, clothing and health care.

There are many other fees for those involved in the criminal justice system. Californians supervised by probation officers are charged probation supervision fees that may range from $3,000 to $3,500. Other possible fees for individuals involved in the criminal justice system can include a $250-$500 per month for an ankle monitor with a $120-$150 registration fee, daily payments for a breathalyzer and fees for programs relating to anger management, substance abuse, mental health and domestic violence.[108] The majority of these classes are offered by private providers that do not reduce the fees if a person is indigent. Individuals in different income brackets, say a surgeon and a homeless mother of five, are charged the same fees.[109]

In 2015-2016, largely low income people struggling financially after convictions paid a total of $1.6 billion in criminal fines and fees – 44% ($720 million) of which was delinquent debt from past years.[111] These funds go back to courts, which are then used to pursue debt collection.[112]

Stigma and system-induced trauma

The lifetime impacts of unaddressed trauma, especially exposure in early childhood or chronic exposure, are profound. They include shorter life expectancies, long-term health and mental health challenges, and a higher risk of substance abuse or economic difficulties.[113]

Research also shows that trauma exposure significantly increases the odds of being arrested or imprisoned, with post-traumatic stress disorders contributing to criminal justice involvement.[114] For example, findings from the National Survey of American Life revealed that 80% of African American respondents with a history of incarceration had been exposed trauma prior to their involvement in crime.[115]

> **"I WAS TRYING TO BECOME AN ATTORNEY** but the background check was a barrier. It was a very real and severe psychological stressor that I didn't sit for the Bar exam."
>
> **TROY VAUGHN**
> Executive Director, Los Angeles Regional Reentry Partnership

WHAT IS SYSTEM-INDUCED TRAUMA?[122]

Public systems that are intended to hold people who commit crimes accountable are often trauma-inducing, especially for people who enter these systems with significant histories of trauma. These practices include the use of coercive practices, such as seclusion and restraints in the behavioral health system; the abrupt removal of a child from their family by the child welfare system; the use of invasive procedures in the medical system; the harsh disciplinary practices in educational/school systems; or intimidating practices in the criminal justice system.

After a person has completed his or her sentence, living with the stigma of having a conviction can also be traumatic and can further lead to hopelessness, indifference, depression, anger, isolation or feelings of exclusion.[116] People with convictions can be discouraged from applying to certain jobs, pursuing educational opportunities or seeking services for fear of their conviction coming to light. It can also negatively impact one's sense of belonging to their community.[117]

Prisons and jails expose individuals to high rates of violence, physical and/or sexual assaults, inadequate medical care, the absence of genuine respect and regard for one's well being, and severe sensory deprivation.[118] For individuals who have experienced trauma early in life, the harsh, punitive and uncaring nature of incarceration can be re-traumatizing.[119] In such environments, many people develop hypervigilance, social withdrawal and post-traumatic stress disorder,[120] which make it difficult for them to readjust to society and reconnect with loved ones once they are released from prison or jail.[121]

Access to victim services

People with convictions often come from communities where we have invested in incarceration over crime prevention and treatment and have, themselves, experienced high rates of trauma.[123] Once an individual has a conviction, they are more vulnerable to becoming a victim of crime.[124] Others may target people with convictions for crime because they perceive that a person with a conviction may be less likely to seek help from law enforcement.[125] Given that people with convictions are disproportionately victimized,[126] it's counterproductive for public safety to exclude people with convictions from victim services.

In California, people with convictions are often prevented from accessing victim services.[127] Individuals on any form of community supervision are ineligible for victim compensation in California.[128] California also denies victim compensation claims to individuals listed in the state's gang databases[129] and people who are seen as "contributing to their own victimization" or as "not cooperating with law enforcement." These denials disproportionately affect low-income, high crime communities.[130]

> "When I was on parole, I got stabbed but **I COULD NOT GET VICTIM COMPENSATION."**
>
> **INGRID ARCHIE**
> Prop 47 Specialist/Civic Engagement Coordinator/Organizer, A New Way of Life

Community supervision

An individual can be placed under correctional supervision in the community after release from prison or in place of incarceration itself. In California, parole is a condition of release for individuals exiting state prison.[131] Probation is part of a local sentence, either as an alternative to incarceration or in addition to incarceration.[132] Nearly three out of every four people in the justice system are on some type of community supervision for all or part of their sentence.[133] Probation terms are typically 3-5 years.[134]

While probation supervision can be an effective mechanism to hold people who commit crimes accountable and address underlying drivers of crime, some core supervisory conditions and practices may be overly broad or inappropriate based on the risk posed by the individual on probation, making reintegration difficult.[135] One such condition is the restriction of movement. This condition is usually applied to all individuals on community supervision even if they are at no risk of flight. Individuals are usually required to ask parole or probation officers for permission to travel more than 50 miles from their residence. Many are required to wear electronic monitoring instruments,[136] such as ankle monitors, which must be recharged roughly every three hours. Some ankle monitor cords are short: individuals must plug themselves to wall sockets for long intervals throughout the day. When applied to people who pose no risk, these restrictions can hurt public safety, for they disrupt people's ability to pursue employment opportunities or maintain stable employment.

> **"I'VE EXPERIENCED 20 POLICE UNITS COMING TO MY HOUSE** and they treat you as if you're still in custody and go through your house. Cause a ruckus, stigmatizing, upsets neighborhoods. Some people have been evicted by their landlords because of it."
>
> **ANTHONY TURNER**
> Collateral Consequences Committee, The Los Angeles Regional Reentry Partnership

Individuals must also undergo compliance checks while on community supervision, typically conducted by a team of law enforcement officials who can arrive armed and unexpected at one's home. These checks, sometimes conducted like raids, can be extremely distressing and have led to individuals being evicted by their landlords. Some compliance checks have been conducted openly in front of neighbors or strangers, stripping an individual of their privacy and dignity. Some compliance checks are outsourced to contractors, complicating communications between offices. It is not uncommon for an individual cleared for compliance to receive repeat intrusions, often within a short and unreasonable time frame.[137]

> **"OUR WHOLE REASON FOR HAVING PROBATION IS PUBLIC SAFETY,** successful rehabilitation and successful reentry back into the community. The way that the system is set up right now, it's almost impossible to have a successful reentry. There are so many obstacles for individuals, which makes it hard for us to meet our goal. Our goal is public safety and reintegration back into the community."
>
> **FERNANDO GIRALDO**
> Probation Chief, Santa Cruz County Department of Probation

Individuals on community supervision are required to disclose their community supervision status upon interaction with law enforcement, upon which law enforcement is authorized to conduct searches without a warrant. While it is important for t law enforcement to have information about an individual's status on probation or parole, some individuals report that they have experienced harassment as a result of being known to law enforcement as someone on supervision.[138]

Family cohesion

Nationally, between 33 million and 36.5 million children have at least one parent with a conviction record—nearly half of all children in the nation.[139] People with convictions, especially people who have been incarcerated, are at a heightened risk of losing custody of their children or having their parental rights terminated under the 1997 Adoption and Safe Families Act (AFSA). The law terminates the rights of parents whose children are in foster care for 15 months unless they fulfill a variety of criteria such as providing secure housing for their children.[140] One study found that 39% of formerly incarcerated parents, in Oakland, either lost custody of their children or had their parental rights terminated in March 2014.[141] A conviction can also be a barrier to becoming a foster parent or a kinship caregiver.[142]

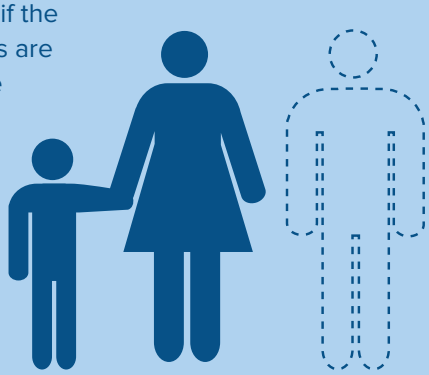
> **"MY WIFE'S BROTHER GOT IN TROUBLE FOR CHILD NEGLECT.** We had a three bedroom house but they wouldn't let him live with us because of my prior conviction. They had to put the baby into the system."
>
> **TERRANCE STEWART**
> Organizer, Inland Empire Congregations for Change

CALIFORNIA'S STRICT TIME LIMITS ON FAMILY REUNIFICATION PLANS

In California, the most recent estimates suggest that 503,000 children (approximately 5% of children statewide) have had a parent who has been incarcerated at some point in their lives.[143] California law grants incarcerated parents a set period of time to meet the requirements of a reunification plan—typically between 6 to 12 months, depending on the age of a child.[144] In rare cases, the deadline may be extended to 18 months.[145]

During this time, incarcerated parents receive court-ordered services after their child enters foster care. Following the allotted deadline, a child is either reunited with the parent or a different plan is set into motion—one that no longer prioritizes reunification and may include the termination of parental rights. For parents with younger children, the latter may be inevitable as their children are often placed in an expedited adoption process.[146]

If a parent is deported, it is in effect a permanent lifetime ban. The most recent numbers show that more than 5,100 U.S. citizen children were living in foster care as a result of their parents' detention or deportation in 2011. Nearly a quarter of these children were California residents.[147] The ability of the deported parent to regain custody or participate in custody proceedings is extremely limited. ICE may consider facilitating reentry for the deported parent only if the proceedings are to terminate parental rights.[148]



Individuals with convictions who are successfully reunited with their children may still be subject to parenting restrictions, such as being barred from volunteering at their child's school events, getting on the school buses or being on a Parent-Teacher Association.[149] Although it is legally permitted for all individuals, regardless of their conviction, to drop off or pick up their children from school or attend parent-teacher conferences, advanced permission from the school may be necessary.[150]

Civic engagement

When people with convictions are restricted from voting and serving as jurors, they are discouraged from committing to the larger social and political collective. This creates exclusion that can harm an individual's successful reintegration into society.

In California, people with felony convictions in prison and on parole cannot vote.[151] A misdemeanor conviction does not affect an individual's right to vote.[152] The right to vote is restored automatically once a sentence is complete—no administrative action or procedure is necessary. This increases public safety, with studies showing that people who vote are less likely to be re-arrested than people who do not.[153]

Individuals on any form of community supervision (probation, post-release community supervision or mandatory supervision) and in jail can vote.[154] Due to misinformation, however, many believe that they do not have the right to vote.

An individual who has been convicted of a felony is disqualified from serving on a jury unless the person's civil rights have been restored or the conviction is reduced to a misdemeanor or dismissed.[155] A person can restore civil rights in California by: 1) being granted a Certificate of Rehabilitation and Pardon; or 2) through a direct pardon from the governor.[156] If the conviction was for a crime punishable by imprisonment of more than one year, the individual is disqualified from serving on a federal grand or petit jury unless their civil rights have been restored under federal law, which requires a presidential pardon.[157]

> **"THOUGH VOTING RIGHTS ARE RESTORED HERE IN CALIFORNIA,** people don't know. Individuals don't know they can vote when they are on probation, they don't know they can vote in jail."
>
> **TIM KORNEGAY**
> Democracy Fellow, LA Voice

Personal Story: **Reyna Perez Hernandez**

AFTER MANY YEARS OF HARDSHIP — AND HARD WORK — things were looking up for Reyna Perez Hernandez in 2014. She had arrived in the United States from Mexico as a toddler and grew up in an abusive foster home. Despite the challenges, she completed high school as an A student, studied for a medical assistant certificate, and secured a job managing billing for a medical office in Orange County. She had a green card and her application for U.S. citizenship had been approved. She was awaiting word about her oath ceremony to make it official.

But then one night everything changed. She was driving an acquaintance's car when, after stopping in apartment complex parking lot, a police officer approached and asked for Reyna's license and registration. The registration was not in the car, so the officer searched it and found drugs.

"I had no idea there were drugs in that car," Reyna says. "No idea at all."

> **I AM NOT A DANGER TO THE COMMUNITY.** I have given to other people. I have paid taxes all my life. I just want to get my life back, like how it was before.

Reyna was charged with possession of drugs for sale - her first and only criminal offense. She was assigned a lawyer who encouraged her to plead guilty. She served 43 days in county jail. Then she was transferred to immigration detention, where she was shocked to learn she was subject to mandatory deportation as an "aggravated felon."

Reyna has three children ranging in age from 8 to 13. During her eight months at the ICE detention facility, her kids were placed in a foster home and had to enroll in new schools. "They could only see me once a month for 30 minutes," Reyna says of her time in detention. "In detention, they aren't allowed to touch you or hug you or anything."

She was finally released and reunited with her children. But she is still at risk of getting deported. She has to report in regularly to ICE, and they track her location 24-7 by GPS.

Reyna is very worried about the future, both for herself and for her kids. She says having a criminal record is a deal breaker when it comes to finding jobs in the medical field.

"I am not a danger to the community," she says. "I have given to other people. I have paid taxes all my life. I just want to get my life back, like how it was before."

DERAILMENT: WHAT ARE THE LONG-TERM EFFECTS ON INDIVIDUALS, FAMILIES AND COMMUNITIES?

When people have served their time and paid their dues for committing a crime, it's both unfair and bad for public safety to prevent them from becoming stable and productive members of our communities again. The barriers placed on people due to prior convictions are extensive and far-reaching. Taken individually, each barrier poses a significant obstacle to self-sufficiency and well-being, increasing the likelihood that individuals will reoffend. Taken together, the barriers worsen the economic and health outcomes of families and communities and hurt public safety.

Workforce exclusion hurts the overall economy

Direct barriers to economic and social stability not only impact individuals with past convictions but the communities and regions they call home. Where there are high concentrations of people with conviction records, regional economies suffer. In 2014, the U.S. lost the equivalent of 1.7 to 1.9 million workers to restrictions based on conviction records, equivalent to a loss of nearly 1% of the overall employment rate.[158] This lack of workforce participation represents up to an $87 billion loss in annual gross domestic product.[159] This is especially outrageous given that, once employed, people with convictions have equal performance on the job as individuals without convictions.[160] Some studies have even found that individuals with convictions stay at their jobs longer than individuals without convictions.[161]

Fueling generational poverty

When individuals with conviction records are unable to support themselves financially or obtain safe housing, they are more likely to require state-sponsored services. For instance, a number of studies have shown that the costs of homelessness, in terms of hospitalizations, emergency room fees, and criminal justice costs, are far greater than providing individuals with permanent supportive housing.[162] In addition, persistent unemployment, at least for men, is linked to increased usage of public assistance, in particular Social Security Disability Insurance program,[163] and higher crime rates. When this unemployment is concentrated in a particular community, the community can become a source of persistent poverty.[164]

In 2014, the U.S. lost the equivalent of

1.7 to 1.9 million

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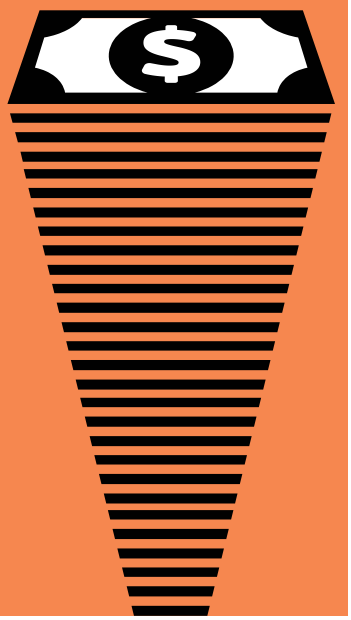

POVERTY: BOTH A CAUSE AND A CONSEQUENCE

Research shows that more than half the people entering the criminal justice system live at or below the poverty line when sentenced.[165] In 2014, prior to incarceration, incarcerated individuals earned 41% less than non-incarcerated individuals of similar ages.[166] Incarceration exacerbates poverty. About one in three individuals in jail expect to go to homeless shelters upon their release.[167] Studies also show that formerly incarcerated men take home an average of 40% less pay annually than if they had never been incarcerated, resulting in an earnings loss of nearly $179,000 by age 48.[168]

Compounding employment and housing pressures, individuals with conviction records must also grapple with crippling court-ordered debts and legal financial obligations related to their sentence. In California, uncollected court-ordered debt for traffic and criminal offenses add up to an estimated $12.3 billion.[169] Poverty is the prevailing reason most people cite for failing to make their payments.[170] The civil penalties imposed on individuals who fail to submit their monthly penalties, e.g. being jailed or having a driver's license suspended and being unable to commute to work, further drown people with convictions in persistent poverty.

Because of the many restrictions that prevent individuals with convictions from obtaining licenses or working in growth industries, their remaining employment prospects often involve fluctuating sources of income from temporary positions or the least desirable jobs requiring graveyard shifts or extensive travel. Further, if an individual is on any form of community supervision, restrictions on movement and curfews limit job opportunities.

> **"IF YOUR PROBATION CONDITION IS THAT YOU HAVE TO GET A JOB,** then you may have to take the worst job out there because you can't even turn it down."
>
> **MICHELLE RODRIGUEZ**
> Senior Staff Attorney, National Employment Law Project

The disintegration of families

Housing options for individuals with conviction records are limited; many are forced to rely on family and social support networks for a place to live.[171] Rooming with a loved one who lives in public housing may not be possible if the local Public Housing Authority bars people with convictions from living on their premises. For individuals who can live with family, ongoing substance abuse, mental health and criminal issues within the family, as well as the family's limited income, may pose additional challenges to successful integration.[172] Family members often bear the cost of court-ordered debt; many fully incur the expenses related to their loved one's incarceration, adding both financial and emotional strain on kinship ties. Deportation, of course, entirely prevents family reunification.[173]

> **"WE CAN ALSO SEE THE IMPACT ON THE FAMILY IN MULTIPLE DOMAINS OF LIFE,** including economic hardship, family dynamics and emotional well-being. When someone is locked up, the family suffers loss in monetary contributions, increased expenses, increased risk of homelessness and residential instability. Then, when released they confront poverty and other forms of economic instability. How is it impacting their children?"
>
> **DONALD FRAZIER**
> Executive Director, Building Opportunities for Self-Sufficiency

> "In truth **THE SYSTEM DOES EVERYTHING TO DISMANTLE THE FAMILY.** The system makes it so difficult for a population that's already so fragile."
>
> **TIFFANY TOWNEND BLACKNELL**
> Public Defender, Inglewood Public Defender's Office

The threat to public health

Individuals who cycle through the criminal justice system have limited access to healthcare resulting in poorer health than the general population.[174] Many are working to overcome mental health and substance use issues with limited resources.[175] The crowded, unsanitary conditions inside many correctional facilities paired with poor nutrition, violence, trauma and solitary confinement exacerbates health issues and can have long-term negative effects on health among people with convictions.[176] By improving the health of people with convictions, we in turn improve the health of entire communities.[177]

Even individuals who do not spend time in prison experience negative health consequences. Experiencing barriers to educational and job training opportunities can lead to worsening health.[178] Without a job or access to educational programs, people with convictions struggle to secure health insurance and child care, buy nutritious food for themselves and their families and live in healthier neighborhoods.

The long hooks of psychological harm

Barring people with convictions from employment and education can negatively impact an individual's mental health, from depression and feelings of hopelessness to anxiety about finding work or accomplishing one's educational goals.[179]

When barred from stable and affordable housing, people with convictions often end up with housing they can't afford, poor quality housing, depending on relatives or friends for shelter, or, when all else has failed, homeless. Unaffordable housing ties up resources for essential needs, such as food, medical insurance, and health care. For children and adolescents who grow up with residential instability, the experience is acute: they are more vulnerable to mental health problems, developmental delays, poor cognitive outcomes, and depression. Among adolescents, housing instability is also associated with increased likelihood of illicit drug use and behavioral issues such as anxiety and aggression.[180]

Criminal justice debt undermines the financial security of people with convictions and their families. The strain of living with debt leads to negative emotional and mental health effects.[181] Individuals with criminal justice debt often sacrifice covering basic expenses, like rent and food, in order to pay off their debt, as failure to do so can result in being sent back to jail or prison.[182] Though the costs of a conviction record fall nominally on the individual, they are often borne by families and support networks, and especially by children. The majority of spillover costs fall on women in the family, according to a recent study by the Ella Baker Center; one in five reported taking out a loan in response. When a family struggles to secure a basic level of income or housing, children suffer: they develop vocabulary at a slower rate than higher-income peers, are more likely to exhibit absenteeism and bullying and less likely to complete their schooling.[183]

> "If you have a family where one is incarcerated and another parent has to work more jobs to pay the bills, those children are not getting the attention and engagement to get into school at the position of other children. **THOSE CHILDREN ARE ALREADY STARTING BEHIND."**
>
> **HEATHER BIRDSALL**
> Director, Smart Justice and Business Education Coalition
> Los Angeles Chamber of Commerce

Democracy and justice: who's not represented?

The punitive policies that people with convictions face exclude them from the very thing society encourages them to do once they've served their sentences: contribute to their community. In fact, reintegration is blocked at every meaningful turn. In particular, the exclusion of people with records from participating fully in civic life has a skewing effect on the well-being and stability of communities and on democracy as a whole.

Voter participation is lower in communities with high rates of incarceration, even among non-incarcerated residents.[184] The high rate of disenfranchisement in these communities is seen as leading to "lower rates of voter registration and turnout, as well as reduced volunteer activity and group membership."[185] Research suggests disenfranchisement policies could adversely impact public safety, as non-voters are more likely to be re-arrested compared to voters.[186]

Due to African Americans being overrepresented in felony convictions, research suggests that felony jury exclusion practices can reduce the number of eligible African American men who can serve as jurors.[187] This can lead to more racially homogeneous juries, which can impact verdicts.[188] Studies suggest that felony jury exclusion practices can negatively impact the successful reentry of people with felony convictions.[189]

Proponents of jury exclusion practices argue that individuals convicted of felonies lack the "character" to follow the law during deliberations[190] and are inherently biased by being "adversarial toward the state and unduly sympathetic to criminal defendants."[191] However, recent research shows that a law student is just as likely to harbor an anti-state bias as an individual convicted of a felony. Individuals convicted of felonies have been shown to enhance the quality of jury deliberations by spending more time deliberating and examining more novel case facts.[192]

> **"IT'S NOT A JURY OF MY PEERS.** The racial dynamic on a jury does not match the demographics of an area or city."
>
> **JERRON JORDAN**
> Director, Second Chances Project, Californians for Safety and Justice

> "I was denied a restraining order on an individual. The judge told me, 'In any other case, I would have granted the restraining order. **BUT I NOTICED THAT YOU'VE BEEN INCARCERATED FOR A LONG TIME AND I FEEL LIKE YOU DON'T NEED A RESTRAINING ORDER.'"**
>
> **JOSE OSUNA**
> Former Director of External Affairs, Homeboy Industries

Further, there is an inaccurate perception that people who have perpetrated crimes cannot also be victims. This misperception has resulted in unequal access to justice for people with convictions who are also victims of crime.[193] Some individuals have been hesitant to call the police or actively participate in an investigation for fear their conviction history could make them a suspect. Other individuals have called the police for help but due to their conviction record have been treated unfairly and have been interrogated by the police despite being the victim.[194] Individuals in immigrant communities may be less willing to report to police for fear of deportation.

Pushing immigrants into the shadows

The current political climate has forced many disenfranchised and vulnerable communities to retreat into the shadows for fear of being treated unjustly by the law. This fear of being caught in a law enforcement dragnet is acute for immigrants, particularly following an executive order issued by the Trump administration on January 25, 2017 that prioritizes the removal of immigrants who "have been convicted of any criminal offense," "have been charged with any criminal offense, where such charge has not been resolved," or "have committed acts that constitute a chargeable criminal offense."[195] As noted previously, there is no relationship, however, between immigration and increased crime.[196] In fact, the presence of immigrant communities is associated with reduced crime, specifically violent and property crimes.[197]

Many immigrants are now avoiding engaging in basic, community-sustaining activities such as obtaining medical care,[198] getting involved in their children's education,[199] attending court dates,[200] and even going to church.[201] Organizations that work with immigrants have witnessed a decline in enrollment for public benefits by legally eligible families and a rise in the number of families requesting to withdraw from public benefit programs altogether.[202] Programs such as SNAP and the Earned Income Tax Credit, linked to positive health impacts including healthy birth weights and reduced premature births,[203] are endangered for immigrants with convictions on their records and their loved ones.[204]

Service providers report an increased number of immigrant patients not showing up to their health-related appointments.[205] Yet the retreat from health services is happening at a time when the need for them is acute: For immigrants with convictions, federal deportation threats have heightened depression, anxiety, post-traumatic stress disorder, and somatic disorders.[206] Immigrant children, fearful that their parents will be taken away from them, are suffering from prolonged stress and anxiety.[207]

> **"PARENTS WHO ARE UNDOCUMENTED COME TO US AND GET LEGAL SERVICES** to prepare ways to get their children situated in case they are deported."
>
> **LAUREN ROBERTS**
> Former Senior Staff Attorney, One Justice

No exit: the revolving door of recidivism

Contrary to prevalent social perceptions, the vast majority of people who commit crime yearn to turn over a new leaf. They want to support themselves and their families, to be productive, self-reliant, law-abiding members of society.[208] Achieving this fresh start means being able to secure safe housing, hold down a stable job or go to school, without being hamstrung by onerous criminal justice debt. Numerous studies have shown the trajectory-setting influences of these stabilizing forces.

But efforts to better one's circumstances and break out of the trappings of cycling through the criminal justice system can prove futile when one repeatedly confront a wall of legal barriers that make attaining self-sufficiency extremely difficult. These barriers symbolize society's rejection of people with convictions, bind their hands and feet, and all but ensure their status as second-class citizens.[209]

> "**REDUCING RECIDIVISM INCREASES PUBLIC SAFETY** for our communities, and if we can create pathways of stability, we can work toward that end."
>
> **ERIC JONES**
> Chief, Stockton Police Department

Personal Story: **Julia**

JULIA RECENTLY WAS PULLED OVER FOR FAILING TO STOP AT A STOP SIGN. Her 13-year-old son was in the car and immediately started crying. He was terrified because he thought the police were going to take his mother away. Julia was also terrified. She was terrified of being separated from her child and the chance to remain in the country she has made her home.

This is Julia's life now.

Julia's constant fear of losing her child stems from a deportation order she is facing from a conviction in 2017. Riding in the car with her abusive husband, they were both arrested when police stopped his car and found drugs. Her husband pressured her to plead guilty to help him despite her lack of involvement.

> **LATINOS ARE FIGHTERS. WE ARE GOOD PEOPLE. NOT ALL OF US ARE CRIMINALS.** Everyone deserves a presumption of innocence, and everyone deserves a second chance.

Julia is a Spanish speaker; her assigned lawyer was not. They only had 15 minutes to communicate through a translator.

"I was scared," she says. "It felt like I was in a labyrinth without escape."

Julia pleaded guilty; the father of her children was deported.

After completing the sentence, Julia sought help to address her criminal record to improve her family stability as they recover.

Julia's new lawyer is Latina; she works for La Clinica de la Raza. Julia says the legal support she is receiving gives her hope that she might be able to get her and her son's life back on track and stay in the United States. "They are my angels," she says of the staff at La Clinica. "God put them in front of me to help me, even though I don't have money to pay them."

Julia dreams of one day becoming a U.S. citizen. But for now, she just wants to protect her child, make sure he grows up safe, and live without fear. Reflecting on her experience in the criminal justice system, she says courts need more translators and more Spanish-speaking lawyers, and that police should be more compassionate.

"Latinos are fighters. We are good people. Not all of us are criminals," Julia says. She believes everyone deserves a presumption of innocence, and everyone deserves a second chance.

ON RAMP: WHAT ARE THE PRIMARY LEGAL REMEDIES AVAILABLE FOR PEOPLE WITH CONVICTIONS?

> **"I THINK CALLING IT EXPUNGEMENT IS VERY CONFUSING** for people because they think it's cleared but it's not."
>
> **HEATHER BIRDSALL**
> Director, Smart Justice and Business Education Coalition
> Los Angeles Chamber of Commerce

In California, there are approximately 2 million people who are eligible to clear their convictions, however, many do not know that they are able to do so.[210] There is no true expungement in California. Once a conviction is on a person's record, it can never be erased. Even when partial remedies are available, accessing them requires navigating cumbersome and complex bureaucratic hurdles of which the legal guidance needed is in short supply.

Dismissal

A person can petition the court to dismiss a conviction from their record, provided the sentence imposed did not include state prison.[211] AB 109 realignment individuals are exempt from the clause.[212] Some dismissals are mandatory but many are at the discretion of a judge who considers evidence of rehabilitation. Dismissed convictions are not removed from a person's record; the record simply notes that the conviction has been dismissed.

Dismissals can limit the amount and type of information that shows up on background checks. Most private employers will not see, cannot ask about or consider a dismissed conviction.[213] An individual with a dismissed conviction can also answer "no" when asked about past convictions on employment applications. Occupational licensing and public housing authorities will still see a dismissed conviction, however it can be seen as evidence of rehabilitation.[214]

Individuals applying for certain jobs that require government-issued licenses (e.g. in law enforcement or working with children) must declare their dismissed convictions. Dismissed convictions can still be used in future criminal proceedings (e.g. as a "strike" under California's Three Strikes law). Dismissed convictions do not reinstate firearm or driving privileges and do not remove a sex offender registration requirement Dismissed convictions are also considered in deportation proceedings.

DIFFICULTIES ACCESSING FREE OR AFFORDABLE RECORD CHANGE LEGAL SERVICES[215]

Difficulties in accessing free or affordable record change legal services may create additional barriers to obtaining a second chance for people with convictions. The process to expunge a conviction is rarely straightforward, making consultation with an attorney crucial—processes vary county by county,[216] a hearing may be required, multiple record change remedies may be available to someone but with different outcomes.

The need for legal services among low-income and underserved communities far outweighs the available resources. While some public defender offices have staff dedicated to providing record change services, many counties in California do not. Rural and isolated pockets of the state are also less likely than urban regions to have accessible legal resources.

Felony and misdemeanor reduction

A person may be able to petition the court to reclassify some felony convictions as misdemeanors, and some misdemeanors as infractions.[217] A felony or misdemeanor reduction can restore rights (e.g. right to serve on a jury) or create a pathway to dismissal.[218] The reclassified conviction can still count as a "strike"; some licensing agencies may still consider the conviction in its original classification.[219]

Certificate of Rehabilitation

The only remedy available to an individual who was incarcerated in state prison is a Certificate of Rehabilitation (COR). An individual must wait 7-10 years before applying for a COR during which time they must remain free from any contact with the criminal justice system.[220] The application process is detailed and the individual is highly scrutinized throughout. The individual must convince the court during a hearing that they are rehabilitated.

A Certificate of Rehabilitation serves as "proof" that an individual convicted of a crime has been "officially" rehabilitated. The certificate can restore certain rights and may help with efforts to secure work, housing, and occupational licenses.[221] A COR will not, however, erase the conviction from an individual's record and does not allow an individual to say that they have never been convicted of a felony.[222]

> **"POST CONVICTION RELIEF BY WAY OF DISMISSAL, REDUCTION OR CERTIFICATE OF REHABILITATION MUST BE EARNED.** The existing process to claim this type of relief is cumbersome and costly. An individual must remain crime free for years and demonstrate how they have been rehabilitated by meeting a number of arduous requirements. A streamlined process needs to be enacted to allow individuals who have earned their relief to be able to claim it without having to overcome unnecessary hurdles."
>
> **HON. JOHN SALAZAR**
> Judge, Santa Cruz Superior Court

BEARING THE LIFETIME BURDEN OF AN EXPUNGED RECORD

Today, an individual's conviction record can be easily disseminated and, once public, difficult to erase. Technological developments, such as the Internet and the automation of court and criminal justice systems, have dramatically transformed the availability of conviction history information, as have laws that facilitated public access to conviction record data.[223]

Conviction records are often logged in multiple repositories, including the charging county and statewide criminal record repositories.[224] They can also sit on private sites online, commercial vendors' databases or the Federal Bureau of Investigation's criminal record database.[225] It is nearly impossible, for an individual to ensure that an expunged record is cleared on all the repositories the record resides.[226]

California authorizes the Department of Justice (DOJ) to process the state and FBI fingerprint-based background checks. The DOJ in turn authorizes over 45,000 agencies to perform background checks in California and to submit arrest and corresponding disposition information.[227] The DOJ's reliance on so many "feeder" agencies has led to errors on RAP sheets because its criminal record repository is prone to having incomplete and inaccurate data. Commercial vendors, for example, do not regularly update their databases, resulting in outdated case depositions and expunged or sealed records incorrectly included in reports.[228] Even if one is able to clear one's record in a private vendor database, one's online record on vendor sites is often not scrubbed and can be easily be Googled.[229]

> **"PEOPLE CAN JUST GOOGLE YOUR RECORD.** It's very hard to change that or to get a name or record off of private sites."
>
> **LAUREN ROBERTS**
> Former Senior Staff Attorney, One Justice

Personal Story: **Luis Angel**

LUIS ANGEL WAS INCARCERATED IN JUVENILE DETENTION when his son was born. The boy is his only child. Not being there for the birth was devastating for Luis. Now that he's out, he's determined to do better for himself and his son.

"I want to be the change in my family," he says. "I want to be a father who is there for my kids."

But Luis's hopes for a brighter future keep running into a harsh reality: it's hard to rebuild your life with a criminal record.

Luis was arrested in February 2017 after a scuffle with an assailant. The assailant held Luis up at gunpoint in a shopping mall parking lot. Luis ended up getting shot in the shoulder before he shot back at the assailant. The assailant got away, and Luis was sent to juvenile detention.

After his release, he started applying for jobs, but no one would call him back. "Every time I filled out an application, I had to check a box where it said I am a convicted felon," Luis says.

> **GIVE THEM A CHANCE TO DO BETTER.** We need to learn how to connect with society again.

Finally, Luis got a job with a temp agency; he worked the night shift at a warehouse. Because of his sleep schedule, he couldn't spend much time with his son.

Luis also had to move out of his mother's house because his young nephews live there. Their social worker at Child Protective Services said Luis's criminal record was a problem and he had to go. Once Luis started looking for apartments of his own, he kept getting turned away because of his record and his lack of a rental history.

Finally, Luis found an apartment. He also connected with Fathers & Families of San Joaquin, where he now works. He says he appreciates the work of local organizations that promote second chances for people like him.

Luis pleaded guilty after the February 2017 incident because he was told he could get out sooner. But he is finding that having an adult conviction on his record is a huge problem.

Luis is still with his son's mother, and all he wants is to be a good father. For Luis, a second chance means giving people with criminal convictions the benefit of the doubt. "Give them a chance to do better," he says. He also says that people who have been in jail need mental health services and other support. He says he felt "really lost" after his release. "We need to learn how to connect with society again."

PAVING THE ROAD: WHAT REFORM EFFORTS AND BEST PRACTICES ARE THERE?

The past decade has seen major strides and developments in justice reforms aimed at reducing the collateral consequences of a conviction. Reforms have successfully mitigated barriers for people with convictions at federal, state, local and community levels, as well as in private sectors.

Despite the numerous innovations, we still have a long way to go. The overlay and interaction of federal, state and local policies make comprehensive reform in California challenging. For example, federal immigration authorities may still consider a conviction that state law has dismissed. The broad discretion exercised by the private sector and government officials creates additional obstacles to reform.

What follows is a summary of some of the important recent reform efforts and additional changes needed to give Californians with convictions a chance at stability and empowerment.

Employment: fair chance hiring

In 2004, All of Us or None,[230] a civil rights organization led by individuals with convictions, initiated its groundbreaking ban-the-box campaign.[231] The campaign advocates for the removal of the conviction history question(s) on job applications and a delay in background check inquiry until later in the hiring process. By 2017, a total of 29 states, including California, had adopted ban-the-box policies.[232]

The past decade has seen major strides and developments in justice reforms aimed at reducing the collateral consequences of a conviction.

Federal Government

In an important milestone, the Fair Chance to Compete for Jobs Act or the Fair Chance Act was introduced in Congress in early 2017. This Act, sponsored by Senators Cory Booker (NJ-Dem), Ron Johnson (WI-Rep) and Tammy Baldwin (WI-Dem), would prohibit the federal government and federal contractors from inquiring about an applicant's criminal record until a conditional offer has been made.[233]

State Government

On July 1, 2014, California's ban-the-box legislation, which applies exclusively to public employment, became operative.[234] On October 14, 2017, Governor Brown signed into law AB 1008 (Fair Chances Act), which extends ban-the-box legislation to private employers. The law also added a section to the California Fair Employment and Housing Act establishing new statewide restrictions on

In 2004, All of Us or None, initiated its groundbreaking **ban-the-box campaign.** By 2017, a total of 29 states, including California, had adopted ban-the-box policies.

an employer's ability to make pre-hire and other employment decisions based on an applicant or employee's criminal record.[235]

While there have been various efforts to address unfair licensing laws in California, none have focused on the specific issues affecting people with convictions. For instance, in February 2017, SB 247 was introduced to repeal licensure requirements for certain occupations (the bill died in the Senate committee on a 6-2 party-line vote).[236]

The state of California also participates in the National Helping Individuals with criminal records Re-enter through Employment (H.I.R.E.) Network. The National H.I.R.E. Network connects people with convictions to employers who are more inclined to hire them. It also offers employers incentives, such as access to the federal bonding program, the unemployment compensation program and tax credits, to hire people with convictions.[237]

Local Government and Community Efforts

In recent years, San Francisco and Los Angeles passed their own citywide ban-the-box legislations. On August 13, 2014, San Francisco's Fair Chance Ordinance went into effect, prohibiting employers with at least 20 employees from inquiring about a job applicant's conviction history on an employment application and during an initial interview.[238] In January 2017, The Los Angeles Fair Chance Initiative for Hiring was signed into law. The law permits employers to inquire into an applicant's conviction history only after they have made a conditional offer of employment. It applies to private employers with 10 or more employees.[239]

Workforce development programs, administered primarily by local government agencies, community organizations and reentry organizations, have been pivotal in mitigating barriers to employment for people with convictions. Workforce development programs offer a range of training and counseling, such as apprenticeships, General Education Development (GED) courses, literacy tutoring and occupational and soft skill development, to help people with convictions transition into jobs. For example, in San Bernardino, the Center for Employment Opportunities (CEO), a national social enterprise model, partners with the California State Reentry Initiative, San Bernardino Community College and Caltrans to operate transitional work crews for individuals with recent convictions. CEO also has programs in Oakland, San Diego, San Jose and Los Angeles.[240]

Private Employers

A number of private employers have taken it upon themselves to adopt ban-the-box policies. In 2015, Koch Industries, the second largest privately held company in the U.S., removed questions about past convictions on its job applications. It joined Wal-Mart, Target, Home Depot and Bed, Bath & Beyond in this hiring practice.[241]

While there have been various efforts to address unfair licensing laws in California, none have focused on the specific issues affecting people with convictions.

Other private employers, such as Virgin Group Ltd. and Johns Hopkins, have been national leaders in implementing and promoting Fair Chance hiring policies both internally and in their communities. Virgin Group Ltd. publishes materials to introduce fellow multinational employers to fair chance hiring practices. In 2015, 3% of Virgin Group Ltd.'s new hires had conviction records.[242] Johns Hopkins Medicine has conducted longitudinal studies on people with convictions hired at the company. Findings from its studies, which show higher retention rates and lower turnover for people with convictions than people without convictions, have been used to encourage other private employers to hire people with convictions.[243]

Private employers are also providing education, training and occupational counseling to employees with convictions through partnerships with local workforce development programs or their own in-house

programs.[244] For instance, Delancey Street Restaurant in San Francisco is one of the key training schools of the Delancey Street Foundation. Many of its employees are people with convictions who are taught vocational skills, academics, personal and interpersonal skills and social entrepreneurship.[245]

Housing: opening doors to stable homes

Federal Government

The Obama administration took steps to undo discriminatory policies that have barred people with convictions from housing. In 2011 and 2012, former Housing and Urban Development (HUD) Secretary Shaun Donovan encouraged PHAs and owners of HUD-assisted multifamily properties to adopt policies that grant admission to people with convictions "when appropriate."[246] In response, many PHAs and owners have modified the manner in which they weigh an applicant's conviction in their screening processes.[247]

Under a 2015 directive, HUD prohibited local PHAs from using arrest records as "the sole basis for denying admission, terminating assistance or evicting tenants."[248] The directive also dispelled the common misconception that HUD requires PHAs and private homeowners to adopt or enforce "one strike" rules that deny admission to anyone with a conviction or that automatically evict individuals who engage in criminal activity.[249]
In 2016, HUD collaborated with the Department of Justice to award $1.75 million in grants to assist justice-involved youth to overcome barriers to securing work and housing.[250] Among the grantees was the Housing Authority of Los Angeles, which received $100,000 and an in-kind match of roughly $1.39 million. These funds went to expunge, seal, and correct records and/or coordinate support services for justice-involved youth in Los Angeles' public housing developments. Developments were in the most disadvantaged areas of inner city Los Angeles.[251]

That same year, the Fair Chance at Housing Act of 2016 (H.R. 5085) was introduced but was not enacted by Congress. Had it passed, the bill would have required a PHA or owner to conduct an individualized review of the totality of the circumstances regarding an applicant's criminal background when screening applicants for federally assisted housing. The bill would have also mandated reports from PHAs and owners of HUD-assisted properties on the disposition of applications, especially denials.[252]

Local Government and Community Efforts

California local governments have taken some steps to put housing within reach for more people with convictions. Los Angeles no longer bars individuals on parole or probation from receiving Section 8 vouchers.[253] Both San Francisco and Richmond recently adopted "Fair Chance Housing Ordinances" regulating how and when criminal background checks can be used in affordable housing contexts.[254] Under both ordinances, housing providers cannot screen for convictions through the rental application. All qualifications for affordable housing are decided before a housing provider knows anything about an applicant's prior arrest or conviction history. Richmond's ordinance goes even further: housing providers in Richmond cannot screen convictions that are more than two years old.[255]
Oakland Housing Authority allows people with convictions whose applications had been denied to appeal decisions by presenting "mitigating circumstances." Examples of mitigating circumstances that individuals can present are drug screen reports, recommendations from probation or parole officers, job performance references, etc.[256] In 2012, data showed that 64% of individuals who appealed their rejections

Oakland Housing Authority allows people with convictions whose applications had been denied to appeal decisions by presenting "mitigating circumstances." In 2012, 64% of individuals who appealed their rejections had the decision overturned and were provided housing.

were able to have the decision overturned and provided housing.[257]

At the community level, A New Way of Life Reentry Project, a Los Angeles-based social service organization, is running a reentry housing pilot program that provides a year in funded housing for general relief.[258]
Despite these measures, more comprehensive and wide-reaching reform is necessary if individuals with convictions are to secure shelter. Cities in California can learn from innovators across the country that are implementing policies and programs to facilitate housing access for people with convictions. Example:

Despite these measures, more comprehensive and wide-reaching reform is necessary if individuals with convictions are to secure shelter.

In August 2017, Seattle passed its Fair Chance Housing ordinance (Ordinance 125393) that prohibits private landlords in Seattle from screening applicants based on their conviction history. Landlords who share a kitchen and bathroom with their tenants, rent out an accessory dwelling unit and who manage four units or few are exempt from the law. Under the law, landlords who deny an individual with a conviction housing must provide a legitimate business reason for doing so.[259]

Education: learning within reach

Federal Government

The Stopping Unfair Collateral Consequences from Ending Student Success Act or the Success Act is legislation that would remove restrictions on federal financial aid for those with drug convictions. The Success Act has been proposed in both the Senate and the House, though neither has gotten out of committee.[260] House and Senate members have also introduced legislation to restore Pell Grant eligibility for students learning in prison.[261]

In July 2015, as part of the Obama Administration's commitment to criminal justice reform, the Department of Education launched the Second Chance Pell Pilot program for incarcerated individuals.[262] The pilot program offered $30 million in Pell Grants to incarcerated individuals through 67 chosen colleges and universities. In California, California State University, Los Angeles (Cal State LA) was awarded a grant.[263] The program aims to build on existing research to examine effects of restoring Pell eligibility and is being carried out through the "experimental sites" authority of the Higher Education Act, which allows the Education Department to waive federal rules for the benefit of experimentation.[264]

In May 2016, the U.S. Department of Education released "Beyond the Box: Increasing Access to Higher Education for Justice Involved Individuals," a guide for colleges and universities with recommendations to reconsider their inquiry into applicants' criminal histories. The guide recommends delaying questions about criminal records until after admissions decisions are made.[265] Also in May, a spokesperson for the Common Application stated that, for the following school year, the Common Application would reframe its question regarding an applicant's criminal record: students will still be asked if they have been found guilty of a misdemeanor or felony but will no longer be asked about any other crimes.[266]

State Government

Two projects operating in California's public institutions, Project Rebound (San Francisco State University and Cal State LA) and the Second Chance Program (City College of San Francisco), are considered national models in promoting the educational outcomes of individuals with convictions. Both projects provide academic, financial and social support to people with convictions, particularly the formerly incarcerated, to ease their path to graduation. Data show these efforts are paying off: in 2017, San Francisco State University's Project Rebound reported that more than 90% of its students successfully graduate and do so at a faster rate than the overall student population.[267]

State government, however, can still do more to remove barriers to educational opportunities for people with convictions. The University of California and Cal-State system could remove any questions dealing with an individual's past convictions from applications. In addition, California could also provide scholarships to individuals with convictions to facilitate their access to educational and vocational opportunities.

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Public benefits: a leg up for those who need it

State Government

Although California has opted out of the PRWORA ban, individuals with drug convictions may be unaware of this change. Many individuals with convictions in general do not know whether their convictions affect their eligibility for public benefits. Greater public education efforts are needed to rectify misconceptions and connect people with benefits they are eligible for. California laws that prohibit individuals with certain convictions from receiving Medi-Cal and unemployment benefits should also be revisited.

Immigration: fair and just process

As the national political climate has grown more hostile to immigrant communities, the State of California and many of its cities are taking action to protect public safety and the safety of immigrant communities.

State Government

Expanding sanctuary ordinances: In 2017, California passed the California Values Act, which limits state and local law enforcement's communication with Immigration and Customs Enforcement (ICE) and prevents officers from questioning and holding people on immigration violations.[268]

Improving legal services: In 2017, the California Legislature passed a budget measure that would allot $45 million towards immigration relief services[269] and an additional $545,000 to train defense attorneys to defend against the consequences of criminal convictions on immigration status.[270] In addition, recently enacted Penal Code s. 1016.3 requires defense counsel to advise immigrant defendants of these consequences and prosecutors to consider avoiding immigration consequences when plea bargaining.[271]

Public Defender offices throughout the state have also brought on immigration experts to handle dispositions with an eye on minimizing negative impacts on a defendant's legal status.[272]

Post-conviction relief: Under the newly enacted Penal Code s. 1473.7, individuals who failed to meaningfully understand the immigration consequences of a conviction and who are no longer in criminal custody may now challenge the unlawful convictions. This is a supplement to current law, which requires non-citizen defendants to be informed of the immigration consequences of convictions.[273]

SANCTUARY POLICIES CONTRIBUTE TO PUBLIC SAFETY AND ECONOMIC PRODUCTIVITY IN COMMUNITIES

Research from the Center for American Progress suggests that there are, on average, 35.5 fewer crimes per 10,000 people in sanctuary counties compared to counties without sanctuary designation.[274] The study also found that median household annual income in sanctuary counties is, on average, over $4,000 higher, the poverty rate 2.3% lower and unemployment is more than 1% lower compared to their counterparts. These differences were most pronounced in communities with the smallest populations.[275]

Enacted in 2016, Penal Code 1203.43 creates an effective mandatory vacatur for people who received Deferred Entry of Judgment convictions, preventing their unintended consequences.[276]

Enacted in 2015, Penal Code 18.5 changed the maximum sentence on misdemeanors by one day, from 365 to 364.[277] As a result, a single California misdemeanor conviction will not trigger deportation or consideration as an aggravated felony.[278]

Local Government

Sanctuary ordinances: Local and state advocates have engaged in sustained efforts to prohibit local entanglement with federal immigration enforcement. Counties throughout the state have passed policies disentangling local law enforcement from ICE.[279]

Fines and fees: debt relief for a fresh start

Federal Government

In September 2016, the Department of Justice awarded the Judicial Council of California $488,000 under "The Price of Justice: Rethinking the Consequences of Justice Fines and Fees" grant program to study and identify issues related to defendants' inability to pay fines and fees. As part of the grant, The Judicial Council of California is developing an ability-to-pay calculator. The Council was one of four state court entities to receive such funding from the U.S. Department of Justice.[280]

State Government

In 2015, Governor Brown signed an 18-month amnesty program for unpaid traffic and non-traffic infraction tickets.[281] The program, aimed at drivers who lost their licenses for failure to pay, offered to reduce the cost of unpaid tickets by up to 80%. To qualify for the reduction, individuals could not have owed restitution, must receive specific public benefits or have an income 125% or less than the poverty line and have no outstanding misdemeanor or felony warrants.[282] In the first seven months of the program, over 100,000 drivers had their cases resolved. This resulted in the collection of more than $18.8 million in revenue.[283] Governor Brown has also proposed removing the suspension of an individual's driver's license as a pressure tactic to collect unpaid fees.[284]

On October 11, 2017, Governor Brown signed SB 190, effectively eliminating the statewide assessment and collection of juvenile administrative fees against families with youth in the juvenile system. Youth no longer have to pay for ankle monitors or being in custody but remain accountable to crime survivors and society through restitution and court-ordered sanctions.[285] Prior to the passage of SB 190, counties throughout the state had begun suspending and repealing juvenile administrative fees. Contra Costa County had even initiated procedures to reimburse families.[286]

Local Government

San Francisco recently proposed a number of reforms to its fines and fees system. Proposals include: basing all fine and fee amounts on ability to pay; ensuring that "Quality of Life" citations do not create employment and housing barriers; reforming its local bail system to focus on public safety; and relieving child support debt.[287] The Office of the Treasurer for the City and County of San Francisco also launched the Financial Justice Project to assess and reform how fines, fees, and financial penalties impact low-income residents. With the launch, San Francisco became the first city in the nation to take on such an initiative.[288]

Community supervision: improving system practices

State Government

On October 11, 2009, Governor Brown signed SB 678, The California Community Corrections Performance Incentives Act of 2009.[289] SB 678 allocates funding to probation departments to use evidence-based practices to reduce the number of adults revoked from any type of local felony supervision—felony probation, mandatory supervision and post-release community supervision—and sentenced to prison.[290] The law defines evidence-based practices as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post-release supervision."[291]

Evaluations of SB 678 show that the law has been successful in lowering the percentage of individuals revoked from felony supervision and returning to prison without evident negative impact on public safety.[292] It has also been successful in supporting the

In partnership with United Way of Santa Cruz County, the Santa Cruz probation department is leading the effort to adopt the Californians for Safety and Justice Shared Safety framework in its countywide strategic plan. The Californians for Safety and Justice Shared Safety framework recognizes that safety is the joint responsibility of all individuals in society. It seeks to convene public agencies, crime survivors and community-based organizations to work together to reduce harm and heal communities.

increased use of evidence-based practices amongst probation departments in California. For example, in 2010, only 21% of probation departments reported that a substantial majority (i.e. 75% or more) of their officers were trained in cognitive behavioral therapy techniques. By 2016, this figure had risen to 72%.[293] Despite such improvements, probation departments have reported that the need for increased capacity of evidence-based treatment programs in their communities still persists.[294]

Local Government

Locally, some county probation departments are shifting to a public health frame in their approach to supervision, i.e. prioritizing crime prevention and adapting interventions to reduce an individual's **risk** of reoffending by assessing the severity of the crime's **harm** and the **needs** that must be addressed to reduce the risk (risk+harm+need analysis[295]).

The Santa Cruz probation department has embraced the risk+harm+need analysis for its department. In partnership with United Way of Santa Cruz County,[296] the Santa Cruz probation department is leading the effort to adopt the Californians for Safety and Justice Shared Safety framework in its countywide strategic plan.[297] The Californians for Safety and Justice Shared Safety framework recognizes that safety is the joint responsibility of all individuals in society. It seeks to convene public agencies, crime survivors and community-based organizations to work together to reduce harm and heal communities.[298] The department is also prioritizing individuals who are most vulnerable to crime and engaging survivors in Shared Safety discussions.[299]

Community Efforts

At the community level, probation departments across the state are making stronger efforts to partner with community-based organizations to support the individuals they're supervising. For example, Alameda County Probation Department contracts with Building Opportunities for Self-Sufficiency (BOSS) Career Training and Employment Center to administer AB 109 realignment employment services and provide workforce development training. Training is assessment-driven and culturally relevant to program participants – the AB 109 realignment population in Alameda County. Services are coordinated across multiple systems and rooted in evidence-based practice.[300] Alameda County Probation Department also launched "For Us by Us (Peer Support Services)," an initiative that funds organizations and service providers staffed and led by people with convictions to provide reentry support services to the County's AB 109 realignment population.[301] The initiative has supported job creation for people with convictions while funding programs that support reentry.

Stigma and system-induced trauma: healing starts here

State Government

In early 2017, AB 1639 was introduced. Authored by Assemblymember Eduardo Garcia, AB 1639 attempted to expand eligibility for individuals on probation, parole or listed in the CalGang system who are excluded from receiving crime survivor services through the California Victim Compensation Board. It would have prohibited the California Victim Compensation board from denying an application solely because the victim is listed in the CalGang system. The bill died in the appropriations committee, but advocates are continuing to push for this policy change.[302]

When individuals face fewer stigmas in their daily lives, they are more likely to actively participate in their communities. This active participation further reduces individual stigma, promotes community healing and contributes to a thriving civil society.

Local Government

Efforts by local governments to address housing, employment, and educational barriers have helped reduce the stigma associated with a criminal conviction. When individuals face fewer stigmas in their daily lives, they are more likely to actively participate in their communities. This active participation further reduces individual stigma, promotes community healing and contributes to a thriving civil society.

Civic engagement: inclusive democracy at work

State Government

In 2016, Governor Brown signed into law AB 2466, which reinstates voting rights for individuals with felony convictions incarcerated in county jail and individuals on any form of community supervision.[303] Through the law, more than 50,000 people under mandatory and post-release community supervision became eligible to vote.[304]

While these measures make California one of the least restrictive states with regard to voting, there is room for progress. Individuals convicted of felonies in state or federal prison still cannot vote in California.[305] In 2018, Initiate Justice launched a campaign for The Voting Restoration and Democracy Act of 2018, which would remove restrictions that prevent people in prison and parole in California from voting. If passed, individuals would not lose their right to vote when in prison or on parole.[306]

Early in 2017, California Assemblymember Reggie Jones-Sawyer introduced AB 535[307] to eliminate the exclusion of people with felony convictions from jury service. A New Way of Life Reentry Project and Legal Services for Prisoners with Children were co-sponsors of this bill. The bill died in committee.[308]

Community Efforts

At the community level, Homeboy Industries has been conducting voter drives for the last five years. The effort has revealed just how many people with convictions have been misinformed about their voting rights and how eager many are to participate in civic activities.[309]

With funding support from California Calls,[310] A New Way of Life's African American Civic Engagement Project educates communities on how and when to vote. The project, staffed by formerly incarcerated individuals, has reached out to people with convictions in Long Beach, Compton, South Los Angeles and Watts. Through the project, the ballot is rewritten into culturally competent, accessible language. Outreach is also conducted to register voters who are incarcerated in county jails. An evaluation of the project showed that out of roughly 600 people who were registered to vote due to the outreach effort, approximately 585 individuals voted. A New Way of Life is also educating people with convictions to develop policy ideas and get involved in the political process through its Southern Chapters (Los Angeles and Long Beach) of All of Us or None.[311]

The project's legal department was also instrumental in making sure sanctions were imposed on criminal justice officials who misinformed people with convictions about their voting rights and officials who restricted people with convictions from the opportunity to vote.[312]

THE PATH FORWARD: POLICY RECOMMENDATIONS

When people with convictions have served their time and otherwise paid their debt to society, they deserve a fair chance at becoming stable and productive members of their communities. The long shadow cast by the extreme consequences of a conviction isolates, rather than integrates, people into society. Removing legal barriers will improve public safety, and it will also improve economic and health outcomes for families and reduce the likelihood individuals will reoffend. This would ultimately make California a more prosperous and safe state for everyone.[313] Reform is needed to provide California with a holistic solution that will end debilitating collateral consequences across all sectors.

When people with convictions have served their time and otherwise paid their debt to society, they deserve a fair chance at becoming stable and productive members of their communities.

Recommendation 1: Sunset convictions: end lifelong punishment beyond conviction

California must end its current system that imposes punishments—through lifelong collateral consequences—far beyond sentence completion. The most fair and effective approach is to adopt uniform policies that call for automatic, mandatory destruction, or "purging," of stale arrests or criminal history information upon conclusion of a sentence, or when a person has remained crime free for a specified time. Determining the time period for automatic purging must be based on empirical public safety justifications. While certain information could remain accessible to law enforcement, most criminal history information should not be accessible to employers and landlords. Automatic purging, as opposed to a petition-based process, preserves court and law enforcement resources, and is a more fair approach for people who face barriers to access to justice.

Recommendation 2: Consolidate the expungement process

California's existing "clean slate" laws are complicated and fail to effectively remove collateral consequences. As a result, the laws are significantly underutilized because many Californians face barriers to expungement and full record change. California must replace its outdated system with a new, comprehensive remedy that includes a unified process rather than the dozens of existing processes. The remedy would require a single filing for a given petitioner, not separate filings for multiple cases, and would include reporting protections. A relief mechanism that is person-by-person instead of case-by-case will drastically cut costs for the courts, district attorney offices, public defender services, legal service providers, and the Department of

Removing legal barriers will improve public safety, and it will also improve economic and health outcomes for families and reduce the likelihood individuals will reoffend. This would ultimately make California a more prosperous and safe state for everyone.

Justice. A consolidated system would increase access to justice by simplifying and streamlining the system, decreasing reliance on attorneys, and reducing costs.

Petitioners should be eligible for the remedy as soon after conviction as they could potentially meet the applicable rehabilitation standards. This timeline would replace the current one, in which arbitrary waiting periods for post-conviction relief extend sentences unnecessarily.

Recommendation 3: Reduce barriers to obtaining occupational licenses

In California, licensing boards have broad discretion to deny, revoke, or suspend a license – or impose a probationary or restricted license – on the grounds that a person committed a crime. To ensure that all qualified people are given a fair chance to pursue careers, and to strengthen California's workforce, licensing boards should be permitted to use criminal history only when that criminal history is plausibly related to a person's ability to successfully work in the licensed profession.

Specifically, licensing boards should not be permitted to deny a license for most felony convictions older than seven years and misdemeanor convictions older than three years. Licensing boards should not consider convictions that have been dismissed under Penal Code section 1203.4 (withdrawal of a previous guilty verdict or plea), dismissed following a successfully completed diversion or deferred entry of judgment program, or for which a person has received a Certificate of Rehabilitation or executive Pardon. Boards should not be permitted to consider non-conviction arrests or other non-conviction "acts" unless directly job-related. When considering convictions, boards must conduct an individualized assessment of the applicant's conviction, considering factors such as the age, seriousness, and type of conviction, and should be permitted to deny, revoke, or suspend a license – or impose a probationary or restricted license – only if they are able to show that the conviction is directly and adversely related to the work of the regulated profession. Boards should not be permitted to deny a license where an applicant has made a showing of rehabilitation – for example, through successful work in a related field or completion of a relevant training program.

Licensing boards should also reinstate licenses revoked on the basis of a conviction if a person has successfully obtained a clean slate remedy for that conviction. Additionally, Licensing boards should be required to give a person reasonable notice of the basis for a license denial, suspension, or revocation, and give them the opportunity to appear at a hearing to contest the board's decision if they intend to deny a license based on a person's criminal record. At the hearing, applicants should be afforded an opportunity to explain their record, commitment to rehabilitation, and how the license will contribute to their successful rehabilitation. Boards should be prohibited from issuing probationary or restricted licenses that impose undue costs or other burdens on licensees. Boards should be required to maintain public data regarding licensing decisions, the basis for those decisions, and the demographic characteristics of applicants, to measure trends in licensing decisions, and possible disparate impacts on different groups according to race, gender, and other factors.

Recommendation 4: Extend funding for workforce development agencies

In 2014, Assembly Bill 2060 (Chapter 383)[314] established the California Workforce Development Board to administer grants aimed at assisting individuals under supervision. However, some of the funding is restrictive and does not cover the needs of formerly incarcerated people. Funds dedicated to workforce development programs, reentry, and rehabilitation should be extended to people with conviction records who are not under supervision. Additionally, funding should be expanded to include substance abuse assistance, temporary and overnight housing, community college and vocational education programs, expungements and clean slate remedies, and supportive services.

Recommendation 5: Reduce immigration consequences through expungement

Immigrants with California convictions should not suffer mandatory, permanent, and lifetime banishment from the United States. Tearing immigrant families apart on the basis of a family member's criminal history destabilizes communities, decreasing public safety. California needs to pursue real policy reform by expanding the legal vehicles to vacate old convictions and decreasing the hurdles for immigrants to erase or mitigate the ongoing and lifelong damage that can be caused by even a single low-level conviction.

Recommendation 6: Reduce criminal justice debt

Californians are subject to fines and fees at every stage of the criminal justice process. For those who are unable to make payments on everything from obtaining a public defender to drug testing to mandatory supervision, criminal justice debt is yet another cost imposed on people who have successfully completed their sentence. In addition to the fines and fees themselves, penalties and interest for failing to pay further trap people in a cycle of poverty that limits their ability to successfully put their conviction behind them, and in some cases can even lead to further criminal justice involvement.

It is therefore critical for California to reduce the number and amount of financial obligations facing people with convictions, as well as provide greater relief for those struggling to make payments on court-ordered debt or the associated costs (interest, late fees, collection fees, etc.). California should evaluate the burden of its criminal justice fines and fees and eliminate any penalties that impose additional barriers to success. For starters, indigent defendants should be exempt from user fees (i.e., fines imposed for the sole purpose of raising revenue) and any court-ordered fines or victim restitution should be based on an individual's ability to pay. Additional pressures such as arrest warrants and driver license restrictions should be eliminated and more opportunities should be offered to reduce debt through community service and other exemption waivers.

Recommendation 7: Advance criminal justice reforms that prioritize reducing the cycle of crime and improving community health and well being

All Californians deserve a fair chance at health, protection, stability and empowerment. Criminal justice reforms must prioritize building community wellbeing and preventing crime if they are to effectively protect public safety. For people vulnerable to the cycle of crime, many are working to overcome mental health and substance use issues with limited resources.[315] California should expand treatment options, which in turn would address drivers of crime. Maximizing access to mental health treatment, to address substance disorders and mental health challenges that interfere with daily life functioning—especially when experienced by people struggling with economic stability—should be a top safety priority.

California should also invest in affordable and supportive housing. Stable housing is a necessary step to effectively treat mental health challenges or substance use disorders.[316] Investing in these new safety priorities could result in public cost savings, improved health status, and reduced involvement in the criminal justice system.[317]

CONCLUSION

While some headway has been made in the past decade, much remains to be done in order to create second chances for individuals with convictions. In order to truly address the myriad ways convictions block the road to redemption, hope and dignity, California must take a more comprehensive approach and give all Californians a real second chance.

PARTNERS

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ENDNOTES

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