

#### **ACKNOWLEDGMENTS**

This report was a project of the ACLU of Delaware. The primary author and researcher was Ryan Tack-Hooper, Staff Attorney and Legislative Advocate.

Design and photography was generously provided by Caspari McCormick.



The ACLU of Delaware is deeply grateful to the Delaware Center for Justice for their contributions to the framing and research for this report, and for their efforts to promote its recommendations.



We also thank the Wilmington HOPE Commission Achievement Center for their contributions, including special thanks to Corie Priest for telling his own story and for his invaluable assistance in connecting us to others with stories to tell. We applaud Tamarr Clark, Lee Stephenson, and Christian Caldwell for their courage in coming forward to share their experiences.

Many other individuals contributed insights to this report for which we are thankful, including members of the Delaware Office of Defense Services and private criminal bar.

Every Sentence Should Not Equal a Life Sentence: Collateral Consequences Reform in Delaware Copyright © 2016 by the American Civil Liberties Union of Delaware.

All rights reserved.

American Civil Liberties Union of Delaware 100 West 10th Street, Suite 706 Wilmington, DE 19801 302-654-5326 admin@aclu-de.org www.aclu-de.org

# Every year in Delaware,

over 1,000 men and women are released from prison after serving their sentences. For them to succeed on the outside, they need to be able to care for themselves and their family. This means a job and a place to live. For some, it means furthering their education. For all, it means becoming an integral member of the community again—doing things like voting or volunteering at their church. Work, home, education, and interpersonal connections have all been shown to improve a person's chance of staying out of prison. But over the last thirty years, the War on Drugs and the political movement to be "tough on crime" has not only caused the prison population in the United States to explode, it has also resulted in a complex system of restrictions imposed on people with criminal convictions that makes it unnecessarily difficult, sometimes almost impossible, for them to rebuild their lives.

These restrictions, commonly known as

# "collateral consequences,"

have significantly increased the barriers that people with criminal convictions must overcome as they try to put their life back together after release from prison. Few of these collateral consequences are imposed by a judge as part of a sentence, but they act to extend punishment, in some cases indefinitely, and construct significant

roadblocks to reintegration.



#### ROADBLOCKS TO REINTEGRATION

According to the American Bar Association (ABA), Delaware has 792 collateral consequences that restrict privileges and opportunities because of criminal convictions. Many of these restrictions are automatic and do not consider the circumstances of the crime, how long ago it was committed, or what has happened since. Rather than helping people transition from prison, this web of laws makes it harder for thousands of Delawareans to rebuild their lives, support their families, and become productive members of their communities.

- Making it harder to get a job or a place to live increases crime. In Delaware, around 70 percent of those released from prison go on to commit another crime within three years compared to lower national rates. This rate of re-offending is directly tied to the limited opportunities available to people with criminal records. To decrease crime, we need to reduce obstacles to stable employment and housing. One study estimated that reducing recidivism by employing just 100 formerly incarcerated individuals would save millions of dollars per year in correctional spending and increase tax revenues, not to mention the benefits of reduced crime.
- Many collateral consequences serve little or no public policy purpose. There is no public benefit to preventing ticket scalpers from living in public housing, or marijuana possessors from being licensed as funeral directors. Even collateral consequences that might make sense when applied narrowly are counterproductive when applied too broadly. A person convicted of identity theft and one convicted of assault do not pose the same risks and challenges upon completion of their sentences, and yet collateral consequence laws often group together all felonies or even all crimes.

# of DELAWAREANS

w/CONVICTIONS



935,614 Overall DE Population IN 2014



30,000 Example 20,000 April 20,



In a given year (18,701) people are SENTENCED to some period of probation or prison v

<sup>&</sup>lt;sup>i</sup>ABA, National Inventory of Collateral Consequences of Conviction (2013), available at abacollateral consequences.org

ii Delaware Criminal Justice Council, Statistical Analysis Center, Recidivism in Delaware: An Analysis of Prisoners Released in 2008 through 2010 (2014)

iii Greater Philadelphia Economy League, Economic Benefits of Employing Formerly Incarcerated Individuals in Philadelphia (2011)

iv Criminal Justice Statistical Review Committee, Race and Incarceration in Delaware: A Report to the Delaware General Assembly (2011)

<sup>&</sup>lt;sup>v</sup>Criminal Justice Council, Justice Reinvestment Oversight Group 2015 Annual Report (2016)

• Overbroad and hidden collateral consequences are unfair. Unless they are narrowly tailored to protect public safety, collateral consequences are simply additional punishment not approved by a judge. Because Blacks and Latinos are arrested and convicted at significantly higher rates than Whites, individuals and whole communities of color are disproportionately harmed by these policies. The injustice of this additional punishment is multiplied by the fact that it is not disclosed at the time of a plea bargain—which is how the vast majority of criminal cases are resolved.

# DELAWARE LIST of COLLATERAL CONSEQUENCES as a result of CRIMINAL CONVICTIONS



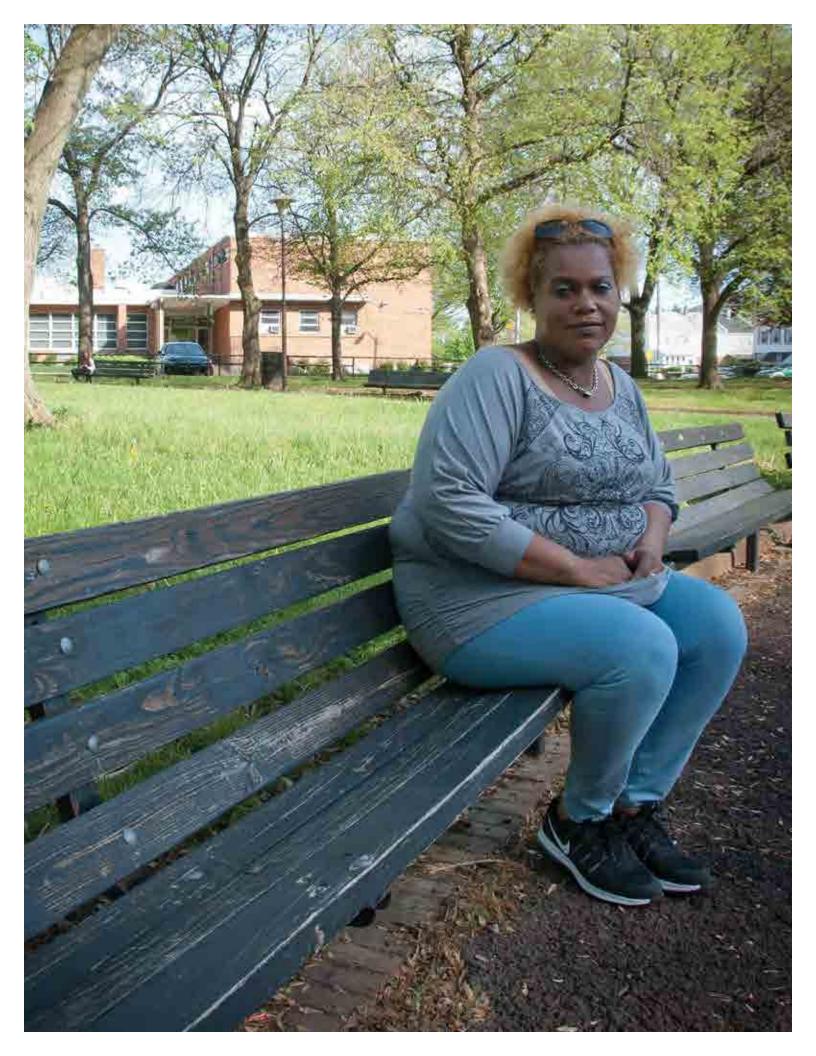
Remove from office as clerk of supreme court for failure to record/refund plaintiff/appellant fees. Ineligible for employment as constable (mandatory for felony conviction) Ineligible for employment as constable (discretionary for misdemeanor conviction). Remove constable from office. Ineligible for jury service. Impose civil liability for lost wages as a result of juror employment protection violations. Remove from public office for failure to comply with Superior Court writ of habeas corpus. Impose rebuttable presumption of nuisance in civil case. Ineligible to own/possess animal (15 years for felony conviction of cruelty to animals) (domestic animals). Forfeit vehicle (prostitution) Publish prostitution conviction/sexually transmitted disease test to spouse. Ineligible for retired police officer's license to carry concealed weapon. Ineligible to buy/receive firearm from licensed dealer. (background check) (weapons). Ineligible to buy/receive firearm from licensed dealer. (background check) (weapons). Forfeit cheating devices/slugs/paraphernalia (gaming). Impose civil liability. Notify employing school district's superintendent/school person-in-charge/state agency head of child-related conviction. Register as sex offender (permanent for persons designated to Risk Assessment. Tier. III/persons designated. Tier. I/II with previous convictions). Expunge criminal record following a pardon (relief). Notify victim of inmate's change in work release/furlough status. Boot camp diversion program (relief). Ineligible for employment by the state/political subdivision. Ineligible for employment by the state/political subdivision Ineligible for employment for controlled substance offense/crime against child conviction). Impose liability for victim's compensation payment. Forfeit scanning device/reencoder/computer/data. Forfeit scanning device/reencoder/computer/data. Forfeit scanning device/reencoder/computer/data. Forfeit scanning device/reencoder/computer/data. Forfeit scanning device/reencoder/computer/data.

penalty/lien on proper of state child support sex offenses) (educat Equals Degree (SEEE the convention to act misdemeanor convict (health care) Ineligib emergency medical t (mandatory for specif

# Delaware has 792 collateral consequences that restrict privileges and opportunities because of criminal convictions

ty/lien on property (out I controlled substance/ in Student Excellence serve as a delegate for years for theft-related icers/board members) ambulance attendant/ paramedic certification ncel automobile policy

officers/directors/trustees/partners) (insurance) Suspend worker's compensation of continuing care contract/transfer of money/property to provider (convictions of officers/directors/trustees/partners) (insurance) Suspend worker's compensation benefits Ineligible for unemployment benefits Suspend certificate of public convenience and necessity to operate motor vehicles for hire in public transportation (convictions of public carrier/officers/agents/employees). Notify Department of Motor Vehicles of driving convictions Ineligible to drive a commercial motor vehicle (up to 5 years for out-of-service order violations). Suspend driving privileges for providing false/incomplete information in commercial driver's license application. Ineligible for S (school bus) endorsement (permanent for specified serious offenses). Ineligible to serve as a motorcycle rider education instructor (2 years for moving violations). Suspend right of resident to operate a motor vehicle in Delaware (driving/DUI). Ineligible to obtain driver's license (conditional for nonpayment of fines/costs from violations of motor vehicle laws) (driving). Ineligible to obtain driver's license (permanent for specified motor vehicle-related offenses). (driving/DUI). Suspend driver license/privileges for altering/counterfeiting driver license/presenting fraudulent document when applying for Delaware driver license/identification card. Suspend driver's license/privileges for overtaking/passing stopped school bus (driving). Revoke driver's license/privileges for reckless driving/driving while intoxicated (DUI). Deny right to inherit recreational vehicle dealership. Ineligible for a dentist/dental hygienist license (five years for a felony conviction) (health care). Ineligible for private investigative business license (private expiration of ineligibility) (physician). Revoke physician assistant license (health care). Ineligible for a respiratory care practitioner license (waiver after expiration of ineligibility) (health care). Deny/suspend/revoke polysomnogr



## Tamarr Clark

grew up in Wilmington's now-demolished Riverside projects. She dropped out of school in ninth grade. Despite these obstacles, through Job Corps, she got clerical training and eventually employment as a certified nursing assistant.

Tamarr now lives in publicly-subsidized housing. But she and her daughters—a seventeen-year-old and a four-year-old—may soon lose their home. Her landlord has initiated eviction proceedings against her because she was recently convicted of what her record calls "misdemeanor possession of a controlled substance."

# "I just feel like everything is crashing down on me."

~ Tamarr Clark

But her record doesn't tell the whole story. She's not a drug user. When an older relative asked her to pick up some medications, she did it in order to be helpful. She gave the pharmacist the prescriptions, showed her ID, signed for the pills, and delivered them to her family member. Four months later, Tamarr received a call from the State Police informing her that the prescriptions were fraudulent.

Tamarr turned herself in. Because of her tangential involvement in the crime, she was only sentenced to six months probation. But her real sentence is the collateral consequences she faces, like losing her home—the consequences that no one told her about.

### EMPLOYMENT: DELAWARE LAW MAKES IT UNDULY HARD FOR PEOPLE WITH CRIMINAL RECORDS TO FIND STABLE WORK

The most significant factor impacting a person's successful reintegration after prison is whether they find a stable job. Nationally, roughly two thirds of people released from prison are still unemployed a year after release. Job training does little to raise their employment prospects. Regardless of their skills or background, people with a criminal record are burdened by the indelible mark of even minor criminal encounters, misguided policies categorically disqualifying anyone with a criminal record, and limits on professional licensing.

- **Disqualification based on arrests without conviction.** Rejection of applicants based on arrest records can violate federal antidiscrimination law. But unlike a dozen states that bar such discrimination, Delaware does not. Hawaii and Massachusetts forbid inquiry of any kind into criminal history until after the initial application stage, so that applicants have the opportunity to show that they are qualified for the position.
- Checking the box. When seeking some government-related jobs in Delaware, applicants are not asked if they have a felony conviction on the job application. However, most private employers and many public employers may still ask applicants to "check the box" indicating that they have been convicted of a felony (or sometimes any conviction). The result is that people with a conviction—no matter how minor or how many years have passed—are often automatically rejected despite their qualifications.
- Expungement. Expungement is the destruction or deletion of a criminal record in order to avoid the unwarranted stigma that comes from merely being arrested without conviction, or from a conviction after a person has been rehabilitated. Unlike the majority of states, Delaware provides no method for expungement of most ordinary adult criminal convictions. A shoplifting conviction as a high school senior will follow an individual for the rest of her life in Delaware, often disqualifying her before she even has an opportunity to explain the circumstances of the crime or what has happened in her life since.
- Occupational licensing. Over 50 professions in Delaware require a professional license even for entry-level positions. In theory, professional boards may only refuse licenses for people convicted of a crime "substantially related" to the profession. In reality, a wide range of convictions bar individuals from professional licenses whether they are related to the job or not. For example, there are 300 crimes that bar someone from becoming a dental hygienist, from bigamy to failing to file taxes.

<sup>&</sup>lt;sup>1</sup>Mark T. Berg & Beth M. Huebner, Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism, 28 JUSTICE QUARTERLY 382 (2011).

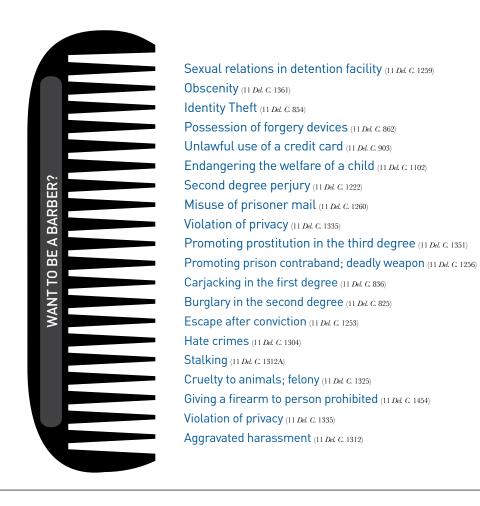
ii Jeremy Travis, But They All Come Back: Facing the Challenges of Prisoner Reentry (2005).

iii Lois M. Davis, et al., How Effective is Correctional Education, and Where Do We Go from Here? 15 (2014).

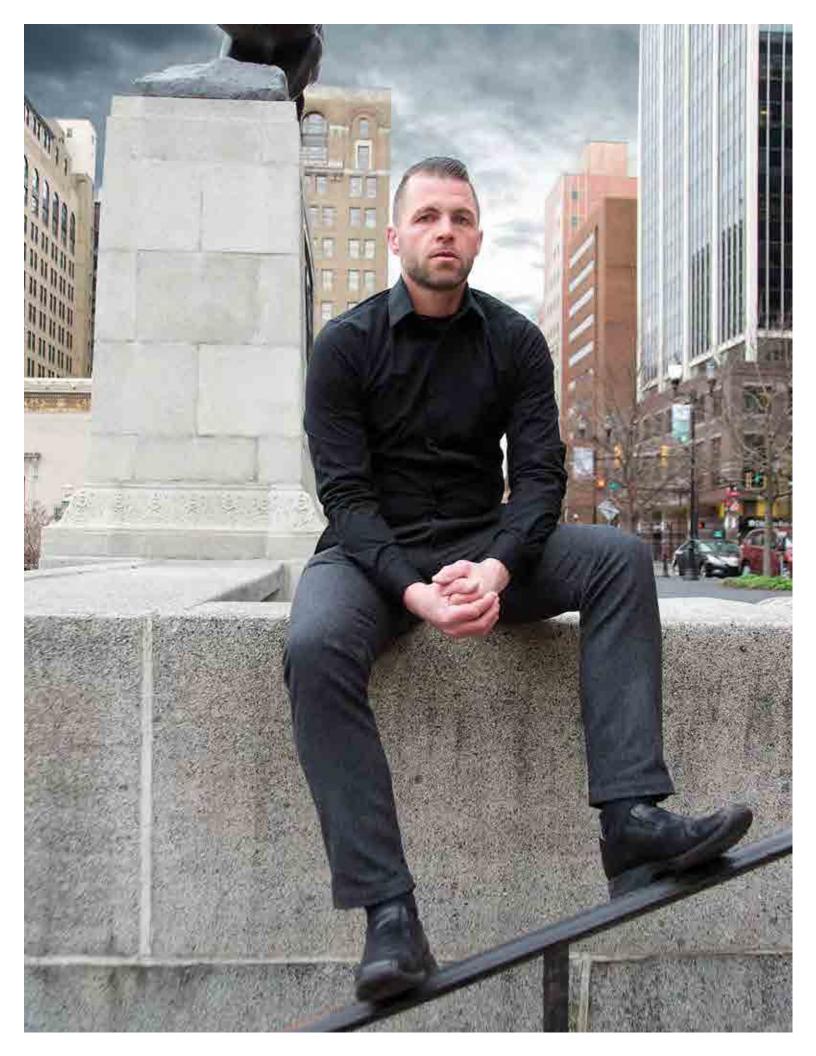
### CRIMES that PREVENT LICENSURE

for a barber

A professional board's power to override these broad restrictions is limited — no waivers can be granted until an applicant has paid or is on track to pay all of the fines and fees they owe the court; and a waiver for someone with a felony conviction cannot be granted until five years have elapsed. This is quite a catch-22 when someone is trying to get a job to pay the fines and fees they owe. Even more troubling are licensing restrictions in the context of prison vocational training. In some instances, the Department of Corrections is training inmates for jobs they cannot be licensed for without a waiver, including jobs in HVAC and plumbing.



- Prevent all employers from asking about convictions on application forms.
- Forbid consideration of arrests without conviction in private employment.
- Expand access to expungement and ensure that an expunged or incorrect record cannot be accessed by potential employers or landlords.
- Amend occupational licensing laws to ensure that crimes that prohibit one from licensure are narrowly tailored to the profession in question.
- Expand waiver provisions so that boards can decide for themselves whether a particular individual is worthy of licensure.



## Christian Caldwell's

depression started at age 12. In the years that followed, he tried to commit suicide six times. In high school, he mostly kept to himself. He played basketball and baseball, but struggled with severe anxiety at game-time. He began to self-medicate, starting with alcohol. At first, it felt like a solution. He finally felt like he could be social. He went to college, where he studied finance. After an open container conviction at age 20, Christian sought help. A psychiatrist put him on several different pharmaceuticals. But shortly thereafter, his drinking resumed. And he started getting into fights.

In 2001, after his longtime girlfriend cheated on him with his best friend, he went home, got drunk, and took a handful of Clonopin. He woke up in jail. He later learned he had entered his ex-girlfriend's home and attempted to assault the former best friend. No one was injured, but he pled guilty to burglary and assault in order to avoid prison time.

## "If only I had the tools back then that I have now..."

~ Christian Caldwell

Eventually, Christian was diagnosed with a personality disorder. The prior treatments he had received were based on the wrong diagnosis and were, at best, ineffective. Since then, counseling and behavioral therapy have given him a set of coping skills he never had before. He believes that if he "had the tools back then that I have now," he probably would have avoided his run in with the law.

Despite completing his sentence and going fifteen years without any trouble, Christian is still trapped by the consequences of his criminal history. He got a job as a personal trainer and enrolled in DelTech to get a degree in exercise science. But he dropped out after being fired because of his criminal background check. He considered getting a real estate license, but decided against it when he was told he would never get licensed. He was offered two other jobs as well, but the offers were rescinded once they learned he had burglary and assault convictions. The only steady employment he has been able to achieve—because in that field he is judged only by the quality of his work—is as a house painter.

Christian should not have to stay out of trouble for another decade before he is accepted back into normal society. Fifteen years is long enough to conclude that he has been rehabilitated and deserves a fair shot without the burden of his criminal record.

### HOUSING: TOO OFTEN DELAWARE MAKES IT HARDER FOR SOMEONE WITH A RECORD TO FIND HOUSING

Apart from the need for shelter, a physical address makes it easier to apply for a job, re-establish community ties, and perform the other basic tasks necessary to set one's life in a positive direction, such as opening a bank account. Housing restrictions may also prevent people with a criminal conviction from living with their family members. Often, instead of helping those returning to society find stable housing, Delaware law does the opposite by restricting subsidized and public housing opportunities and failing to protect private tenants from discrimination on the basis of arrest and conviction unrelated to their suitability as a tenant.

Recognizing that a lack of stable housing increases the risk of re-incarceration, the U.S. Department of Housing and Urban Development (HUD) has issued recommendations to strike a more sensible balance between allowing individuals with a criminal record to access housing and ensuring safety, including:

- Limited use of arrests. At most, an arrest should only spark investigation of verifiable evidence of misconduct and include an interview with the applicant.
- Focusing on relevant convictions. There should be reasonable time limits on what criminal conduct is considered, such as a one-year period for drug-related crimes. There also needs to be limits on the types of crimes considered, focusing solely on crimes that threaten the safety and peaceful enjoyment of other residents.

Delaware's four housing authorities are not entirely compliant with HUD's guidelines. For example, the Delaware State Housing Authority (DSHA), bars access to public housing for one year for people with multiple arrests, even if the applicant was never convicted of any crime. It also imposes long periods of mandatory ineligibility. A conviction involving multiple misdemeanors can lead to a five-year bar. For some convictions, re-admission to public housing depends on a discretionary review of the crime. DSHA regulations require that mere arrests without conviction be considered in that review.

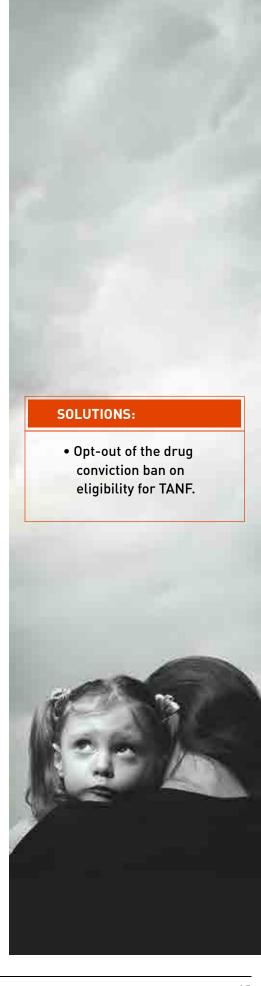
Screening tenants based on arrests or convictions is also common in the private housing market. Federal law prohibits some uses of arrest records in refusing tenants. But individuals often lack the resources to investigate and bring such claims. Some states have used their own authority to enforce federal law on this subject or implemented laws to protect potential tenants from unfair screening practices. Delaware has not done so.

- Require that all public housing policy conform to HUD recommendations.
- Require developers and private management companies receiving tax credits for affordable housing to conform to HUD recommendations.
- Forbid consideration of arrests without conviction in private housing.

### PUBLIC ASSISTANCE: POOR FAMILIES CANNOT RECEIVE CRUCIAL STATE AND FEDERAL AID BECAUSE OF DRUG CONVICTIONS

Even though federal laws passed during the War on Drugs frequently prohibit access to public assistance, these laws also give states flexibility to determine eligibility for food aid and cash assistance for families with children when applicants have a criminal conviction. The majority of states have limited the federal bans in whole or in part, although some impose requirements such as participation in alcohol or drug treatment or having a "possession only" conviction. In 2011, Delaware opted out of restrictions on food aid, but it has not opted out of or limited federal restrictions on TANF—the assistance program that is the principal form of aid available to families in poverty to pay for things like electricity bills or school supplies.

Under existing law, individuals convicted of any state or federal drug felony, including possession of marijuana (which can be a felony under federal law), are ineligible for TANF for life. Although the children of a mother convicted of a drug crime can still receive assistance, the family's overall award is significantly reduced. It is estimated that 2,000 Delaware families receive less or no assistance as the result of this ban. And because drug laws are among the most disproportionately enforced against people of color (despite roughly equal rates of drug use across racial identities), the policy unfairly targets communities of color.



<sup>&</sup>lt;sup>1</sup>Marc Mauer, A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits (2013).

# Corie Priest

was born and raised in the Northeast area of Wilmington, in a place where 70% of black families live in poverty—25% of them below \$10,000 per year. Many people Corie knew growing up, including his two brothers, were in and out of prison while he was completing high school. He went to Delaware State for a degree in computer science while working part-time. But things there weren't going well, and on Christmas Day of his third year, he went home to Wilmington to see his family instead of going to work. That decision was a turning point. He lost his job and withdrew from school. To this day, Corie has never smoked marijuana. But to make some money on the side, he started selling it.

Eventually, he was caught and pleaded guilty to one count of drug trafficking. Despite having no prior criminal history, the judge had no choice but to send Corie to prison for two years as a mandatory minimum sentence.

# "The struggles of my past should not determine the outcome of my future."

~ Corie Priest

After prison, Corie has worked to put his life back on the track he started down at Delaware State. He has worked as a substance abuse counselor and peer support specialist. He got married. His wife, a child behavioral health consultant, is pregnant. Corie dreams of going to law school. He wants to empower the people he grew up with. In a world in which completing one's sentence meant being welcomed back as a full citizen, Corie's future would be limitless.

But under Delaware law, Corie's drug trafficking conviction brands him as a "violent felon." Because of this conviction seven years ago—selling a recreational drug that is now decriminalized in this state—access to financial aid to pursue higher education is restricted and barriers to university enrollment are daunting.

In some states, a sufficiently old, isolated conviction can be put to rest through a process called expungement. In Delaware, expungement requires the Governor's pardon. Corie applied for a pardon, but he was denied. It was too soon, he was told. His unofficial punishment will continue long after his official punishment was completed.

Corie's past should not have to be excused for it to actually be in the past. He should not need a pardon in order to be evaluated as a student or employee on the merits of his skill and intellect instead of a bad decision he made seven years ago.



### **VOTING: SOME CRIMINAL CONVICTIONS AND THE INABILITY** TO PAY FINES AND FEES LIMIT ACCESS TO THE BALLOT BOX

Although Delaware has made progress on voting rights in recent years, it remains one of only 10 states that permanently withhold voting rights from individuals convicted of certain crimes. We also require people with a felony conviction to complete their prison sentence and their term of probation or parole before eventual re-enfranchisement—unlike 19 other states with more voter-friendly laws, two of which give incarcerated individuals the right to vote. Delaware also forbids people in prison from receiving an absentee ballot—including people who have not been convicted of a crime and are awaiting trial—even though they are otherwise entitled to vote.

Moreover, a person convicted of a felony must pay all financial obligations resulting from the sentence before his right to vote is restored. In Delaware, a criminal defendant is charged a fee by the court for representation by a public defender. The fee goes to the general fund and not the Office of Defense Services. There are other associated legal costs such as \$125 to exercise his right to a jury trial. This can result in hundreds or thousands of dollars, apart from any fines or restitution that must be paid as part of the formal sentence handed down by a judge. Although they may be waived, Delaware is also among the minority of states that require juveniles to pay the same fees and costs as adults.

For those coming out of prison who are unemployed or underemployed, completing payment becomes difficult when combined with their other familial financial obligations. And when thousands of these individuals come from the same small number of communities, whole communities become disenfranchised and unrepresented with limited power to impact the democratic process. Before the recent reform that eliminated the five-year waiting period for restoration, the Sentencing Project estimated that Delaware disenfranchised roughly 10 percent of African-American Delawareans—who account for 45 percent of the disenfranchised population despite being 22 percent of the overall population.

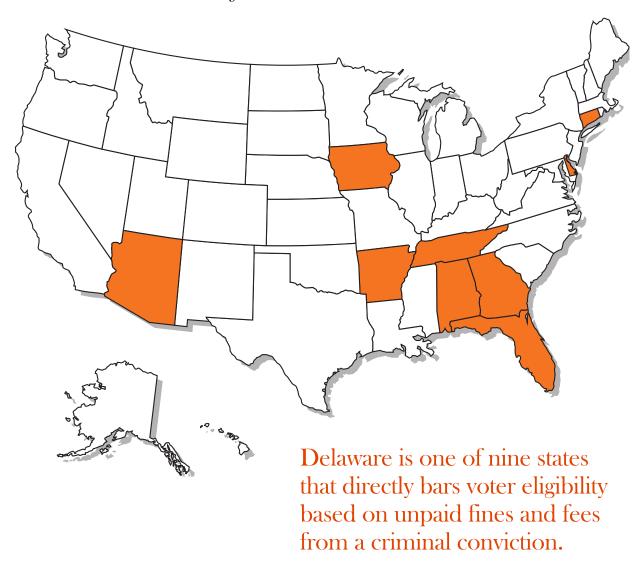
(11 Del. C. 6504(14); 4105(e))

JURY CONVICTION for SHOPLIFTING FIVE SHIRTS: \$947 - \$12,447



<sup>1</sup>Nicole D. Porter, The State of Sentencing 2012: Developments in Policy and Practice, 16 (2013).

# STATES THAT PREVENT VOTING because of OUTSTANDING DEBTS



- Repeal the requirement that all fines and fees must be paid before voting rights are restored.
- Allow non-felons who are incarcerated to vote by absentee ballot and allow people on probation to vote.

## Lee Stephenson

is a convicted drug dealer, even though he has never dealt drugs. Seven years ago, he was caught with a few pot brownies. He has had trouble qualifying for an apartment and a job ever since.

Lee's brownies contained less marijuana than is now decriminalized for personal use, but Delaware law allows the police to count the full weight of the "mixture" including the flour, chocolate, eggs, and sugar. Combined, it was enough to charge Lee with drug dealing.

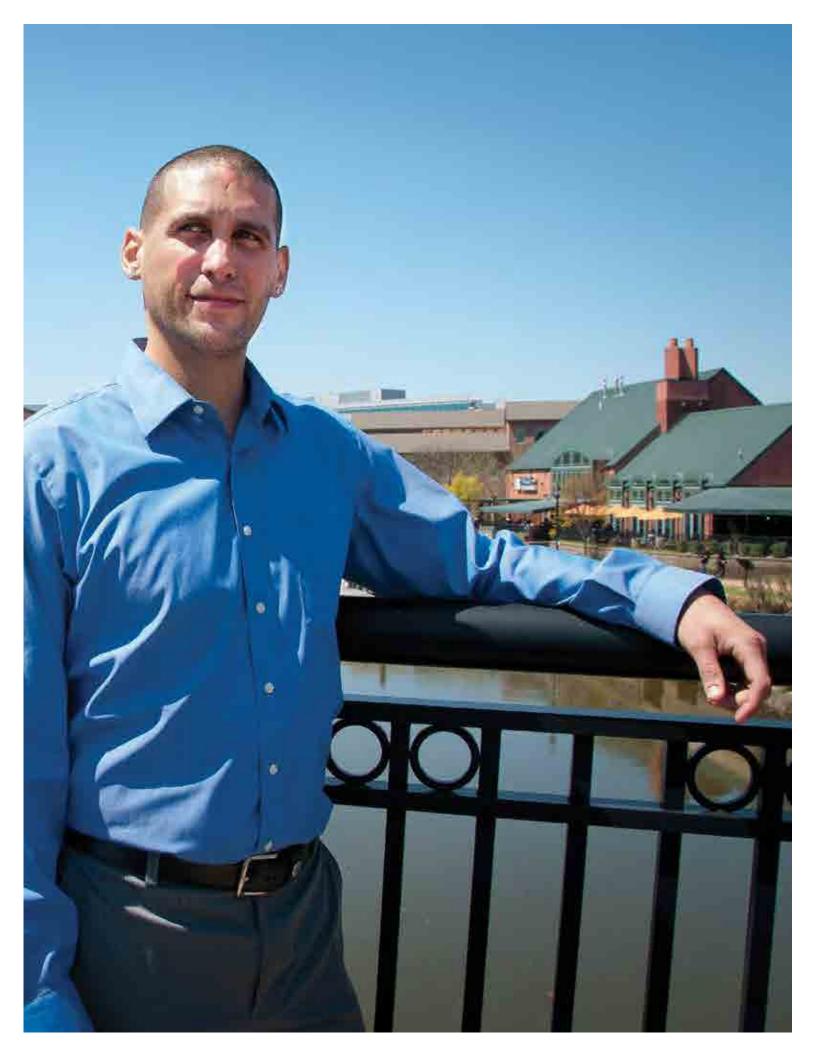
The police usually decide how to charge a crime in Delaware, and they do not always charge so harshly. But in Lee's case, they mistakenly believed he had information about the alleged criminal activity of his roommate, and they wanted his cooperation. With the tips from his bartending job, Lee might have been able to afford a lawyer, but the police seized that cash under the civil asset forfeiture law. He couldn't afford an attorney and he had nothing to offer to the police. To put the incident behind him, he pled guilty to felony drug dealing without knowing the full consequences the plea would have on his life.

# "When I have to mark the box, that's all they see. Just the box."

~ Lee Stephenson

On paper, Lee Stephenson is now a drug dealer. He rarely gets the chance to explain. Renting an apartment is a nightmare for him. He has to fill out many lease applications knowing that only a handful of landlords will give him an opportunity to explain the felony in his background check. Finding employment is no easier. After ruling out jobs like his previous role as a nurse's aide because of fear of licensing difficulties, Lee eventually got hired as a car salesman. He was lucky enough to interview with someone who gave him a chance to explain his conviction and who told Lee that his enthusiasm and smarts reminded him of a friend.

Lee's case is an extreme example of the potential disparity between a conviction and the actual underlying conduct, but it is common for people to assume the worst when all they see is a checked felony box or a record marked drug dealer. Transforming our system of endless unofficial punishment into a system of rehabilitation and second chances means treating people as individuals and not boxes.



### EDUCATION: SOME DELAWARE INSTITUTIONS LIMIT EDUCATIONAL ACCESS BASED ON CRIMINAL HISTORY

Federal law substantially restricts access to student aid for students with a drug conviction, a significant barrier for young people seeking to put their lives back on track. State law requires schools such as Delaware Technical Community College to deny access to its premier scholarship program, the Student Excellence Equals Degree Scholarship (SEED), for people who have been convicted of a felony. Delaware State University's Inspire Scholarship is also prohibited for those with a felony conviction. In addition, DSU requires that a student not have any pending felony charges before applying or after being admitted.

Other Delaware institutions of higher learning have similar restrictions on either admission or financial assistance. The University of Delaware—which is disproportionately white—asks applicants about any school disciplinary violation and conviction for any crime. Students are given 650 words to explain circumstances if they check "yes". In Delaware, the racial disparities in policing are mirrored in school discipline, with students of color disproportionately suspended from school for minor offenses like dress code violations.

When combined with the removal of federal assistance, these policies obstruct one of the most important ladders of self-improvement for people trying to make themselves and their communities better after a criminal conviction.

- Amend SEED and Inspire program eligibility to allow students with a felony conviction to have their criminal history individually evaluated instead of categorically barring them from aid.
- Encourage both public and private educational institutions to reconsider limits placed on people who have completed their criminal sentences.



### RECOMMENDATIONS: MODEST REFORMS CAN MAKE DELAWARE FAIRER AND MORE EFFECTIVE AT REINTEGRATION

Arrest without conviction should never be considered relevant in a society with a system of justice that operates on the principle of 'innocent until proven guilty'. And when we impose restrictions on people convicted of crimes long after their sentences have been completed, the restrictions need to be justified from a public safety perspective. Restricting voting rights, scholarship funds, or state aid benefits does not promote public safety. Whenever possible, restrictions based on a former conviction should be imposed only after consideration of individual facts and circumstances. Giving people individual consideration also means allowing them to become more than just a checked box by creating a process for expungement of old convictions. Finally, fairness demands that we notify people of the restrictions they may face if they plead guilty to a crime.

#### **RECOMMENDATIONS:**

- Prevent all employers from asking about convictions on application forms.
- Forbid consideration of arrests without conviction in private employment.
- Expand access to expungement and ensure that an expunged or incorrect record cannot be accessed by potential employers or landlords.
- Amend occupational licensing laws to ensure that crimes that prohibit one from licensure are narrowly tailored to the profession in question.
- Expand waiver provisions so that boards can decide for themselves whether a particular individual is worthy of licensure.
- Require that all public housing policy conform to HUD recommendations.
- Require developers and private management companies receiving tax credits for affordable housing to conform to HUD recommendations.
- Forbid consideration of arrests without conviction in private housing.
- Opt-out of the drug conviction ban on eligibility for TANF.
- Repeal the requirement that all fines and fees must be paid before voting rights are restored.
- Allow non-felons who are incarcerated to vote by absentee ballot and allow people on probation to vote.
- Amend SEED and Inspire program eligibility to allow students with a felony conviction to have their criminal history individually evaluated instead of categorically barring them from aid.
- Encourage both public and private educational institutions to reconsider limits placed on people who have completed their criminal sentences.
- Provide adequate funding to the Office of Defense Services to ensure that lawyers appointed to
  represent indigent clients have the resources to do their jobs. In particular, more funding is needed
  to reduce the caseloads of Assistant Public Defenders in the Court of Common Pleas, whose caseloads
  greatly exceed nationally recognized standards.

# A criminal record should not be a lifelong sentence

of second-class status. If we, as Delawareans, want to reduce our recidivism rate and our overall crime rate and act with compassion towards those who have earned a second chance, we must minimize the impact of collateral consequences of a criminal conviction. Those coming out of prison should have every opportunity to put their lives back together and become productive members of society. We must recognize and support, through our public policy, the human capacity for self-improvement and rehabilitation.



COLLATERAL CONSEQUENCES
REFORM IN DELAWARE

