



# OPENING DOORS:

How Philadelphia Area Colleges Can Promote Access & Equity by “Banning the Box”



## EXECUTIVE SUMMARY

Young people of color across Pennsylvania are over-criminalized at staggering rates. The consequences for any contact with the juvenile or criminal systems can be severe and long-lasting, while the circumstances that lead to arrest are often minor and may once have been thought of as normal adolescent behavior. The movement to “Ban the Box” on employment applications and to push for fair hiring laws has gained steam, but not as much attention is being paid to the prevalent practice of colleges asking about juvenile and criminal records on applications. In the Philadelphia area, many colleges and universities including Penn, Drexel, Temple, and Villanova either use the common application or their own applications which ask about prior criminal records.

Research has shown that asking about records on college applications is not related to increasing safety on campus, but it does prevent people with records from completing applications and enrolling in school. Because of the disparate impact this has on people of color, it is particularly important for colleges to end this harmful practice that may violate civil rights law. Doing so will encourage more young people to access higher education, and will send an important message about the value of racial equity and diversity on campus.

**About Community Legal Services, Inc.:** Founded in 1966 by the Philadelphia Bar Association, Community Legal Services (CLS) has provided free civil legal assistance to more than one million low-income Philadelphians. As the City’s oldest and largest legal services program, CLS represented approximately 10,000 clients in the past year. CLS assists clients when they face the threat of losing their homes, incomes, health care, and even their families. CLS attorneys and other staff provide a full range of legal services, from individual representation to policy advocacy to class action litigation, as well as community education and social work. CLS is nationally recognized as a model legal services program.

For more information, contact 215-981-3700 or visit [www.clsphila.org](http://www.clsphila.org).

**About CLS’s Youth Justice Project:** Launched in January of 2016, the Youth Justice Project (YJP) provides holistic representation and engages in community-based outreach to ensure that young people transitioning to adulthood are able to connect to the services they need to gain stability and access opportunity. The YJP has a particular focus on working with youth who are most marginalized, including youth of color, youth who have been in the child welfare, juvenile, or criminal legal systems, youth experiencing homelessness, and LGBTQ+ youth. The YJP also works with partners to push for changes to laws, systems, and policies to ensure that young people are able to connect to the opportunities they need to thrive.

For more information visit [www.clsphila.org/youthjustice](http://www.clsphila.org/youthjustice).

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## **INTRODUCTION**

Low-income young people face significant hurdles in pursuing higher education, from skyrocketing tuition costs, to the burden of student loan debt, to challenges accessing financial aid. The wealth gap between white and Black families further exacerbates inequity in access to college education, as white families who have built and transferred wealth over the course of generations are far more likely to have a nest egg to pay for college.<sup>1</sup> Despite the financial challenges in accessing higher education, it has never been more important to have a college degree, which has become an essential tool for escaping poverty.<sup>2</sup>

While the cost of college continues to be a challenge, there is another barrier to college access that is wholly unnecessary and detrimental, especially for young people of color. While progress has been made to “Ban-the Box” on employment applications,<sup>3</sup> many institutions of higher education across the country continue to ask applicants about juvenile and criminal records.<sup>4</sup> Because young people of color are over-criminalized from a young age due to racial bias and are thus far more likely than their white peers to have had contact with the juvenile and criminal systems, asking about records on college applications has a disparate impact on access to education.<sup>5</sup>

In addition to the screening out of applicants who have records by admissions staff, merely asking the question has a well-documented effect of deterring people with records from completing college applications.<sup>6</sup> This real harm caused to thousands of young people seeking to better their lives is also completely unnecessary. Screening applicants for records has not been linked to producing safer campuses.<sup>7</sup>

Not only does continuing this practice potentially violate Title VI of the Civil Rights Act of 1964, it is also unnecessarily creates additional barriers for young people who already face challenges in accessing higher education.<sup>8</sup> **Colleges in the Philadelphia area and across the country should adopt the best practice of removing questions about criminal records from their applications.**

**Rhonda’s Story:** Rhonda is a nineteen-year-old mother who is seeking to improve her long-term career prospects so she can better support her family. Five years ago, when Rhonda was just fourteen, she was charged and convicted of a felony offense in adult court. Despite her very young age, Rhonda served time in adult prison. Since her release, she has completed her probation without issue and has made many positive steps to move forward with her life. She is working as a home health aide and dreams of going to college so she can advance in the medical field, but is afraid her criminal record will prevent her from achieving her goals.

## **CURRENT PRACTICES IN THE PHILADELPHIA AREA**

While the schools included in this report do not represent an exhaustive list of institutions of higher education in Pennsylvania, they provide a snapshot of the range and commonality of practices in the Philadelphia area. Research for this report involved reviewing the criminal history questions on college applications for prospective students applying as freshman for undergraduate studies.

### **Common & Coalition Applications**

Many schools in Pennsylvania utilize the Common Application as a means of streamlining college admissions for applicants. **For example, Bryn Mawr College, Haverford College, Drexel University, Villanova University, and the University of Pennsylvania all utilize the Common Application.**<sup>9</sup> In addition to the Common Application, a growing number of schools are joining the Coalition for Access, Affordability, and Success which now has its own application form.

Unfortunately, the Common and Coalition Applications continue to ask expansive questions regarding prior contact with the juvenile or criminal legal systems. The 2017-2018 Common Application was modified to provide more context about the criminal history questions. Introductory text and FAQs were added to help students understand that their answers will be considered carefully and do not preclude them from being admitted. Students are also more easily able to find out about a college's approach to the criminal history and school discipline questions.<sup>10</sup> Despite these steps, unfortunately the common application question regarding criminal history was not removed nor narrowed. As it stands, **the common application asks for a staggeringly broad range of information.**

#### The Common Application Question

**“Have you ever been adjudicated guilty or convicted of a misdemeanor or felony?”** Note that you are not required to answer “yes” to this question, or provide an explanation if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be kept confidential.”

The language used on the common application regarding whether an applicant was “adjudicated guilty” would even apply to juvenile adjudications, which are not criminal convictions in Pennsylvania and cannot be lawfully considered by Pennsylvania employers.<sup>11</sup>

While it is helpful that the Common Application explicitly excludes offenses that have been ordered expunged or pardoned, this may be of limited use in Pennsylvania. Juvenile adjudication records are eligible for expungement only once five years have passed from the time supervision was completed, unless the District Attorney agrees to expungement earlier.<sup>12</sup> Thus, at the time that many young people are applying to college, their juvenile records will not be expunged yet.

For those with adult misdemeanor or felony convictions, which in Pennsylvania can be entered against a child as young as ten years old,<sup>13</sup> there is no recourse for expungement. Some minor misdemeanors can be sealed after ten years have passed,<sup>14</sup> which again will not help young people seeking to apply to college.

The exclusion of expunged offenses thus does not relieve many applicants with records from answering the overbroad question posed by the Common Application.

**The Coalition Application** also explains that having a record will not automatically lead to rejection. Nonetheless, the Coalition Application still asks for extensive information about prior records including:

- Have you ever been convicted of a crime other than a minor traffic violation?
- Are there any criminal charges currently pending against you?
- Have you entered a plea of guilty, a plea of no contest, a plea of nolo contendere, an Alford plea to a criminal charge or a plea under a first offender act?

These questions require disclosure of even the most minor records and use legal jargon that could easily confuse applicants.

### **Applications Asking about Minor Records**

Several Philadelphia area schools that choose not to use the Common Application nonetheless ask similarly expansive questions. **St. Joseph's University**, for example, uses the same language as the common application.

**Widener University** ask about both adjudications of guilt and convictions of any kind. **Temple University**, **Arcadia University**, **Philadelphia University**, **Lincoln University**, **Eastern University**, and **Chestnut Hill College** also ask about criminal convictions of any kind. This would include convictions for summary offenses.

Summary offenses are the most minor grade of offense in Pennsylvania, and people charged with summary offenses do not have the right to an attorney.<sup>15</sup> Summaries are often issued as citations that require payment of a fine, and do not involve arrest.<sup>16</sup> Common summary offenses include disorderly conduct and retail theft.

While these offenses are extremely minor, they are also incredibly prevalent in Philadelphia. In 2013, 23,400 summary citations were given out in Philadelphia, and “quality of life” offenses are disproportionately levied against youth of color.<sup>17</sup>

**Arcadia University** also asks applicants to disclose if they entered diversion programs, which are generally designed to give people with limited records an opportunity to do community service or get treatment, and then have their records expunged. They are often not considered convictions under Pennsylvania law and should certainly not be considered by colleges.

In addition to the broad scope of questions, some schools also require students to submit highly detailed information about their records. For example, **Temple University** asks applicants to explain the incident, date of occurrence, and resolution of the incident (fine, suspension, probation, etc). This could confuse applicants who may not know all the relevant information, and it could also entail disclosing sensitive information that students are uncomfortable discussing.

### **Applications Asking for Limited Criminal Record Information**

Several schools including **LaSalle University** and **Cheyney University** ask only for information regarding felony convictions. Cheyney explicitly excludes juvenile records, expunged records, and diversion programs. Cheyney also explains that: “A ‘yes’ answer will not necessarily bar admission to the University, but it may limit the ability to enroll in or complete certain academic majors/programs and may affect approval to live in university-owned or university-affiliated housing.”

**David’s Story:** David was in a dual admissions program at Community College of Philadelphia (CCP) studying education. He was worried that because of a felony conviction on his record he would face challenges if he tried to keep pursuing more schooling in the education field.

David graduated with Honors from CCP with an Associate’s Degree in Behavioral Health. He then transferred to Temple University where he graduated with a degree in Linguistics. He went on to teach English abroad, and is now applying for a Master’s Degree in Applied Linguistics at the University of Birmingham in the UK.

He currently works as a Drug & Alcohol Counselor at Harwood House in Upper Darby supporting men and women on their road to recovery. **It is essential that our policies support leaders like David to ensure they are able to reach their full potential and help others do the same.**

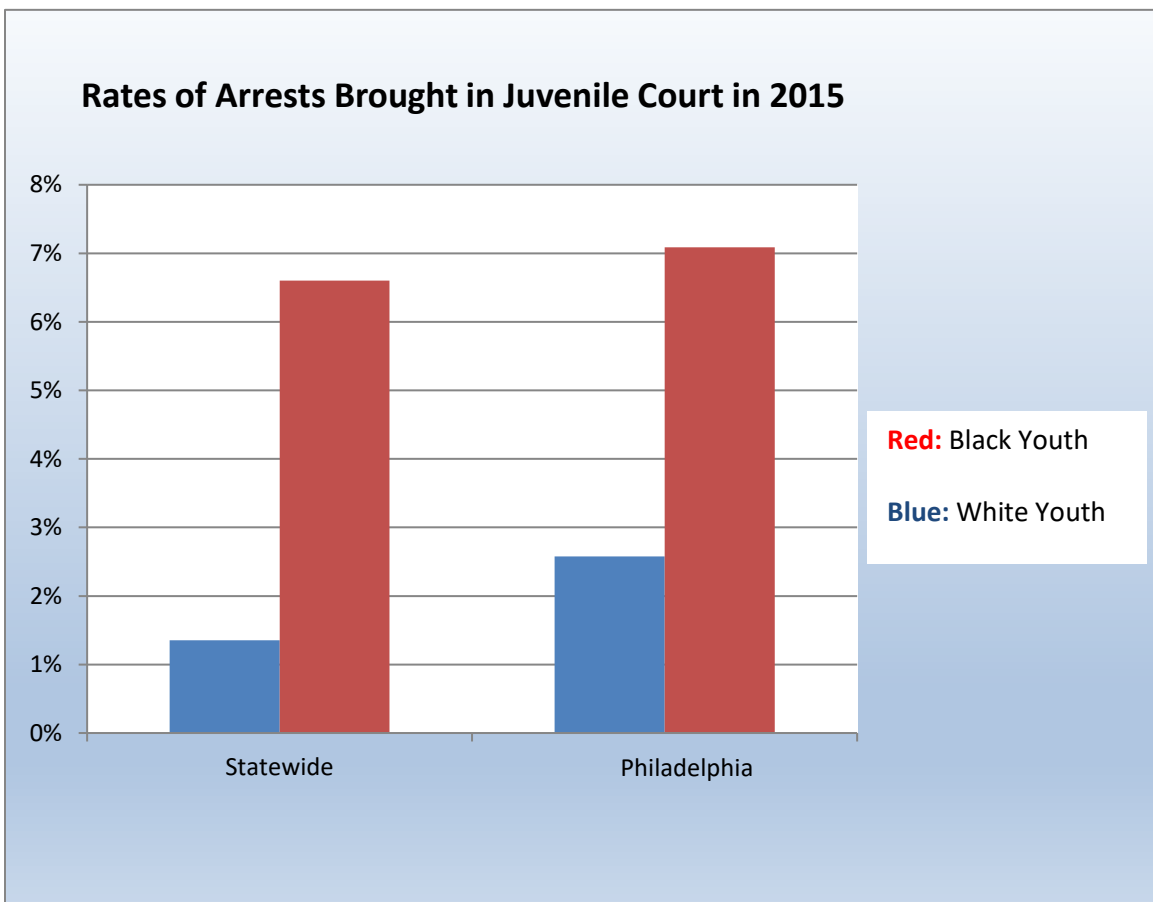
### **Colleges that Do Not Ask about Records**

The colleges that do not ask about records tend to be trade schools and community colleges (see Appendix A). These programs often explicitly recruit people with criminal records, and provide programs supporting students with records.

While these programs have wide access, students hoping to attain a Bachelor's Degree still face the hurdles caused by policies and practices of the majority of four year colleges that ask about criminal and juvenile records. This further entrenches four year colleges as elitist institutions that are unrepresentative of the communities in which they are situated.

### **DISPROPORTIONATE IMPACT ON YOUNG PEOPLE OF COLOR**

While asking about records on college applications may seem like a neutral question, it is not. Due to inequities in our juvenile and criminal systems, young people of color are particularly likely to have juvenile or criminal records, despite the fact that they are no more likely to commit crimes than their white peers.<sup>18</sup>



## **Racial Bias in the Legal System**

Racial inequity exists in all areas of our criminal system and affects people of color of all ages, but **the inequity faced by Black youth is particularly stark:**

- Black youth are 3.64 times more likely to be arrested and prosecuted in juvenile court in Philadelphia than their white peers.
- Statewide, Black youth make up only 13.4% of the youth population, but accounted for 45.5% of juvenile arrests.
- Black young adults aged 18-24 in Pennsylvania account for 31.6% of arrests, while older Black adults accounted for 26.8% of arrests.

In addition, there are wide racial disparities in arrests for low-level offenses such as possession of marijuana. Pennsylvania is one of the most racially disparate states in the country when it comes to marijuana arrests with Black people being 5.19 times more likely to be arrested than white people despite similar rates of use.<sup>19</sup>

The systemic racial biases that impact all aspects of our legal system thus result in a disproportionate number of youth of color having some kind of juvenile or adult criminal record. Therefore, when colleges ask about records on their applications, it is clear that young people of color will be most impacted.

## **Attrition on Applications**

One of the main ways asking about juvenile and criminal records on college applications impacts students of color is by discouraging them from completing applications. Students with criminal records may rightly fear that disclosure of a record will be held against them in the admissions process. They may also be concerned that information disclosed about their records may be shared or held against them if they were to enroll. Students may also be uncomfortable disclosing what can often be sensitive or traumatic details from their cases.

In their report *Boxed Out: Criminal History Screening and College Application Attrition*, the Center for Community Alternatives discussed the results of a study of 64 campuses in the State University of New York (SUNY) system, exploring how asking applicants to disclose a felony conviction contributes to attrition. They coined this phenomenon "felony application attrition" to describe the decrease in numbers from applicants who start an application and check the felony box "yes" to the number of applicants who complete their applications. The report estimated that "each year 2,924 applicants to SUNY check the box disclosing a felony conviction. Of those, 1,828 do not complete the application."<sup>20</sup>

The report concludes that while the intent of the SUNY system may not be to exclude students of color from college, asking about records on college applications can “serve as a de facto mechanism to exclude poor people of color from access to a college education.”

After extensive advocacy based on this troubling data, **SUNY recently announced that it will be removing questions regarding criminal records from its application starting with the fall 2018 admissions cycle.**<sup>21</sup>

### **Decision-Making & Lack of Training**

When students with juvenile or criminal records do complete college applications and disclose the existence of their records, colleges may use that information against them. Moreover, college admissions staffers receive little to no training on the appropriate consideration of juvenile or criminal records. Thus, applicants with records may have their fears borne out and face unjustified denial of admission.

In their report *Reconsidered: The Use of Criminal History Records in College Admissions*, the Center for Community Alternatives found that 66 percent of colleges collect criminal record information from all prospective students, but fewer than half of those schools have written policies in place and only 40 percent train staff on how to interpret criminal record information.<sup>22</sup>

A quarter of the schools that collect criminal record information from applicants report that they do not use that information as a basis for denying admission, underscoring the futility in asking the question on the initial application in the first place.<sup>23</sup>

**Al Flowers’ Story:** Mr. Flowers graduated with honors in legal studies from Community College of Philadelphia, where he earned an Associate’s Degree. **He applied to Drexel University to pursue a Bachelor’s Degree in legal studies and was denied due to his criminal record.**

Unable to complete the degree he wished to, he ultimately enrolled at Philadelphia University and obtained a degree in Information Technology. Mr. Flowers currently works as an Employment Specialist/Paralegal at Connections Training Services and will graduate this December with his Master’s Degree.

**People like Mr. Flowers are assets to their communities and should be valued as such, rather than denied opportunities because of past criminal records.**

For the schools that report that they do consider criminal justice information in making admissions decisions, a broad range of convictions are viewed as negative, including drug and alcohol convictions, misdemeanor convictions, and juvenile adjudications.<sup>24</sup>

A quarter of schools studied reported that they have created at least some criminal record-related automatic bar to admission.<sup>25</sup> Almost 40 percent stated that they do not admit students who have not yet completed their terms of probation.<sup>26</sup>

### **SCREENING FOR RECORDS DOES NOT INCREASE CAMPUS SAFETY**

There is a common misconception that screening for juvenile or criminal records during the college application process keeps campuses safe.<sup>27</sup> However, there is no evidence that lends credence to this assumption. In fact, a study investigating the relationship between criminal history screening and improved campus safety found no correlation between the two. The study found that "there is no statistically significant difference in the rate of campus crime between institutions of higher education that explore undergraduate applicants' disciplinary background and those that do not."<sup>28</sup>

Moreover, Barmak Nassirian, the Associate Executive Director of the American Association of Collegiate Registrars and Admissions Officers, argues against the utility of screening applicants for criminal records. Mr. Nassirian argues that these screenings "are not likely to catch the 'next Jack the Ripper' but are more likely to harm 'the perfectly ordinary mischievous kid without much utility in preventing the next tragedy.'"<sup>29</sup>

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"Individuals who have paid their debt to society and served their sentences deserve a chance to fully develop the academic abilities that will enable them to contribute in meaningful ways across this City."

- Dr. Samuel Hirsch, Community College of Philadelphia

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It is this reality that also leads some advocacy groups for survivors of crime to oppose screening college applicants for criminal record. For example, a group called Know Your IX states:

Know Your IX, a survivor-led organization that empowers students to end sexual violence, supports efforts to "ban the box" in college admissions. As advocates who work to ensure that all students can access education, we are deeply concerned that current approaches to juvenile and criminal records have discriminatory impacts on students of color. Nor do we believe that these policies keep students safe, as the vast majority of assaults on campus

are perpetrated by individuals who do not have a criminal record. Instead of invoking survivors in defense of a discriminatory policy, schools should "ban the box" and recognize that once an individual serves out their sentence, their punishment should end. If schools feel the need to learn about a student's criminal record in order to provide education and support to that student, that inquiry should take place after a student has been admitted to the institution.

This view is echoed by colleges that do not screen applicants for criminal records. The Vice President for Academic and Student Success at Community College of Philadelphia (CCP), Dr. Samuel Hirsch, explained why CCP does not ask about criminal records on its application:

Community College of Philadelphia strongly supports open-access to higher education because it serves as the foundation for strong, prosperous communities. Individuals who have paid their debt to society and served their sentences deserve a chance to fully develop the academic abilities that will enable them to contribute in meaningful ways across this City. With more than a quarter of local residents currently living below the poverty line, there is a pressing need to educate even greater numbers of Philadelphians.

More colleges should follow the lead of schools like CCP and recognize the opportunities they are missing by screening out talented and dedicated future students and leaders.

### **Compliance with Civil Rights Law**

While schools may be concerned about issues of campus safety and liability on the one hand, they should also be concerned with following civil rights law on the other.

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"As advocates who work to ensure that all students can access education, we are deeply concerned that current approaches to juvenile and criminal records have discriminatory impacts on students of color."

– Know Your IX, a survivor-led organization

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Title VI of the Civil Rights Act of 1964 prohibits entities, including schools, that receive federal funds from discriminating on the basis of race, color, or national origin. This includes when an institution employs a facially neutral procedure or practice that has a disparate impact on protected individuals, and such a practice lacks a substantial legitimate justification.

Colleges that screen for juvenile and criminal records in the admissions process may be running afoul of Title VI because their facially neutral policy has a disparate impact on applicants of color. Because such screening has not been shown to be linked to increasing safety on campus, there is not a legitimate justification for the

practice. Therefore, continuing to ask about and screen applicants based on prior records may open colleges to Title VI liability.

In recognition of this, in 2016 the United States Secretary of Education released a report called *Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals*.<sup>30</sup> The report outlines potential Title VI liability and recommends that colleges and universities rethink their policies regarding asking about criminal records during the application process.

In drawing analogies to the employment and housing contexts where there is extensive guidance on the use of criminal records, *Beyond the Box* recommends best practices to ensure compliance with civil rights law. If colleges persist in asking for criminal record information at all, best practices include: avoiding confusing jargon; defining what information need not be disclosed; avoiding overly broad requests for information; including a time limit on information to be disclosed; and developing a formal appeals process for applicants who are denied admission.

By adopting best practices and complying with civil rights law, colleges and universities can increase equity and diversity on their campuses while fostering a richer educational environment for all students.

**Jazmine’s Story:** Jazmine is a twenty-eight year old mother of two children who is looking to advance her career prospects by going back to school. Jazmine applied to a behavioral health program at a Philadelphia area college and was accepted. When the school did a background check, it revealed a single summary citation from over five years earlier for retail theft.

The school accused Jazmine of being dishonest on the application because when asked whether she had been arrested she said “no.” Jazmine was actually correct – her summary citation was sent to her via mail and she had never been arrested because the offense was so minor.

**Jazmine’s story shows why asking overbroad and confusing questions about criminal records on college applications is so problematic, needlessly holding young people back because of such minor incidents.**

## **POLICY RECOMMENDATIONS**

There are a variety of steps that educational institutions and law-makers can take to open the doors to college access for people with juvenile and criminal records:

- **Join the Fair Chance Higher Education Pledge:** The Obama Administration worked with 25 institutions of higher learning who took a pledge to reduce the barriers prospective students who have had contact with the criminal system face.<sup>31</sup> The pledge emphasized second chances through educational opportunities, calling into question the order in which criminal history screenings are performed during the college application process and the need for them as a whole. **Philadelphia area schools should join their peers as leaders in this space and join the pledge.**
- **Eliminate Application Questions:** Schools that are free to amend their own applications at any time should immediately consider removing questions about juvenile and criminal records from their applications. **If information about records is requested at all, it should be after an offer has already been made.** This is already the best practice in the employment context, and would eliminate application attrition.
- **Reform the Common & Coalition Applications:** There have been calls for the Common and Coalition Applications to stop asking about criminal and juvenile records all together.<sup>32</sup> The Philadelphia area schools that utilize the Common or Coalition Applications should either **lobby to have these questions removed, or consider no longer using those applications.**
- **Ban The Box on Public College Applications:** Louisiana recently passed “Ban the Box” legislation for public colleges. ACT 276 prohibits public postsecondary education institutions from inquiring about a prospective student’s criminal history any time prior to accepting a student for admission, with some narrow exceptions.<sup>33</sup> **Pennsylvania and other states should follow Louisiana’s lead.** If state statutes retain any capacity for public colleges to ask about criminal record information, they should require narrowly drawn questions, specific criteria for evaluating records in the admissions process, and a robust appeal process for applicants denied admission.
- **Develop Supportive Programing:** For schools using criminal records to advise students about career paths and offer additional resources, **developing special programming is an effective alternative to pre-screening on applications.** Programs that focus on providing support to students with records should ensure that they are well-trained to give employment and other advice. They should also ensure that services provided are confidential, optional, and responsive to students’ needs.

## **Community College of Philadelphia's Reentry Support Project**

Since 2011, the Reentry Support Project of Community College of Philadelphia's Fox Rothschild Center for Law and Society has provided over 250 students with criminal records with access to post-secondary education programs, services, and resources designed to support their personal, academic, and professional success.

The Reentry Support Project develops and implements college-wide and community strategies that grant students with criminal histories access to programs, activities, services, and resources to increase recruitment and retention and contribute to community reintegration success. The Reentry Support Project is committed to supporting Philadelphia's efforts to increase public safety, improve community health and reduce recidivism.

## **CONCLUSION**

Philadelphia is the poorest big city in America, but is also full of motivated and capable young people who will become the future leaders of our city if given the chance. Rather than block their potential and miss out on their badly needed contributions, Philadelphia area colleges and universities should adopt best practices and remove questions about juvenile and criminal records from their applications. This simple change will not impact campus safety, but will open the door to opportunity to countless young people who will further their educations and careers while enhancing the diversity and vitality of campuses and communities.

## **APPENDIX A: Report Card on Policies of Philadelphia-Area Schools**

\* All applicants must use the Common Application.

<p><b>A</b></p> <p>No question about criminal history on applications.</p>	<p>Holy Family University          Pennsylvania Academy of the Fine Arts          Restaurant School at Walnut Hill College          Strayer University          University of the Arts          University of the Sciences          Community College of Philadelphia          Montgomery County Community College          Bucks County Community College          Delaware County Community College</p>
<p><b>B</b></p> <p>Applications ask about felony convictions only.</p>	<p>LaSalle University          Cheyney University</p>
<p><b>C</b></p> <p>Applications ask about any convictions.</p>	<p>Coalition Application          Temple University          Arcadia University          Philadelphia University          Lincoln University          Eastern University          Chestnut Hill College          Widener University</p>
<p><b>D</b></p> <p>Applications ask about convictions and adjudications.</p>	<p>Common Application          St. Joseph's University          Drexel University*          University of Pennsylvania*          Haverford College*          Villanova University*          Bryn Mawr College*</p>

## ENDNOTES

<sup>1</sup> According to data from the Survey of Consumer Finances, the median white household possessed \$13 in net wealth for every dollar held by the median black household in 2013. AMY TRAUB ET AL., THE ASSET VALUE OF WHITENESS: UNDERSTANDING THE RACIAL WEALTH GAP 1 (2017), *available at* <http://www.demos.org/sites/default/files/publications/Asset%20Value%20of%20Whiteness.pdf>.

<sup>2</sup> See Dep’t of Educ., *Digest for Education Statistics*, NAT’L CTR. FOR EDUC. STATISTICS, [https://nces.ed.gov/programs/digest/d14/tables/dt14\\_502.30.asp](https://nces.ed.gov/programs/digest/d14/tables/dt14_502.30.asp) (Those with a Bachelor’s Degree have a median yearly income of \$47,330 while those with a high school degree have a median annual income of \$31,780.); Bureau of Labor Statistics, *Labor Force Statistics for the Current Population Survey*, U.S. DEP’T OF LABOR (Feb. 8, 2017), <http://www.bls.gov/cps/cpsaat07.htm> (The unemployment rate for those with a Bachelor’s degree is 2.7% whereas for those with a high school degree it is 5.2%).

<sup>3</sup> See BETH AVERY & PHIL HERNANDEZ, NAT’L EMP’T LAW PROJECT, BAN THE BOX: U.S. CITIES, COUNTIES, AND STATES ADOPT FAIR-CHANCE POLICIES TO ADVANCE EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH PAST CONVICTIONS (2017), *available at* <http://www.nelp.org/content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf>.

<sup>4</sup> See Appendix A.

<sup>5</sup> Phillip Atiba Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, 106 J. PERSONALITY AND SOC. PSYCHOL. 526, 526 (2014), *available at* <http://www.apa.org/pubs/journals/releases/psp-a0035663.pdf> (noting that Black children are 18 times more likely than White children to be sentenced as adults due to a variety of ways racial bias impacts the justice system).

<sup>6</sup> CTR. FOR CMTY. ALTS., BOXED OUT: CRIMINAL HISTORY SCREENING AND COLLEGE APPLICATION ATTRITION 7-10 (2015), *available at* [http://www.communityalternatives.org/pdf/publications/BoxedOut\\_FullReport.pdf](http://www.communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf).

<sup>7</sup> *Id.*

<sup>8</sup> See U.S. DEP’T OF EDUC., BEYOND THE BOX, INCREASING ACCESS TO HIGHER EDUCATION FOR JUSTICE-INVOLVED INDIVIDUALS (May 9, 2016), *available at* <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.

<sup>9</sup> Alen Grove, *Colleges that Accept the Common Application*, THOUGHTCO. (March 10, 2017), <https://www.thoughtco.com/colleges-that-accept-the-common-application-786969>.

<sup>10</sup> *Gender Identity, Criminal History, School Discipline Update*, THE COMMON APPLICATION (March 15, 2017), <https://www.commonapp.org/whats-appening/application-updates/gender-identity-criminal-history-school-discipline-update>.

<sup>11</sup> 18 Pa.C.S. § 9125.

<sup>12</sup> 18 Pa.C.S. § 9123.

<sup>13</sup> 42 Pa.C.S. § 6302.

<sup>14</sup> 18 Pa.C.S. § 9122.

<sup>15</sup> 18 Pa.C.S. § 106.

<sup>16</sup> 234 Pa. Code § 1002.

<sup>17</sup> Ryan Briggs, *Philly Cops Hand Out Thousands More Citations Every Year Following a Rule Change*, CITY PAPER (April 10, 2014), <http://mycitypaper.com/News/Philly-cops-hand-out-thousands-more-citations-every-year-following-a-rule-change/>; Sarah Ryley, *Minorities Face Disproportionate ‘Broken Windows’ Enforcement Everywhere – Especially in Predominantly White Neighborhoods*, DAILY NEWS (Sept. 8, 2014), <http://www.nydailynews.com/new-york/nyc-crime/broken-windows-disproportionately-enforced-white-neighborhoods-article-1.1931171>.

<sup>18</sup> See JUSTICE POLICY INST., FACTSHEET: CRIME, RACE, AND JUVENILE JUSTICE POLICY IN PERSPECTIVE (2005) *available at* [http://www.justicepolicy.org/uploads/justicepolicy/documents/05-10\\_fac\\_crimeracejipolicy\\_ji-ps-rd.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/05-10_fac_crimeracejipolicy_ji-ps-rd.pdf)

(citing statistics showing that rates of drug use, carrying weapons, and assault are comparable between Black youth and white youth).

<sup>19</sup> AM. CIVIL LIBERTIES UNION, *THE WAR ON MARIJUANA IN BLACK AND WHITE* 18 (2013), available at [https://www.aclu.org/sites/default/files/field\\_document/1114413-mj-report-rfs-rel1.pdf](https://www.aclu.org/sites/default/files/field_document/1114413-mj-report-rfs-rel1.pdf).

<sup>20</sup> CTR FOR CMTY ALTS., *BOXED OUT: CRIMINAL HISTORY SCREENING AND COLLEGE APPLICATION ATTRITION* 7-10 (2015) available at [http://communityalternatives.org/pdf/publications/BoxedOut\\_FullReport.pdf](http://communityalternatives.org/pdf/publications/BoxedOut_FullReport.pdf).

<sup>21</sup> Juleyka Lantigua-Williams, *The Question Some Public Universities Will No Longer Ask*, THE ATLANTIC (Sept. 14, 2016), <https://www.theatlantic.com/politics/archive/2016/09/the-question-some-public-universities-will-no-longer-ask/500072/>.

<sup>22</sup> CTR FOR CMTY ALTS., *THE USE OF CRIMINAL HISTORY RECORDS IN COLLEGE ADMISSIONS RECONSIDERED* i (2010) available at <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>.

<sup>23</sup> *Id.* at 17.

<sup>24</sup> *Id.* at 18.

<sup>25</sup> *Id.* at 17.

<sup>26</sup> *Id.*

<sup>27</sup> Governor Larry Hogan of Maryland vetoed a “Ban-the-Box” bill for college applications, stating: “When families send their children to college, they know they will be exposed to exciting new opportunities and challenges, but also to new dangers. In this, parents have an expectation that the school to which they entrust their child will do everything possible to keep its students safe.” See VETO LETTER, STATE OF MARYLAND OFFICE OF THE GOVERNOR (May 26, 2017), available at [https://content.govdelivery.com/attachments/MDGOV/2017/05/26/file\\_attachments/822650/SB543HB694VetoLetter.pdf](https://content.govdelivery.com/attachments/MDGOV/2017/05/26/file_attachments/822650/SB543HB694VetoLetter.pdf).

<sup>28</sup> Olszewska, M.J.V. *Undergraduate Admission Application as a Campus Crime Mitigation Measure: Disclosure of Applicants’ Disciplinary Background Information and It’s Relationship to Campus Crime*, Unpublished Dissertation for the Degree of Doctor of Education, East Carolina University (2007).

<sup>29</sup> Larry Gordon, *Does a Pot Bust Trump a 4.0 GPA?*, LA TIMES (Dec. 5, 2007), <http://www.latimes.com/local/la-me-admit5dec05-story.html>.

<sup>30</sup> US DEP’T OF EDUC., *BEYOND THE BOX, INCREASING ACCESS TO HIGHER EDUCATION FOR JUSTICE-INVOLVED INDIVIDUALS*, (May 9, 2016), available at <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf>.

<sup>31</sup> FACT SHEET: WHITE HOUSE LAUNCHES THE FAIR CHANCE HIGHER EDUCATION PLEDGE 9 (June 10, 2016), available at <https://obamawhitehouse.archives.gov/the-press-office/2016/06/10/fact-sheet-white-house-launches-fair-chance-higher-education-pledge>.

<sup>32</sup> Scott Jaschik, *Still Asking about Crime and Discipline*, INSIDE HIGHER ED (March 10, 2017), <https://www.insidehighered.com/news/2017/03/10/common-application-announces-it-will-keep-questions-criminal-background-and>.

<sup>33</sup> The law does not prohibit colleges and universities from asking about the criminal history of students after they are admitted and if they apply for financial aid or campus housing. There are also exceptions related to specific offenses. Colleges and universities may still inquire about aggravated sexual assault or stalking convictions. However, there is an appeals process if an applicant is denied based on those questions. See Gretel Kauffman, *College After Prison? New Louisiana Law Makes it Easier*, CHRISTIAN SCI. MONITOR (July 5, 2017), <https://www.csmonitor.com/EqualEd/2017/0705/College-after-prison-New-Louisiana-law-makes-it-easier>.