

United States Senate

WASHINGTON, DC 20510

February 22, 2018

Dr. Jenny Rickard
President and CEO
The Common Application
3003 Washington Blvd, Suite 1000
Arlington, VA 22201

Dear President Rickard:

We write to urge you to reconsider removing criminal justice involvement (CJI) questions from The Common Application (“Common App”). We recognize that this issue has been previously discussed within your organization, but the urgency to change the application only grows with each passing year given the persistent inequities that remain in our higher education and criminal justice systems. CJI questions have a disproportionate effect on students of color and low-income families, and deter exceptional applicants from completing their applications and accessing critical pathways to opportunity. Simply allowing institutions of higher education to suppress the results of the information does nothing to reduce the unfortunate effect that CJI questions have in discouraging applications from historically underrepresented students.

We do not believe that is appropriate for some CJI information—for example, arrest records, juvenile adjudication, and school disciplinary actions—to be collected at the initial admissions stage, given that most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student bodies during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions have been made, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

We are aware that more than 700 postsecondary institutions use the Common App, which has included CJI questions since 2006. Postsecondary institutions that use your universal form and services will receive sensitive and detailed information about an applicant’s convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.ⁱ This broad information vastly exceeds the tailored data that institutions need to maintain the safety of enrolled students.

A significant portion of the U.S. population has had some level of involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three

Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

Given these basic facts, it is impossible to argue that involvement with the criminal justice system is relevant to assessing a prospective student's academic qualifications. It is essential that we acknowledge the disparate treatment of populations of color by our criminal justice system and take steps, like the removal of CJI questions from the Common App, to remedy this injustice.

Unfortunately, the Common App compounds its ill-advised questions about individual's formal involvement with the criminal justice system with further questions about whether students have been found responsible for a disciplinary violation at any school they have attended since the 9th grade.^{vii} A significant body of research notes that students of color, students with disabilities, and LGBTQ students are far more likely to be subjected to school discipline due to implicit bias and discrimination. For example, black students are suspended and expelled at a rate three times greater than their white peers and students with disabilities are twice as likely as non-disabled students to receive an out-of-school suspension.^{viii} The combined effect of CJI and school discipline questions is having a devastating impact on prospective students who have been historically denied education at all levels.

It is critical to remove barriers to education for those with criminal records, as education has a proven record of reducing recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive access to education are much lower than the national average, according to recent studies.^{ix} The national recidivism rate is 43.3 percent within 3 years.^x That rate drops to 13.7 percent if formerly incarcerated individuals have an associate degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xi} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xii}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter systemic biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xiii} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xiv}

While nationwide research into the negative impact that this information can have against prospective students is still growing, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xv} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xvi}

While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information.^{xvii} They

report that their campuses are not less safe as a result.^{xviii} As noted in the U.S. Department of Education’s 2016 guidance, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime.^{xix}

We urge the Common App to follow efforts by states and institutions of higher education that have acknowledged the damaging impact of CJI information in admissions and taken steps to remove these questions. Louisiana and Maryland were the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at their public colleges. A number of additional states, including Illinois, Indiana, and Washington, are considering similar legislation. Several university systems in California, Hawaii, Texas, New York, and Minnesota have recently removed CJI questions from their initial applications, while others have avoided including these harmful questions for many years.

Many postsecondary institutions rely heavily upon your services, and the Common App shapes the admissions policy for a large swath of the country. We believe it is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal, and therefore we respectfully ask you to remove CJI questions from the Common App as soon as possible. Thank you for your attention to this important matter.

Sincerely,


BRIAN SCHATZ
United States Senator


RICHARD J. DURBIN
United States Senator


PATTY MURRAY
United States Senator


PATRICK LEAHY
United States Senator


ELIZABETH WARREN
United States Senator


CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



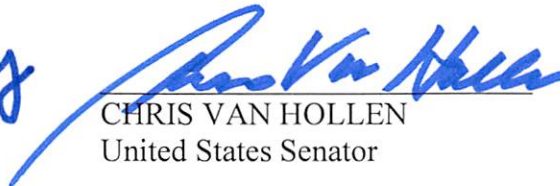
KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



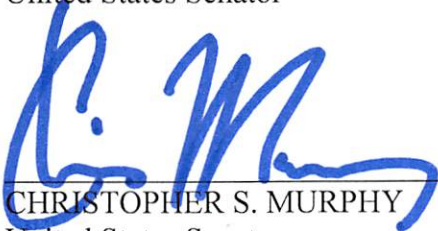
CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator



BERNARD SANDERS
United States Senator



MAZIE K. HIRONO
United States Senator

CC: Board of Directors, The Common Application

-
- ⁱ Judith Scott-Clayton, "Thinking 'beyond the box': The use of criminal records in college admissions," (Brookings Institution, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ⁱⁱ "Survey of State Criminal History Information Systems, 2012." (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, "Prisoners in 2014," (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, "Jail Inmates in 2015," (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, "Thinking 'beyond the box': The use of criminal records in college admissions," (Brookings Institution, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, "Drug offenders in American prisons: the critical distinction between stock and flow," The Brookings Institute (Nov. 25, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} <http://appsupport.commonapp.org/FileManagement/Download/a2ff88cfd824e4b8a7e073619b411ee>
- ^{viii} U.S. Department of Education. "School Climate and Discipline: Know the Data." <https://www2.ed.gov/policy/gen/guid/school-discipline/data.html>
- ^{ix} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, "Evaluating the Effectiveness of Correctional Education," (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^x Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, "Changing Minds: The Impact of College in a Maximum-Security Prison," (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xi} Fine, et al., "Changing Minds."
- ^{xii} Davis, et al., "Evaluating the Effectiveness."
- ^{xiii} Scott-Clayton, "Thinking 'beyond the box.'"
- ^{xiv} Ibid.
- ^{xv} Robert Stewart and Christopher Uggen, "Criminal Records and College Admissions: A National Experimental Audit," (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xvi} "Boxed Out: Criminal History Screening and College Application Attrition," (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xvii} Marsha Weissman and Emily NaPier, "The Use of Criminal History Records in College Admissions," (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.
- ^{xviii} Weissman and NaPier, "The Use of Criminal History Records."
- ^{xix} King, "Beyond the Box."

United States Senate

WASHINGTON, DC 20510

February 22, 2018

Ted Mitchell
President
American Council on Education
One Dupont Circle NW
Washington, D.C 20036

Dear President Mitchell:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

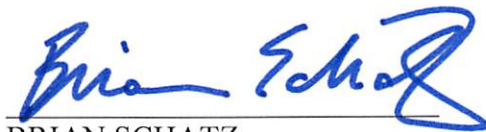
While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD J. DURBIN
United States Senator



PATTY MURRAY
United States Senator



PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator



CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



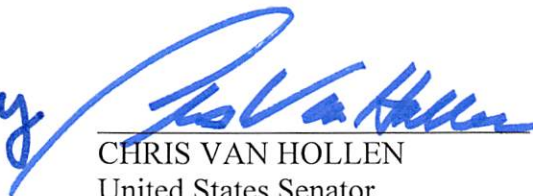
KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



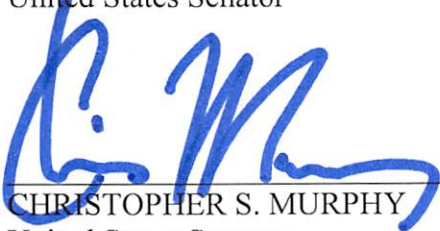
CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator



BERNARD SANDERS
United States Senator



MAZIE K. HIRONO
United States Senator

CC: Board of Directors, American Council on Education

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty”, (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

United States Senate

WASHINGTON, DC 20510

February 22, 2018

Peter McPherson
President
Association of Public and Land-grant Universities
1307 New York Avenue NW, Suite 400
Washington, DC 20005

Dear President McPherson:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

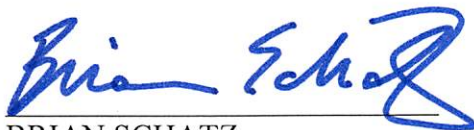
While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD J. DURBIN
United States Senator



PATTY MURRAY
United States Senator




PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator



CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



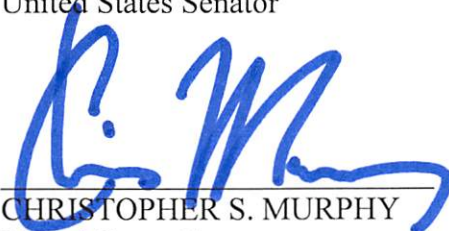
CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator



BERNARD SANDERS
United States Senator



MAZIE K. HIRONO
United States Senator

CC: Board of Directors, Association of Public and Land-grant Universities

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty,” (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

United States Senate

WASHINGTON, DC 20510

February 22, 2018

Lynn Pasquerella
President
Association of American Colleges and Universities
1818 R Street NW
Washington, DC 20009

Dear President Pasquerella:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD J. DURBIN
United States Senator



PATTY MURRAY
United States Senator



PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator



CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



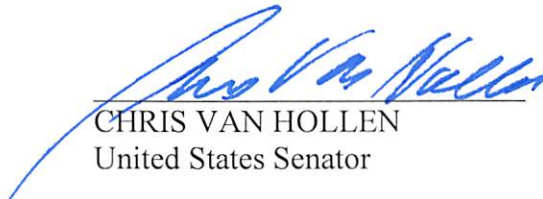
KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator



BERNARD SANDERS
United States Senator



MAZIE K. HIRONO
United States Senator

CC: Board of Directors, Association of American Colleges and Universities

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty,” (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

United States Senate

WASHINGTON, DC 20510

February 22, 2018

David L. Warren, Ph.D.
President
National Association of Independent Colleges and Universities
1025 Connecticut Avenue NW, Suite 700
Washington, D.C 20036

Dear President Warren:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator




RICHARD J. DURBIN
United States Senator


PATTY MURRAY
United States Senator


PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator


CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator


TAMMY BALDWIN
United States Senator


KAMALA D. HARRIS
United States Senator

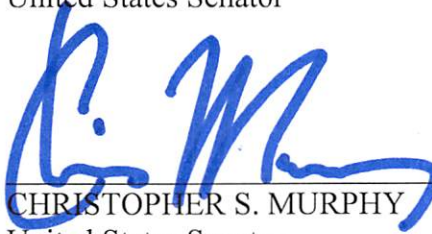

BENJAMIN L. CARDIN
United States Senator


EDWARD J. MARKEY
United States Senator


CHRIS VAN HOLLEN
United States Senator


CATHERINE CORTEZ MASTO
United States Senator


TAMMY DUCKWORTH
United States Senator


CHRISTOPHER S. MURPHY
United States Senator


SHERROD BROWN
United States Senator

B. Sanders

BERNARD SANDERS
United States Senator

Mazie K Hirono

MAZIE K. HIRONO
United States Senator

CC: Board of Directors, National Association of Independent Colleges and Universities

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” Center for American Progress 4 (Dec. 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty,” (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

United States Senate

WASHINGTON, DC 20510

February 22, 2018

Dr. Walter G. Bumphus
President and CEO
American Association of Community Colleges
One Dupont Circle NW, Suite 410
Washington D.C, 20036

Dear President Bumphus:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

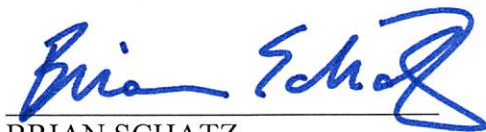
While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD J. DURBIN
United States Senator



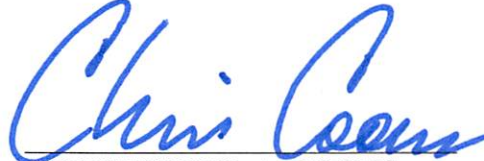
PATTY MURRAY
United States Senator



PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator



CHRISTOPHER A. COONS
United States Senator



CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



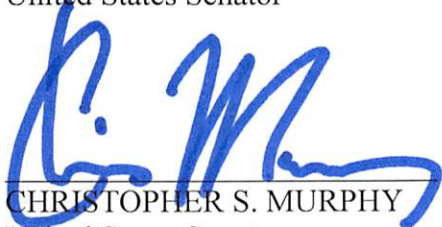
CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator



BERNARD SANDERS
United States Senator



MAZIE K. HIRONO
United States Senator

CC: Board of Directors, American Association of Community Colleges

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty,” (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

United States Senate

WASHINGTON, DC 20510

February 26, 2018

Dr. Mildred García
President
American Association of State Colleges and Universities
1307 New York Avenue NW, 5th Floor
Washington, DC 20005

Dear President García:

We write to recommend that your member institutions consider removing criminal justice involvement (CJI) questions from the admissions process. As an association with hundreds of member institutions around the country, we recognize the tremendous influence that your organization can have in promoting best practices in higher education. Asking CJI questions on admissions applications has a disproportionate effect on students of color and low-income families, and deters exceptional applicants from completing their applications and accessing critical pathways to opportunity.

States like Louisiana and Maryland—the first states to enact “ban the box” legislation to remove CJI questions from the admissions process at public postsecondary institutions—and the federal government play a role in supporting colleges and universities as they develop sound and compliant policies by providing guidance, training, and technical assistance regarding the use of criminal records in admissions. A number of additional states—such as Illinois, Indiana, and Washington—are considering similar legislation to remove CJI questions from the admissions process. Several university systems in California, Hawaii, Texas, New York, and Minnesota have removed CJI questions from their initial applications, and some have done so for many years. Even the U.S. Department of Education (“Department”) has acknowledged the need to reexamine CJI policies in higher education at the national level, as addressed in guidance issued on May 9, 2016, titled “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals.”ⁱ

A significant portion of the U.S. population has had some involvement with the criminal justice system. In 2014, the Bureau of Justice Statistics (BJS) estimated that 70 million Americans have some type of arrest or conviction record that would appear in a criminal background check.ⁱⁱ Each year, over 600,000 people return to society from state and federal prisons.ⁱⁱⁱ Nearly 11 million Americans were admitted to city and county jails in 2015, with an average daily population of more than 700,000 people.^{iv} In addition, nearly one in three Americans has been arrested at least once by the age of 23.^v This is largely attributable to increased incarceration of non-violent drug offenders over the last three decades.^{vi}

As a result, one in three Americans are estimated to have a criminal record, creating barriers to educational opportunities, decreased earnings, unemployment, and poverty.^{vii} One study reports

that if not for mass incarceration, the overall U.S. poverty rate would have dropped by 20 percent between 1980 and 2004.^{viii} One year after release, 60 percent of formerly incarcerated individuals remain unemployed.^{ix} Most of those able to find employment have considerably diminished earnings.^x This has larger economic impacts as well, as excluding the formerly incarcerated and those with felony convictions from the workplace results in about 1.7 to 1.9 million fewer workers, suggesting a loss of between \$78 and \$87 billion in gross domestic product.^{xi}

It is critical to remove barriers to education for those with criminal records, as education has a proven record of meeting societal aims to prevent recidivism and rearrests among these individuals and helping them reenter society successfully. Recidivism rates of formerly incarcerated people who receive correctional education are lower than the national average, according to recent studies.^{xii} The national recidivism rate is 43.3 percent within 3 years.^{xiii} That rate drops to 13.7 percent if formerly incarcerated individuals have an associate's degree, 5.6 percent if they have a bachelor's degree, and less than 1 percent if they have a master's degree.^{xiv} There are also higher rates of employment among formerly incarcerated people who received correctional education than among those who did not.^{xv}

However, as individuals with a criminal record attempt to reclaim their lives through higher education, they encounter biases in the admissions process. In the most recent surveys of postsecondary institutions, 60 to 80 percent of private institutions ask CJI questions during their admissions process.^{xvi} Similarly, for public institutions, 55 percent of 4-year institutions and 40 percent of community colleges collect CJI information in their admissions process.^{xvii}

The information collected is not limited to an individual's formal involvement with the criminal justice system. Nearly 75 percent of postsecondary institutions collect elementary and high school disciplinary information.^{xviii} This includes disciplinary violations that may be related to both academic and behavioral misconduct, which resulted in disciplinary action. Of those institutions, 89 percent use that information in their admissions process.^{xix}

At the same time, some colleges and universities ask applicants to specify the type of their criminal convictions, including misdemeanors and juvenile adjudications. For instance, postsecondary institutions that use universal application services from the Common Application will receive information about an applicant's convictions, both misdemeanor and felony, as well as guilty adjudications in the juvenile justice system.^{xx} The Common Application, used by over 700 postsecondary institutions, has been asking CJI questions since 2006.

While nationwide research into the bias that this information can have against prospective students is limited, snapshots and state-based research show that application rejection rates for individuals with convictions can be as high as 12 to 13 percentage points more than for those without.^{xxi} More importantly, these questions can dissuade prospective students from completing their applications. One 2015 study found that potential applicants with felony convictions failed to complete their applications at a rate that was 41.5 percent higher than for those without felony convictions—62.5 percent versus 21 percent, respectively.^{xxii}

While it is imperative that campus safety remain a priority for postsecondary institutions, in a recent survey of colleges and universities, 38 percent do not collect CJI information and do not report that their campuses are less safe as a result.^{xxiii} As the Department's 2016 guidance notes, there is limited research and evidence to suggest that CJI questions in the admissions process decrease campus crime. Most colleges and universities have alternative means of collecting student information that is relevant to the health, wellness, and safety of their student body during the formal enrollment process. For example, basic immunization and demographic information is almost always collected after admissions decisions, and institutions could request relevant information on issues relevant to the safety of their student bodies, such as past sexual violence or misconduct, at this stage as well.

While we recommend that CJI questions be removed from the admissions process, we do not suggest that relevant questions should be eliminated entirely from institutions' interactions with students. It may be appropriate for institutions to have access to certain information for purposes related to student safety, but this information can be collected after the admissions process and in a manner that does not discourage the application and enrollment of students who have been historically disadvantaged.

However, individuals who have access to this sensitive CJI information must have relevant training and expertise so as to prevent this information from unfairly affecting new and current students and to maintain student privacy. Forms that include CJI questions should make clear the purpose and scope of those questions, should include clear directions, and should avoid overly broad questions. Individuals should have the opportunity to explain their histories, and there should be a process by which individuals can redress any discriminatory treatment. Institutions should also avoid including proxy questions sometimes used in lieu of CJI questions but having the same impact.

It is imperative that individuals who would benefit greatly from higher education are not unfairly hindered in their attempt to reach that goal and that the inequities of our criminal justice system are not perpetuated in higher education. It is for these reasons that we ask for your help to reach out to and encourage your member institutions to consider removing CJI questions from their admissions applications. We thank you for your attention to this matter.

Sincerely,



BRIAN SCHATZ
United States Senator



RICHARD J. DURBIN
United States Senator



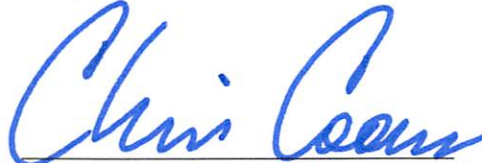
PATTY MURRAY
United States Senator



PATRICK LEAHY
United States Senator



ELIZABETH WARREN
United States Senator



CHRISTOPHER A. COONS
United States Senator



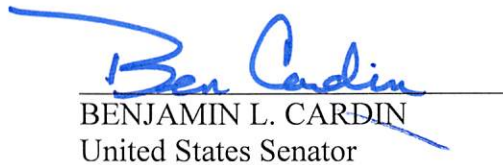
CORY A. BOOKER
United States Senator



TAMMY BALDWIN
United States Senator



KAMALA D. HARRIS
United States Senator



BENJAMIN L. CARDIN
United States Senator



EDWARD J. MARKEY
United States Senator



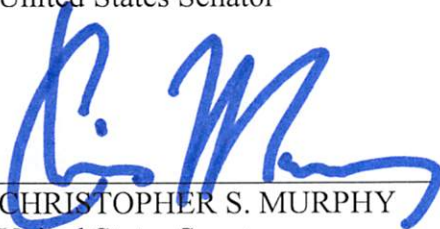
CHRIS VAN HOLLEN
United States Senator



CATHERINE CORTEZ MASTO
United States Senator



TAMMY DUCKWORTH
United States Senator



CHRISTOPHER S. MURPHY
United States Senator



SHERROD BROWN
United States Senator

B. Sanders

BERNARD SANDERS
United States Senator

Mazie K. Hirono

MAZIE K. HIRONO
United States Senator

CC: Board of Directors, American Association of State Colleges and Universities

-
- ⁱ Secretary John B. King, Jr., “Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals,” (U.S. Department of Education, 2016), <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.
- ⁱⁱ “Survey of State Criminal History Information Systems, 2012.” (U.S. Department of Justice, Bureau of Justice Statistics, 2014), <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.
- ⁱⁱⁱ Ann E Carson, “Prisoners in 2014,” (U.S. Department of Justice, Bureau of Justice Statistics, 2015), <http://www.bjs.gov/content/pub/pdf/p14.pdf>.
- ^{iv} Todd D. Minton and Zhen Zeng, “Jail Inmates in 2015,” (U.S. Department of Justice, Bureau of Justice Statistics, 2016), <https://www.bjs.gov/content/pub/pdf/ji15.pdf>.
- ^v Judith Scott-Clayton, “Thinking ‘beyond the box’: The use of criminal records in college admissions,” (The Brookings Institute, 2017), <https://www.brookings.edu/research/thinking-beyond-the-box-the-use-of-criminal-records-in-college-admissions/>.
- ^{vi} Jonathan Rothwell, “Drug offenders in American prisons: the critical distinction between stock and flow,” (The Brookings Institute, 2015), <https://www.brookings.edu/blog/social-mobility-memos/2015/11/25/drug-offenders-in-american-prisons-the-critical-distinction-between-stock-and-flow/>.
- ^{vii} Rebecca Vallas et al., “Removing Barriers to Opportunity for Parents with Criminal Records and Their Children,” (Center for American Progress, 2015), <https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/>.
- ^{viii} Robert DeFina & Lance Hannon, “The Impact of Mass Incarceration on Poverty,” (SAGE JOURNALS Vol. 59, Issue 4, 2013) <http://journals.sagepub.com/doi/abs/10.1177/0011128708328864>.
- ^{ix} Vallas et al., “Removing Barriers.”
- ^x Ibid.
- ^{xi} Cherrie Bucknor & Alan Barber, “The Price We Pay: Economic Costs of Barriers to Employment,” (Center for Economic and Policy Research, 2016), <http://cepr.net/images/stories/reports/employment-prisonersfelonies-2016-06.pdf>.
- ^{xii} Lois M. Davis, Robert Bozick, Jennifer L. Steele, Jessica Saunders, Jeremy N. V. Miles, “Evaluating the Effectiveness of Correctional Education,” (Rand Corporation, 2013), https://www.bja.gov/Publications/RAND_Correctional-Education-Meta-Analysis.pdf.
- ^{xiii} Michelle Fine, Maria Elena, Kathy Boudin, Iris Bowen, Judith Clark, Donna Hylton, Migdala Martinez, Rosmarie A. Roberts, Pamela Smart, and Debora Upegui, “Changing Minds: The Impact of College in a Maximum-Security Prison,” (The Graduate Center of the City University of New York, 2001), http://www.prisonpolicy.org/scans/changing_minds.pdf.
- ^{xiv} Fine, et al., “Changing Minds.”
- ^{xv} Davis, et al., “Evaluating the Effectiveness.”
- ^{xvi} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xvii} Ibid.
- ^{xviii} Marsha Weissman and Emily NaPier, “Education Suspended: The Use of High School Disciplinary Records in College Admissions,” (Center for Community, 2015), <http://communityalternatives.org/pdf/publications/EducationSuspended.pdf>.
- ^{xix} Ibid.
- ^{xx} Scott-Clayton, “Thinking ‘beyond the box.’”
- ^{xxi} Robert Stewart and Christopher Uggen, “Criminal Records and College Admissions: A National Experimental Audit,” (Presentation at American Sociological Association Annual Meetings, 2017), <http://users.soc.umn.edu/~uggen/RobStewartASA17.mp4>.
- ^{xxii} “Boxed Out: Criminal History Screening and College Application Attrition,” (Center for Community Alternatives, 2015), http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf.
- ^{xxiii} Marsha Weissman and Emily NaPier, “The Use of Criminal History Records in College Admissions,” (Center for Community Alternatives, 2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.