

# TRANSFORMING THE SYSTEM



## FOSTER

# Successful Reintegration

Most Americans agree that after completing a criminal sentence, released persons should be given an opportunity to successfully reintegrate into their communities. Everyone is entitled to a second chance to become a productive member of society. However, recently released individuals face a series of obstacles to successful reintegration. Several states have instituted barriers to reentry including bans on voting, restrictions on accessing social services, and employment limitations. These restrictions have devastating effects on previously incarcerated individuals and make reentry extremely challenging.

During each of the last several years, roughly 700,000 people have left prison;<sup>337</sup> between 11 and 13 million have cycled through local jails.<sup>338</sup> At both the state and federal levels, curbing recidivism and eliminating barriers to successful, sustained reentry have become priorities driven by a mixture of concerns about the fiscal costs of incarceration and the humanitarian toll that economic and civic hurdles place on families and communities.

## Encouraging policies that promote successful reentry and reduce recidivism

Reintegration policies should be guided by an emphasis on reducing recidivism and community rebuilding following a period of incarceration. Barriers to successful reintegration include laws that serve to further punish released individuals and reduce their civic engagement. Everyone should be granted the privileges of full citizenship, and formerly incarcerated individuals should be provided with the tools to not only reintegrate into their communities but build their communities up.

337 Katti Gray, "Parlaying the Prison Experience," 24 *Diverse Issues in Higher Education* 14 (Feb. 2010).

338 Peter Wagner, "Jails Matter. But Who is Listening?" *Prison Policy* (Aug. 1, 2015), <http://www.prisonpolicy.org/blog/2015/08/14/jailsmatter/>.

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**State, local and federal governments** should adopt policies that do the following:

- ▶ Expand the Second Chance Act of 2008, which intends to promote successful reintegration following incarceration;<sup>339</sup>
- ▶ Repeal post-conviction consequences that hamper successful reentry, including barriers to voting, employment, jury participation, and social services;<sup>340</sup>
- ▶ Institute graduated reentry and vocational programs, which provide structured transitional services to individuals within a year of release, such as the Montgomery Pre-Release Center that focuses on securing a job prior to release;<sup>341</sup>
- ▶ Require that reentry programs be competent in providing support to LGBTQ individuals;<sup>342</sup>
- ▶ Remove barriers to federal housing subsidies for formerly incarcerated individuals;
- ▶ Prohibit the use of criminal background checks that are not specifically related to the job or employment license;<sup>343</sup>
- ▶ “Reduce the potential tort liabilities to employers for negligent hiring suits. Reduced tort liability will make employers more likely to hire parolees. Statistics show that parolees with good, steady jobs are less likely to reoffend;”<sup>344</sup>
- ▶ Prohibit the use of criminal background checks on housing applications;<sup>345</sup>

339 42 USC § 3797(w)(2) (Supp. 2010). The purpose of the legislation is to “to break the cycle of criminal recidivism, increase public safety, and help States, local units of government, and Indian Tribes better address the growing population of criminal offenders who return to their communities and commit new crimes....”

340 Fortune Society, Advocacy, Policy Recommendation, <http://fortunesociety.org/#advocacy>.

341 Ibid.; see generally Anne Morrison Piehl, *Preparing Prisoners for Employment: The Power of Small Rewards*, Manhattan Institute (May 2009).

342 Center for American Progress & Movement Advancement Project, *Unjust: How the Broken Criminal Justice System Fails LGBT People* 37 (2016), at 122, <http://www.lgbtmap.org/file/lgbt-criminal-justice.pdf>.

343 Michelle Natividad Rodriguez & Beth Avery, National Employment Law Project, *Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records* 4 (April 2016), <http://www.nelp.org/publication/unlicensed-untapped-removing-barriers-state-occupational-licenses/> (providing guidelines on licensure requirements, which include requiring “assessment of candidates for licensure on a case-by-case basis, incorporating a standard that examines whether a conviction is occupation-related and how much time has passed since the conviction”).

344 *Parole & Reentry*, Right on Crime, <http://rightoncrime.com/category/priority-issues/parole-and-reentry/> (last visited July 7, 2016).

345 Fortune Society, *supra* note 340.

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- ▶ Establish incarceration and post-incarceration programs specifically devoted to educating incarcerated and previously incarcerated persons. They should include vocational programs intended to provide job skills;<sup>346</sup>
- ▶ Ban educational institutions from requiring information concerning criminal history on application forms;<sup>347</sup>
- ▶ Change the definition of homeless to incorporate people who have been incarcerated for more than 90 days for the purpose of expanding housing options available to formerly incarcerated individuals because “the McKinney Vento<sup>348</sup> definition of homelessness does not recognize individuals in jail or prison for longer than 90 days as in need of supportive housing for homeless individuals” and thus people who have been incarcerated for more than 90 days are currently unable to seek housing in shelters and other housing options that are restricted to people who are homeless;<sup>349</sup>
- ▶ Remove restrictions on access to housing for formerly incarcerated persons;<sup>350</sup>
- ▶ Provide opportunities for imprisoned persons to maintain contact with family and other support networks by establishing an office tasked with maintaining family affairs and requiring that incarcerated people are sentenced to prisons near their support networks;<sup>351</sup>
- ▶ Eliminate bars on civic participation, including voting, jury participation, and ability to hold government elected positions;<sup>352</sup>
- ▶ Eliminate incarceration for failure to pay child support when the person has the means;<sup>353</sup>
- ▶ Eliminate “pay to stay” policies in which prisons can charge formerly incarcerated individuals for the cost of room, board, and medical care.<sup>354</sup>

346 Ibid.

347 Ibid.

348 McKinney-Vento Homeless Assistance Act of 1987 (Pub. L. 100-77, July 22, 1987, 101 Stat. 482, 42 U.S.C. § 11301 et seq.

349 Fortune Society, *supra* note 340.

350 Ibid.

351 Charles Colson Task Force on Federal Corrections, *supra* note 235.

352 Marc Mauer, “Commentary: Should Felons Vote? Yes,” *Philly.com* (May 18, 2016), [http://articles.philly.com/2016-05-18/news/73155367\\_1\\_felony-sentences-prison](http://articles.philly.com/2016-05-18/news/73155367_1_felony-sentences-prison); *Felony Disenfranchisement*, The Sentencing Project, <http://www.sentencingproject.org/issues/felony-disenfranchisement/> (accessed 2 July 2016).

353 Eli Hager, *For Men in Prison, Child Support Becomes a Crushing Debt*, Marshall Project (Oct. 18, 2015), <https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt#.SmgEWq9os>.

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In addition, the [National Council for Incarcerated and Formerly Incarcerated Women](#) has identified several policy initiatives that **Congress and state governments** should take:<sup>355</sup>

- ▶ Encourage the collaboration of probate, family, and criminal courts prior to an individual's release;
- ▶ Fund legal and counseling services to facilitate family unification;
- ▶ Provide entrepreneurial and educational skills training opportunity;
- ▶ Prohibit parole and probation policies that automatically prevent formerly incarcerated people from visiting prisons and jails;
- ▶ Prohibit income deduction to halfway houses;
- ▶ Require the inspection of halfway house living conditions by qualified specialists;
- ▶ Fund community-based halfway houses and treatment over privatized entities;
- ▶ Hire formerly incarcerated individuals to staff halfway houses;
- ▶ Require the reinstatement of voting rights;
- ▶ Expand the availability of record sealing, expungement, and employment certifications;
- ▶ Prohibit the license bans based on former incarceration status.

354 American Civil Liberties Union, *In for a Penny: The Rise of America's New Debtors' Prisons* (2010), <https://www.aclu.org/report/penny-rise-americas-new-debtors-prisons>.

355 These policy recommendations are taken from recommendations by the Council although they are not fully listed on the website. We obtained these recommendations through our interactions with the Council.

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*For more information on reentry, check out:*

**Just Leadership USA**, which empowers people most affected by mass incarceration to drive policy reform. Our current and past Communications Institute Fellows Ronald Simpson-Bey, Khalil Cumberbatch, and Glenn Martin work on policies to empower the formerly incarcerated.

**National Council for Incarcerated and Formerly Incarcerated Women and Girls (NCIFWG)**, an organization devoted to engaging incarcerated and formerly incarcerated women and girls in policy reform.

**National Employment Law Project** fights to ensure that people who have been involved in the criminal justice system have a fair chance at employment.