



A VISION FOR BLACK LIVES: **POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE**

The End to the Use of Past Criminal History to Determine Eligibility for Housing, Education, Licenses, Voting, Loans, Employment, and Other Services and Needs

What is the problem?

- Over the last 40 years, the criminal legal system has expanded beyond contemporary and historical norms: there are 2.2 million people in prison, another 5 million on probation or parole, and more than 65 million people with criminal record history in an electronic database.
- However, America's fascination with punishment has not been equitably distributed across all demographic groups: Blacks and Latinos represent over 60 percent of the people currently residing in cages and 1 in 3 black men can expect to be arrested before they're even 23 years old.
- Further compounding this problem is the fact that contact with the criminal legal system triggers a set of formal and informal legal and social restrictions, often referred to as "collateral consequences," which bar people with records from basic life necessities employment, housing, and government assistance. Consequently, huge segments of Black and Latino communities are civically, economically, and socially excluded from participation in society, which is eerily reminiscent to the segregation experienced in the Jim Crow South.

What does this solution do?

- Ban the Box, which is the prohibition or delay of inquiries about criminal record history until later in the decision-making process, was developed by "All of Us or None", people directly impacted by the criminal legal system, in response to the structural discrimination faced by people with criminal records in every aspect of life.
- According to Dorsey Nunn, one of the founders of All of Us or None, "we decided to push Ban the Box to organize people with criminal records, not the other way around, meaning we did not organize people with records to only pass Ban the Box policies. That was not our primary objective. For us the larger goal was to get people with criminal records to exercise their self-determination to become organized and active in the fight against mass criminalization and the 2nd class status that comes with a criminal record."
- This solution goes a step beyond traditional "Ban the Box" campaigns and legislation, which usually only address employment, and would allow people who do time to remain eligible for voting, public assistance, licenses, and a host of other needs and services. All people with prior convictions should regain these rights and privileges as well.



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Federal Action:

- Target: Legislative or Executive
- Process: Ban the Box policies in the employment context have been adopted through the legislative process and executive actions. In November 2015, President Obama [announced](#) an executive action that would Ban the Box for federal employees. However, the Obama administration's policy does not apply to independent contractors or private businesses. Moreover, executive orders are not the most durable policy vehicle as the next President after Obama can undo Obama's actions by simply issuing their own Executive Orders reversing the previous orders.
- Target: Legislative
- Process: On the legislative front, Sen. Cory Booker (NJ) and Rep. Elijah Cummings introduced [Ban the Box legislation](#) that would apply to federal employees and independent contractors.
- However, the Booker and Cummings legislation does not apply to private businesses. Obviously, the bill would have to pass both the House and Senate and then be signed into law by the President of the U.S. With regards to Ban the Box policies in other arenas like housing and education, an analysis would have to be done to determine who would have final decision making authority in order to choose whether legislation or executive action would be the proper policy making vehicle.

State Action:

- Target: Executive
- Process: State governors can make executive orders banning the box for government funded schools, housing and employment.
- Target: Legislative
- Process: States can pass legislation banning the box for government funded schools, housing and employment.

Local Action:

- Target: City Council or Executive
- Process: 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.

How does this solution address the specific needs of some of the most marginalized Black people?



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- Mass criminalization and the second class status attendant to a criminal record has impacted all of the most marginalized Black people, however, it should be noted that Black trans and undocumented people face unique challenges to gaining meaningful employment, separate and apart from the barriers associated with criminal record history. When these groups are marked with a criminal record, it only adds to their exclusion from economic opportunities.

Model Legislation

- [Massachusetts](#)
- [Minnesota](#)
- Executive Order: Governor Nathan Deal issued an Executive Order [Banning the box in Georgia](#)

Resources:

- [All of Us or None Ban the Box Campaign Toolkit](#)
- [The Benefits of Ban the Box: A Case Study of Durham, N.C.](#)
- [National Employment Law Project Ban the Box Guide](#)
- [The Use of Criminal Records in College Admissions Reconsidered](#)

Organizations Currently Working on Policy:

- All of Us or None
- Southern Coalition For Social Justice
- National Employment Law Project

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