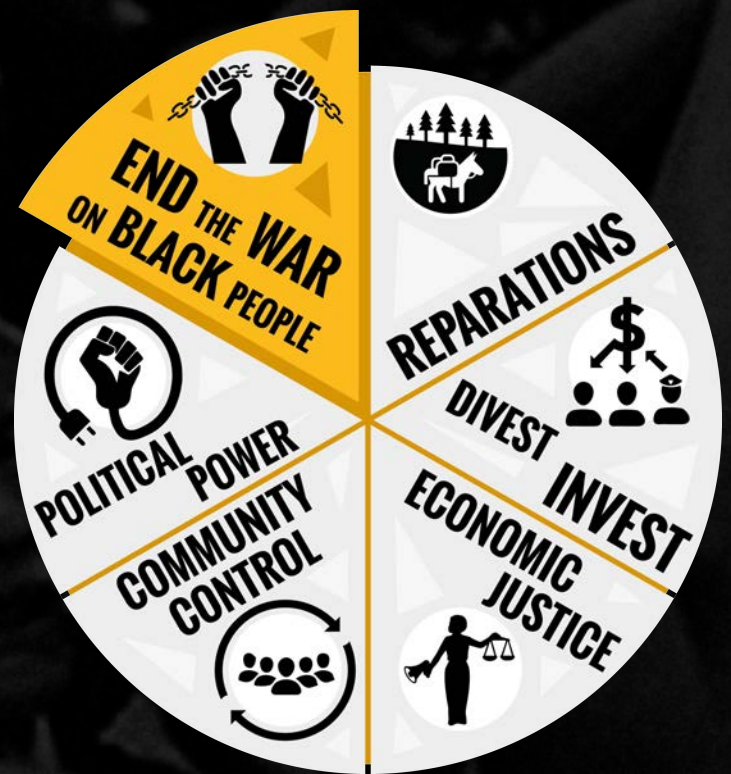


# A VISION FOR BLACK LIVES

POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE

**END** THE USE OF PAST  
**CRIMINAL HISTORY**  
TO DETERMINE  
ELIGIBILITY FOR  
**HOUSING, EDUCATION,**  
LICENSES, VOTING,  
**LOANS, EMPLOYMENT,**  
AND OTHER SERVICES  
AND **NEEDS**



POLICY PLATFORM 1 OF 6

POLICY BRIEF 13 of 13

**M4BL**

THE MOVEMENT  
FOR BLACK LIVES

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# **END THE USE OF PAST CRIMINAL HISTORY TO DETERMINE ELIGIBILITY FOR HOUSING, EDUCATION, LICENSES, VOTING, LOANS, EMPLOYMENT, AND OTHER SERVICES AND NEEDS**

## **SUMMARY**

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### **THE ISSUE**

Over 73 million people—or one in three people in the U.S.—currently have a record of past criminal history, triggering dozens of collateral consequences affecting access to education, employment and professional licenses, housing, social services and benefits, parental and adoption rights, freedom of movement, and voting rights. Given profound racial disparities at every stage of the criminal punishment system, Black people are disproportionately affected by these restrictions and exclusions.

### **THE DEMAND**

Eliminate restrictions and exclusions on access to housing, education, employment, social programs and benefits, voting rights, parental rights, and other civil rights based on prior criminal convictions.

### **KEY FEDERAL LEGISLATION**

- ❖ Ban the Box/Fair Chance legislation applying to employment, housing, licensing, and educational opportunities, including federal financial aid.
- ❖ Repeal federal, state, and local bans on receipt of social assistance based on prior convictions.

# WHAT IS THE PROBLEM?

Over the last 40 years, the reach of the criminal punishment system in the U.S. has expanded beyond contemporary and historical norms: **there are currently 2.3 million people in state, federal, military, and Indian Country prisons, jails, and detention centers, civil commitment centers, and state psychiatric hospitals, and another 5 million on probation or parole.** There are over 10 million arrests each year, and 5 million people are arrested and booked every year, many multiple times each year. As a result, more than **73.5 million people— or 1 in 3 people in the U.S.—have a criminal record history in an electronic database.**

This population is disproportionately Black. Due to systemic anti-Black racism and profound racial disparities at every stage of the criminal punishment system, **Black people represent 13% of the population but over 40% of people currently incarcerated in cages,** and are 5 times more likely to be incarcerated than white people. One in 3 Black men can expect to be arrested before they're even 23 years old. One in 2 Black trans women report experiencing incarceration in their lifetime. Despite making up only 13% of the general population, Black people account for 21% of people who were arrested just once and 28% of people arrested multiple times in 2017. **People with multiple arrests are disproportionately Black, low-income, and unemployed:**





- ❖ 42% of people arrested and booked 3 or more times were Black.
- ❖ Half reported incomes less than \$10,000, and were four times more likely to be unemployed.
- ❖ Over half reported substance dependence in the past year.
- ❖ People with unmet mental health needs were three times more likely to experience multiple arrests.
- ❖ People who experienced multiple arrests were 3 times more likely to not have health insurance, and 11 times more likely to be living with HIV.
- ❖ The vast majority of people who experienced multiple arrests (88%) were arrested for nonviolent offenses.



Contact with the criminal punishment system triggers **dozens of formal and informal legal and social restrictions, often referred to as “collateral consequences,” barring people with records from accessing basic life necessities such as employment, housing, shelter, and public assistance.** Consequently, huge segments of Black communities are civically, economically, and socially excluded from participation in society, in a manner eerily reminiscent of segregation experienced in the Jim Crow South.



# THE DEMAND

**President Obama issued an executive order banning the box for federal employees, over 35 states and over 150 cities nationwide have adopted “fair chance” legislation, 12 states have extended the ban to private employers, and 31 cities and the District of Columbia extend the ban to government contractors.** We demand that policymakers:

- ❖ Ban the Box: prohibit public and private employers from asking questions about criminal record history on employment applications until later in the decision-making process.
- ❖ Eliminate restrictions on voting, public assistance, professional licenses, housing, education, financial aid, parental rights, and adoption for people with prior criminal records. All people with prior convictions should regain these rights and privileges as well.



## HOW DOES THIS SOLUTION ADDRESS THE SPECIFIC NEEDS OF SOME OF THE MOST MARGINALIZED BLACK PEOPLE?

The second class status resulting from a criminal record disproportionately affects working class, low- and no-income Black people who are primary targets of criminalization and disproportionately represented at every stage of the criminal punishment system. Black women, Black queer and trans and gender nonconforming, Black disabled, and Black undocumented people face unique challenges to accessing housing, employment, and public benefits based on a number of factors, including barriers associated with criminal record history. When these groups are marked with a criminal record, it only adds to their exclusion from economic opportunities.



# FEDERAL ACTION

- ❖ Fully implement and expand the **Fair Chance Act** to include all hires by federal contractors and to apply to private employers.
- ❖ Expand and fully enforce HUD guidance to **prohibit public housing authorities and private landlords from barring individuals based on prior criminal convictions.**
- ❖ Pass federal legislation eliminating questions about drug convictions from the **Free Application for Federal Student Aid (FAFSA)**, and all barriers to receiving financial aid based on prior criminal convictions or incarceration.
- ❖ Pass legislation eliminating the option for states to ban receipt of federally funded public assistance based on prior criminal conviction.





## STATE ACTION

- ❖ Pass legislation or issue executive orders banning the box for all schools, housing, and employment.
- ❖ Remove bans on benefits for people with prior convictions.
- ❖ Eliminate blanket bans on licensure based on prior criminal convictions.
- ❖ Pass legislation prohibiting private property owners from discriminating against potential tenants based on prior criminal history.



YOU HAVE  
the  
FREEDOM  
to  
VOTE



# LOCAL ACTION:

Over 100 cities and counties have adopted Ban the Box policies across the country through a combination of legislation, executive action, and administrative rule changes.





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# MODEL LEGISLATION

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- ❖ **Massachusetts**
- ❖ **Minnesota**
- ❖ **Georgia**
- ❖ **NELP: Best Practices and Model Policies:  
Creating a Fair Chance Policy**



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# RESOURCES

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- ❖ **Ban the Box: U.S. Cities, Counties, and States Adopt Fair-Chance Policies to Advance Employment Opportunities for People with Past Convictions**
- ❖ **50-State Comparison: Consideration of Criminal Records in Licensing and Employment**
- ❖ **All of Us or None Ban the Box Campaign Toolkit**
- ❖ **Invisible Punishment: The Collateral Consequences of Mass Imprisonment**
- ❖ **National Employment Law Project Ban the Box Guide**
- ❖ **Sentencing Project: Collateral Consequences**
- ❖ **The Benefits of Ban the Box: A Case Study of Durham, N.C.**
- ❖ **The Use of Criminal Records in College Admissions Reconsidered**



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# ORGANIZATIONS CURRENTLY WORKING ON POLICY

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**ALL OF US OR NONE**

**CLASP**

**NATIONAL  
EMPLOYMENT LAW  
PROJECT**

**MOVEMENT FOR  
FAMILY POWER**

**SENTENCING  
PROJECT**

**SOUTHERN  
COALITION FOR  
SOCIAL JUSTICE**



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