



# HAVE YOU BEEN CONVICTED OF A FELONY?

*Yes*

*No*

**BOXED  
OUT**

**Criminal History Screening  
and College Application Attrition**

CENTER FOR COMMUNITY ALTERNATIVES  
In cooperation with the EDUCATION FROM THE INSIDE OUT COALITION

# BOXED OUT



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**CENTER FOR COMMUNITY ALTERNATIVES**  
INNOVATIVE SOLUTIONS FOR JUSTICE

## **ABOUT THE CENTER FOR COMMUNITY ALTERNATIVES (CCA)**

The Center for Community Alternatives (CCA) is a community-based nonprofit organization that promotes reintegrative justice and a reduced reliance on incarceration. Founded in 1981, CCA engages in research, policy advocacy, and direct services in pursuit of our goals to end mass criminalization and incarceration, eliminate racial disparities, and eradicate barriers to employment, housing, higher education, and civic participation experienced by people with criminal records. CCA defines our work within a civil and human rights framework, based on our understanding that the criminal justice system in the United States has become a mechanism to erode fundamental rights in this broad array of social domains. Our research and policy advocacy is grounded in our direct work with people directly impacted by the criminal and juvenile justice systems that now include the school-to-prison pipeline.

This report was written by CCA staff: Alan Rosenthal, Esq., Advisor on Special Projects and Counsel; Emily NaPier, M.A., Senior Research Associate; Patricia Warth, Esq., Director of Justice Strategies; and Marsha Weissman, Ph.D., Executive Director.



**EDUCATION FROM  
THE INSIDE OUT COALITION**

## **ABOUT THE EDUCATION FROM THE INSIDE OUT COALITION (EIO)**

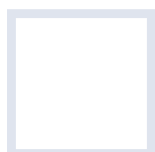
The Education from the Inside Out Coalition (EIO) led by the College and Community Fellowship, JustLeadershipUSA, and the Center for Community Alternatives is a national, nonpartisan collaborative of advocates working to remove barriers to higher education faced by students with criminal convictions while in prison and in the community. EIO is made up of members and supporters across the country. EIO works with federal, state and local government officials, along with educational institutions, providing technical assistance and other support.

## ACKNOWLEDGMENTS

We would like to first acknowledge the generosity of the people who were willing to share the stories of their struggles to achieve their dreams of a college education. These experiences inspired our work.

This research was enriched by our participation in the Education from the Inside Out Coalition that is focused on removing barriers to higher education for people with criminal records, including incarcerated people. Glenn Martin, Vivian Nixon, Mel Gregarin, Dionna King, and Erica Murphy provided invaluable guidance, leadership and feedback. Thanks to Melissa DiRado and Sara Wolkendorfer, Syracuse University College of Law summer externs, for their work on the FOIL requests and especially to Melissa for her perseverance to volunteer her time beyond her externship to see this project through to its conclusion. Roz NaPier and Jim Vermeulen helped in the proofreading of the report.

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## PREFACE

With this study and report we build upon what was revealed in our 2010 study, *The Use of Criminal History Records in College Admissions Reconsidered*. The *Reconsidered* study illuminated that a growing number of colleges and universities are asking about criminal history information during the application process: two-thirds of the colleges and universities we surveyed reported that they do so. Yet, as we discussed in the *Reconsidered* study, there is no empirical evidence to indicate that criminal history screening makes college campuses any safer.



... there is no empirical evidence to indicate that criminal history screening makes college campuses any safer.



This study helps to explain how the use of the criminal history box on college applications and the supplemental requirements and procedures that follow create barriers to higher education for otherwise qualified applicants. In this study, which focuses on the State University of New York (SUNY), we found that almost two out of every three applicants who disclosed a felony conviction were denied access to higher education, not because of a purposeful denial of their application but because they were driven out of the application process. We term this phenomenon “felony application attrition” which describes the reduction from the number of applicants who start an application and check the felony box “yes” to the number of applicants who, according to the admissions office, have satisfied all of the supplemental requirements and completed their applications. In this study, we explore how the stigmatizing and daunting impact of the supplemental procedures imposed on applicants who disclose a felony conviction contribute to this attrition.

This case study of SUNY has national implications. The supplemental procedures and requirements imposed by SUNY campuses are not unique. From our 2010 study we know that 55 percent of the public colleges that responded to our survey engage in criminal history screening, and a majority of those use supplemental procedures and requirements.

Federal, state and local public policy-makers are promoting reentry and reintegration efforts as a means of addressing our nation’s four-decade long flawed criminal justice policies that have produced overcriminalization and mass incarceration. Such efforts, if successful, will improve society in many respects, including reducing poverty and decreasing the racial divide. At the same time, many colleges and universities are both consciously and unconsciously engaged in a practice that subverts those public policy efforts and undermines development of good citizenship, public safety, democracy, the human right to education, and expands the economic and racial divide. It is both unrealistic and disingenuous to expect people who have served their sentence after a criminal conviction to live law-abiding and productive lives if they are continuously denied employment and educational opportunities.

Revealing this insidious and unnecessary lifetime consequence is the first step toward addressing it. We share the information from our research in the sincere hope of raising awareness of and opening up a dialogue about the dangers of college admissions policies that intentionally or inadvertently drive people with past criminal justice involvement from the college application process. We urge colleges and universities to refrain from asking about and considering criminal history information in admissions decision-making.

---



“

*I had often experienced the box on employment applications. I had painfully learned what the box meant when I was rejected from one job after another. When I saw the box on a college application I had a sinking feeling. Once I received the supplemental request for documents and information about my conviction I became convinced that this was the same old box with the same old purpose.*

”

**RANDY\***



# EXECUTIVE SUMMARY

Randy’s experience applying to the State University of New York is one of stigma and discouragement. It was repeated by many of the individuals we interviewed for this study who hoped to attend a SUNY college but faced daunting, if not impossible, application requirements imposed on people with past felony convictions. Encountering the felony conviction question on the initial SUNY application is dispiriting, but even for those who get past the initial stigmatizing question, the supplemental documents and information required by SUNY campuses are so discouraging and onerous that many people are driven out of the application process. While the supplemental process is not uniform across the SUNY system, every campus asks the felony conviction question and then further scrutinizes the backgrounds of applicants who disclose a felony.

This study was prompted by the narratives of individuals directly impacted by SUNY’s inquiries about criminal history records – stories from individuals with past criminal justice system involvement who found it difficult to navigate the SUNY application process. As an organization that provides services to help justice system-involved individuals successfully reintegrate into the community, staff at the Center for Community Alternatives (CCA) are often asked to help individuals overcome the myriad lifetime consequences that hamper access to jobs and housing. The experience of a client referred to CCA for assistance with applying to college raised our concern and focused our attention on the use of criminal history records in the college admissions process. As a result, we joined the leadership of the Education from the Inside Out Coalition (EIO). The College and Community Fellowship (CCF), JustLeadershipUSA (JLUSA), and CCA are the lead agencies in the national Coalition, which works to increase access to higher education for currently and formerly incarcerated people.

This report examines screening policies, procedures, and practices used by SUNY for applicants who disclose that they have felony convictions. As criminal history screening by colleges and universities has become increasingly common in the college admissions process,

understanding the impact on would-be college students is critically important. Using data collected from SUNY campuses, we analyzed how these policies and procedures affect applicant behavior. We focused primarily on whether asking questions about criminal convictions inhibits application completion, thereby creating a mechanism, intentionally or unintentionally, that serves to exclude applicants with criminal justice system involvement.

All SUNY applications include a question about felony convictions despite the fact that there is no evidence that criminal history screening makes college campuses safer. Applicants who check “yes” indicating that they do have a felony conviction receive a follow-up letter asking for supplemental information related to their conviction and notifying them of additional procedures. Applicants are also informed by SUNY colleges that their application will not be considered complete and thus, no action will be taken on their application, unless all the additional information is provided.

We found a significant drop-off from the number of applicants who start an application and check the box disclosing a felony conviction and the number who submit an application that is considered complete by the admissions offices across SUNY campuses. We call this “felony application attrition” and found that this phenomenon, more than explicit rejection on the basis of a felony conviction, closes doors to higher education for people with criminal history records.



*\* Several of the individuals interviewed for this report requested anonymity. We indicate the use of pseudonyms with an asterisk.*

## KEY FINDINGS

1

Asking applicants about past felony convictions has a chilling effect, discouraging people from completing the application process. The supplemental application processes at SUNY campuses for people disclosing felony convictions can be characterized as an experience of running a gauntlet, with applicants who check the felony box “yes” subject to far-reaching, multiple requests for information, some of which are impossible to provide.

**A** | We estimate that each year 2,924 applicants to SUNY check the box disclosing a felony conviction. Of those, 1,828 do not complete the application.

**B** | This means almost two out of every three applicants who check “yes” to the felony conviction question do not complete the application process and are never considered for admission.

2

The application attrition rates for individuals who check “yes” to the felony conviction question on the SUNY application are significantly higher than the application attrition rates for the general applicant population.

**A** | The median felony application attrition rate of 62.5 percent is three times higher than the median general application attrition rate of 21 percent.

**B** | Two-thirds of the SUNY schools included in the study report felony application attrition rates over 50 percent. In contrast, the general application attrition rate is under 50 percent at all campuses included.

### 3

Felony application attrition is a more formidable barrier to admission at SUNY campuses than rejection based upon a felony conviction.

**A** | Felony application attrition rates are higher than felony rejection rates: 90 percent of SUNY schools included in this study reported felony application attrition rates that are higher than their felony rejection rates.

**B** | For two-thirds of these schools, the felony application attrition rate is more than 10 times higher than the felony rejection rate.

**C** | For every one applicant denied admission because of a felony conviction, 15 such applicants are denied admission because of application attrition.

### 4

The data suggest that criminal history screening policies and procedures have a disparate impact on African American applicants, particularly at the community college level.

Screening for criminal records undermines SUNY's fundamental goal to ensure the broadest possible access to all segments of the population regardless of their ability to pay, race, gender or ethnicity.

## RECOMMENDATIONS

Based on our findings, the Center for Community Alternatives, in concert with the Education from the Inside Out Coalition, strongly recommends that the State University of New York and all colleges and universities refrain from including the criminal history question on the application and prohibit the use of criminal history information in admissions decision making.

Additionally, we support the enactment of state laws such as the proposed New York Fair Access to Education Act, S.00969 and A.03363 (2015-2016 session) that effectively bans the box from the admissions applications and prohibits institutions of higher education, both public and private, from using criminal history information for admissions decisions or to rescind an offer of admission.

“

*If we are sincere about criminal justice reform, economic independence, creating pathways out of poverty, and reducing our reliance on incarceration, then the college doors should be open to all. We can create more thoughtful and inclusive admissions policies, but we need to start by thinking outside the box.*

”

RONALD DAY

# I. INTRODUCTION

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The mission of the state university system shall be to provide to the people of New York educational services of the highest quality, with the broadest possible access, fully representative of all segments of the population in a complete range of academic, professional and vocational postsecondary programs including such additional activities in pursuit of these objectives as are necessary or customary.

**This sentence opens the mission statement of the State University of New York (SUNY) and reflects its founding principles.**

SUNY was formally established in 1948 following recommendations made by the Temporary Commission on the Need for a State University appointed by Governor Thomas E. Dewey. The creation of a state system brought together 31 distinct state-supported colleges that included 11 teacher colleges, seven four-year colleges, 11 community colleges, as well as land-grant institutions with a combined enrollment of almost 30,000 students. The assumptions underlying the establishment of SUNY were staunchly egalitarian. The 1948 Commission declared, “[H]igher education should be easily available to all who are qualified to profit from it. No human resources should be lost through barriers of age, race, color, creed, or national origin. Neither should the right to an education be contingent on ability to pay for it” (Eurich 1950, 169-170).

The creation of SUNY is part of a long American tradition of support for public higher education. Beginning as early as 1789 with the North Carolina<sup>1</sup> state university system, public or

state-sponsored universities were founded to ensure equal opportunity for all students to attend college regardless of their background or economic status (Bastedo & Gumport 2003). SUNY itself was founded based on an appreciation of the public and economic benefits associated with higher education, a recognition that the cost of private colleges was out-of-reach for many New Yorkers, and that higher education played an important role in strengthening civic engagement and democratic institutions (Henderson & Cowan 1948; Eurich 1950). SUNY community colleges were expected to be most accessible as students would be able to remain in their home communities and avoid the additional expenses of room and board.

Unfortunately, SUNY admission policies and practices for people with felony convictions now undermine its founding principles. Such individuals are a sizeable portion of New York State’s population, and they are finding it difficult to access the State’s public higher education system. This report describes the SUNY policies and procedures and presents data that document that the current policies discourage people with felony convictions from completing applications and thus prevent them from being admitted to a SUNY school.

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1. The University of Georgia also claims to be the first public university as it was state-chartered in 1785; however, the University of North Carolina was the first state system opened to the public.

All SUNY applications require applicants to disclose whether they have any prior felony convictions. Those who check the box indicating that they do are then required to complete varying supplemental procedures and provide additional documents and information in order to be considered for admission. As our data analysis shows, a significant number of applicants who start an application and check the box disclosing a felony conviction never complete the application. We call this phenomenon “felony application attrition.”

This study was prompted by the narratives of individuals directly impacted by SUNY’s scrutiny of criminal history records – stories from individuals with past criminal justice system involvement who found it difficult to navigate the SUNY application process. As an organization that provides services to help justice system-involved individuals successfully reintegrate into the community, staff at the Center for Community Alternatives (CCA) are often asked to help individuals overcome the myriad lifetime consequences<sup>2</sup> that hamper access to jobs and housing. We were less familiar with barriers to higher education until 2006 when a client was referred to CCA<sup>3</sup> for help in applying to a SUNY campus, Herkimer County Community College. At the time, Herkimer County Community College’s written policy stated that admission would be denied to any applicant with a prior felony conviction who did not reside in Herkimer County.<sup>4</sup> This raised our concern and focused our attention on the use of criminal history records in the college admissions process.

As a result, we joined with the Education from the Inside Out Coalition (EIO). The College and Community Fellowship (CCF), JustLeadershipUSA (JLUSA), and CCA are the lead agencies in this national Coalition, which works to increase access to higher education for currently and formerly incarcerated people.



To examine this issue, CCA first looked at the national trends in college admission screening of criminal history records. In 2009, we partnered with the American Association of College Registrars and Admissions Officials (AACRAO) to conduct a national survey to determine the extent to which the criminal history question was being used on applications by colleges and universities to screen applicants (Center for Community Alternatives 2010). We found that 66 percent of the colleges that responded to the survey collected criminal justice information on their applicants. We also learned that checking the box typically prompted the college to ask for supplemental information and subjected applicants to additional screening and inquiries. Follow-up interviews with admissions officers alerted us to the fact that

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2. For years, courts across this nation have clung to the legal fiction that there is a distinction between “direct” consequences of a criminal conviction (that is, the punishment pronounced in court), and “collateral” consequences (that is, the life-altering punishment that is not discussed in court). This legal fiction has been fostered to prevent people from withdrawing their pleas after being confronted with a punishment for their conviction of which they were not aware when they decided to plead guilty. In 2010, the United States Supreme Court rejected this legal fiction in *Padilla v. Kentucky*. Throughout this report, we too avoid using terminology that promotes this legal fiction, instead using the term “lifelong consequences” as one that better reflects the myriad punishments that flow from a criminal conviction.

3. The client was referred by On Point for College, an organization founded in Syracuse to help first-generation students get into college, stay there, and succeed afterwards.

4. The college has since removed this policy.



many applicants dropped out of the application process when confronted with supplemental requests. One admissions director stated that applicants who disclose a criminal record are asked to submit their criminal history record (rap sheet), a letter from their parole officer, and a personal essay, and noted that “a lot of people drop out [of the application process] at that point” (Center for Community Alternatives 2010:14). He estimated that only about five out of 30 prospective students who disclose a criminal history each year will move forward with their applications once additional information is requested. Our participants told us much the same story – that the criminal history box on the application is dispiriting, but even when they get past the initial stigmatizing question, the supplemental documents and information required are so discouraging and daunting to produce that many abandon the application process.

This study investigates how questions about criminal histories impact the application and admissions processes for people with such records. Since SUNY is one of the nation’s premier public higher education systems, our research on the State University of New York serves as a case study of how questions and screening dissuade applicants from completing the application process. Screening for criminal records undermines SUNY’s foundational goals to ensure access to quality higher education to all qualified students regardless of their ability to pay, race, gender, or ethnicity. While criminal history screening may not be intended to discourage applicants of color from applying or completing the application process, racial disparities in the criminal justice system, including that of New York State, serve as a de facto mechanism to exclude poor people of color from access to a college education.

We examined the myriad policies that are employed by the SUNY Central administration and by individual campuses that deter people with criminal histories from applying or completing the application process. We analyzed data that we collected from each SUNY institution on application outcomes for prospective students with criminal histories. We frame our analysis and conclusions about the impact of criminal history screening within an understanding of the disparities in the criminal justice system and how stigma – what Devah Pager (2003) has called the “mark of a criminal record” – discourages applicants from completing applications. We conclude with our primary recommendation

that SUNY should remove the criminal history question from their application and admissions process.

This recommendation is grounded in the personal narratives that are interspersed throughout this report. The stories describe herculean efforts to enroll in college. Some individuals are still struggling to get through the SUNY process; others made it with the support of organizations, friends and family. Still others decided to forgo SUNY and enrolled in other colleges. Vivian Nixon’s story is one example of perseverance that led to success.



## VIVIAN NIXON

Vivian Nixon served 3 ½ years in prison during which time she became focused on education and the opportunities it offered. When Vivian came home from prison she was a woman with a purpose; mature, committed, and eager to return to college. She applied to SUNY Old Westbury. She checked yes on the application box indicating a felony conviction and wrote an essay about her growth and development that resulted from her educational work experiences while in prison. Vivian was stunned when she was denied admission because of her felony conviction. She wrote an impassioned letter to Calvin Butts, the President of Old Westbury, challenging the denial and awaited a response.

Her rejection from Old Westbury did not deter Vivian's determination to go to college. With the start of the semester drawing near, Vivian could not wait for a response from Old Westbury and instead decided to re-enroll in Empire State College, where she had been a student prior to her time in prison. As a former student, she was not required to re-apply and thus did not have to disclose her felony conviction.

Well into her first semester, Vivian received a letter from Dr. Butts informing her that he had overruled the admissions review committee and she was accepted at Old Westbury. However, Vivian declined the offer, as she was already successfully enrolled as a student at Empire State College and also was employed. Vivian received support from the College and Community Fellowship (CCF), an organization whose primary purpose is to help formerly incarcerated women gain access to higher education. CCF's support helped Vivian to excel as a student and earn a degree in human services administration.

Upon graduation, Vivian was hired to serve as the Executive Director of CCF. Over the years, Vivian has become a nationally recognized leader, advocating for educational opportunities for men and women in prison, and in the community upon release. She is the co-founder of the Education from the Inside Out Coalition, a national, non-partisan collaborative of advocates, educators, and people with prior criminal history records, working to remove barriers to higher education both during incarceration and in the community.

Vivian is also an ordained local deacon in the African Methodist Episcopal Church and currently serves as an associate minister at Mt. Zion AMEC in New York City. She has received multiple honors for her work including the John Jay Medal for Justice, a Soros Justice Fellowship, an Ascend Fellowship at the Aspen Institute, a Peta Foundation Fellowship, the Hudson Link for Higher Education Brian Fischer Award, the Citizens Against Recidivism Mary McLeod Bethune Award, and the Correctional Association Lifting As We Climb Award. She is currently a Columbia University Community Scholar.

While we celebrate the success of individuals such as Vivian, this study indicates that many people never make it through the admissions process. Vivian recognizes what we as a society lose by a process that pushes people away from pursuing a college education:

“

*The ironies of my story are many, but they all point to one thing: screening college applicants for criminal conviction histories isn't necessary and only serves to discourage and exclude some of the brightest and potentially most successful contributors to our society from gaining the education and credentials they need to open the doors to careers that will lead to positions of influence and leadership.*

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# II. METHODOLOGY: APPROACH AND CHALLENGES

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To examine the impact criminal history screening has on applicants with past convictions, we first looked at the policies and procedures used by SUNY institutions in their review of applicants who “check the box” acknowledging a prior felony conviction. We then collected and analyzed data to see if those who check the box “yes” are less likely to complete the admissions application than the general applicant population.

## DATA COLLECTION

We relied on the New York State Freedom of Information Law (FOIL) (Public Officers Law, Article 6, §§ 84-90) to collect both the policy information and the admissions data. FOIL requires that state agencies provide records and data upon request.<sup>5</sup> We opted to use FOIL to collect data based on challenges we and others<sup>6</sup> encountered in trying to obtain this type of information through voluntary disclosure.

Our study revealed significant problems in the ways that SUNY campuses collect and maintain data that limit definitive evaluation of the impact of criminal history screening. Problems included missing or incomplete data as well as inconsistent or contradictory data. The findings in this report, while suggestive that asking questions about criminal history discourages people with such records from completing their applications, are limited by poor data quality.

This report includes three types of data. Each of the 60 SUNY campuses<sup>7</sup> provided data on their policies and procedures as they relate to applicants who disclose felony convictions. Of those 60 campuses, 30 (17 of the 31 four-year schools and 13 of the 29 community colleges) provided usable quantitative data on the total number of applicants, the number of applicants disclosing a felony conviction, the number of completed applications, and the number of applicants denied admission as the result of a felony conviction. Finally, we compiled narratives from people directly impacted by SUNY’s policies about admitting people with felony convictions and include those stories throughout the report.<sup>8</sup> More detailed information about data collection and analysis, including an explanation of why half of the schools were excluded from the quantitative analysis of attrition and rejection rates due to poor data quality, can be found in Appendix A. Samples of the FOIL request letters are also provided in Appendix A.

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5. There are some limitations on information that is disclosable under NYS FOIL. See (§87(2)).

6. See Sokoloff and Fontaine. 2013. Systemic Barriers to Higher Education: How Colleges Respond to Applicants with Criminal Records in Maryland. Available at <http://nataliesokoloff.wordpress.com/publications-2/73-2/>. In commenting on the low response rate to the survey they sent out to colleges, the authors stated, “How colleges and universities handle the admission of students with criminal or disciplinary backgrounds is a politically charged topic. Therefore, it is not surprising that colleges may have been concerned about completing a questionnaire on the subject, despite the guarantee of anonymity” (p.15).

7. We did not send FOIL requests to the State’s four land grant colleges at Cornell University.

8. Several of the individuals interviewed for this report requested anonymity. We indicate the use of pseudonyms with an asterisk.

## DATA ANALYSIS

The quantitative admissions data of each of the 30 schools that provided usable data were analyzed to calculate the rate at which applications were started but not completed. We call this the “application attrition rate.” First, we compared the total number of applications started with the number of applications completed to calculate the “general application attrition rate” (i.e., the percentage of all applications that were not completed). We then calculated the “felony application attrition rate” by using the same process with the number of applications started and completed by people who checked the box disclosing a felony conviction. We compared the two application attrition rates to discern the impact of SUNY’s criminal history screening policies.

We were also able to calculate the felony rejection rate – the percentage of applicants who disclose a felony and, after providing the supplemental documents and information required, are rejected by the Admissions Review Committee because of their criminal history. For the 20 schools that provided data on the felony rejection rate, we were able to compare it with the felony application attrition rate. The application attrition rates and felony rejection rates were analyzed using Microsoft Excel and IBM SPSS.



# III. FINDINGS

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## OVERVIEW OF APPLICATION PROCESS

There are three methods for applying to a SUNY college: applySUNY (the SUNY common application), campus-specific applications, and the national Common Application. All applications include a question about past convictions. Applicants who check “yes” to the felony question receive a follow-up letter asking for information specific to their criminal record. This information is reviewed by an Admissions Review Committee that must be established and used on each SUNY campus for the specific purpose of considering the admission of people who check the box “yes.”

For all campuses, two overarching documents issued by SUNY Central guide SUNY practices in the admission of people with criminal history records. One is the “Admissions of Persons with Prior Felony Convictions” referenced as Policy #3300, and the other is the “Frequently Asked Questions” that provides details and clarifications to Policy #3300 (both policy documents are provided in Appendix B). These SUNY Central policies notwithstanding, each SUNY campus has its own unique supplemental requirements and procedures. No two are exactly the same.

## FINDINGS: APPLICATION ATTRITION RATES

The data show that a large number of applicants who disclose a felony conviction are driven away from completing their application and thus are never even considered for admission. We term this “felony application attrition” i.e., the process of starting an application and checking “yes” to the criminal history question but not completing the application.

Table 1 summarizes the application attrition rates for applicants who disclose a felony conviction compared with the rates for the

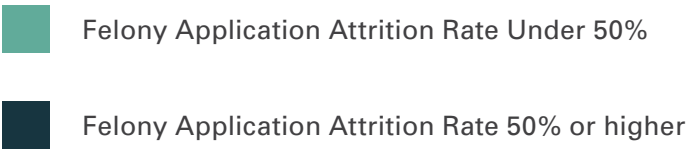
overall applicant population for the 30 schools that provided usable admissions data. The attrition rates for people who disclose a felony conviction (“felony application attrition rate”) range from 24.1 percent (Adirondack Community College) to a staggering 98 percent (Potsdam). In contrast, the application attrition rates for the general applicant population, i.e., the total applicant pool (“general application attrition rate”) range from 4.6 percent (Suffolk County Community College) to 47.5 percent (Columbia-Greene Community College).

**Table 1:**  
**Application Attrition Rates,**  
**by School**

School	Felony Application Attrition Rate	General Application Attrition Rate	Felony AAR as a Multiple of General AAR
Adirondack Community College	24.1%	9.0%	2.7
Albany	63.7%	25.3%	2.5
Alfred State	48.0%	17.2%	2.8
Binghamton	91.4%	14.3%	6.4
Brockport	39.8%	22.8%	1.7
Buffalo State	72.6%	41.8%	1.7
Canton	62.2%	12.0%	5.2
Cayuga Community College	83.1%	34.8%	2.4
Cobleskill	47.1%	13.9%	3.4
Columbia-Greene Community College	69.2%	47.5%	1.5
Delhi	45.1%	17.8%	2.5
Farmingdale	40.0%	21.2%	1.9
Fashion Institute of Technology	82.0%	35.2%	2.3
Genesee Community College	62.1%	15.7%	4.0
Hudson Valley Community College	70.6%	17.8%	4.0
Jefferson Community College	74.6%	34.8%	2.1
Mohawk Valley Community College	50.9%	25.0%	2.0
Morrisville	69.9%	21.6%	3.2
New Paltz	81.1%	4.7%	17.3
Niagara County Community College	79.4%	33.0%	2.4
North Country Community College	31.1%	39.3%	0.8
Old Westbury	82.2%	39.2%	2.1
Onondaga Community College	58.4%	27.7%	2.1
Plattsburgh	67.6%	20.7%	3.3
Polytechnic Institute	38.7%	24.9%	1.6
Potsdam	98.0%	18.9%	5.2
Rockland Community College	58.1%	0.2%	242.3
Schenectady Community College	59.1%	36.5%	1.6
Stony Brook	38.2%	13.0%	2.9
Suffolk County Community College	33.3%	4.6%	7.3

While every school reports a general application attrition rate under 50 percent, fully two-thirds of the schools report felony application attrition rates over 50 percent (Figure 1). Only one school, North Country Community College, reports a felony application attrition rate that is lower than the general application attrition rate. For the remaining schools, the felony application attrition rate ranges from 1.5 times higher than the general application attrition rate at Columbia-Greene Community College to 17.3 times higher at New Paltz.<sup>9</sup>

**Figure 1:**  
**Felony Application Attrition**  
**Rates at SUNY Schools, n=30**



According to the data provided by 30 of the 60 SUNY schools, 1,462 applicants each year check the box disclosing a felony conviction, and 914 of them do not complete the application. As there are no identifiable patterns or characteristics that distinguish the schools that provided usable data from those that did not, we feel confident these data can be extrapolated to estimate the annual number of applicants who check the box disclosing a felony conviction and the annual number of those applicants who do not complete the application. Based on our estimates, throughout the SUNY system as a whole, each year 2,924 applicants check the box disclosing a felony conviction. Of those, 1,828 do not complete the application and are never considered for admission, resulting in a mean felony application attrition rate of 62.5 percent – almost two-thirds of all such applicants (Figure 2).

9. Rockland Community College reported an inordinately low overall attrition rate of 0.2 percent which caused us to question its accuracy. If used it results in a felony attrition rate that is 242.3 times higher than the general rate. We have opted not to call attention to it because it is such an extreme outlier.



**Figure 2:**  
*Estimated Annual Felony  
Application Attrition Rate at SUNY*

2,924

Number of SUNY Applicants Who Check the Box Each Year

1,828

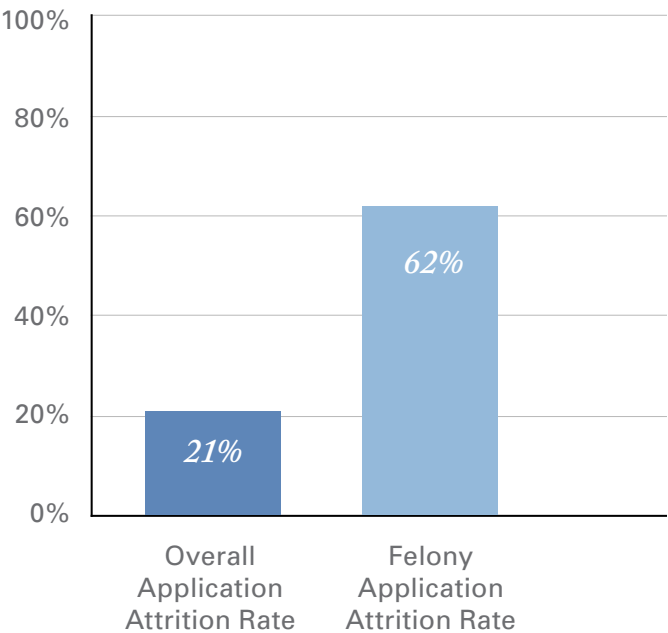
Number of SUNY Applicants Who Check the Box  
but Do Not Complete the Application

62.5%

Mean Felony Application Attrition Rate

The estimated mean felony application attrition rate of 62.5 percent for all 60 SUNY schools corresponds closely to the actual median felony application rate (62 percent) for the 30 schools that provided usable data. Figure 3 illustrates that the median felony application attrition rate is three times higher than the general application attrition rate (21 percent).

**Figure 3: Median Application  
Attrition Rates Compared**



## JAY MARSHALL

Jay Marshall started working for Verizon in 1981. In 1983, two years after he started his career, Jay was arrested for felony possession of a weapon. It was his one and only brush with the law. He was sentenced to probation and successfully completed his five years of probation. Fortunately, it never interfered with his employment and Jay went on to a 33-year career with Verizon.

Verizon provided a college program benefit to its employees in conjunction with Empire State College. In 2005, Jay took advantage of the opportunity and enrolled in the SUNY Empire program. Because he enrolled through the special Verizon program, Jay never had to fill out the typical SUNY application that includes the question about a felony conviction.

Jay was quite successful as a SUNY student, and earned an associate's degree and then a bachelor's degree from Empire. While a student, Jay served as a student representative to the college council for two years, and in that capacity served on the college search committee for a new

college president. Jay was so highly regarded that he was hired part time to serve as an alumni peer learning coach. Jay had earned the respect of faculty, administration, and students.

Through his college education, Jay was introduced to new opportunities that ignited new dreams. In 2011, he decided that he wanted to go on to graduate school for a master's degree. When Jay looked over the application he was shocked to find that it contained the criminal history question. Jay was embarrassed and fearful when he saw the question, astonished that, after 28 years, his criminal conviction could come back to haunt him. Jay feared the embarrassment that he could be caused if word of his conviction got around to his colleagues at the college. Jay's dreams of going to graduate school at Empire State College, a college that meant so much to him, were crushed, and he never submitted his application.

Jay Marshall's story puts a human face on "felony application attrition:"

“

*I couldn't believe that after 28 years, I was being confronted with the box...I felt fear, embarrassment and a bit of anger. Here I was, a grown man, an accomplished and valued employee of Verizon with 30 years on the job, a graduate of Empire State College, a part-time Empire employee as an alumni peer learning coach, yet I was being called upon to account for something that had occurred almost three decades earlier.*

*The box dashed my dreams of going to graduate school at Empire State College. I had affection for Empire. The box sent a message of exclusion - that I still had to prove myself, as though I could not be trusted. People don't understand how heavily that can weigh on your mind, even after all of these years. I never submitted that application.*

”

## FINDINGS: REJECTION RATES

We calculated the rejection rates for people who disclosed felony convictions, completed all of the supplemental requirements, and made it to the Admissions Review Committee for a final admissions decision. We were able to calculate these rates for 20 of the 30 colleges included in our analysis. The results are surprising and counterintuitive: felony rejection rates are lower than felony application attrition rates at most SUNY institutions. In short, the data show that more people who check the box are excluded from college because of the box and/or the supplemental information requirements than are actually rejected by the Admissions Review Committees.

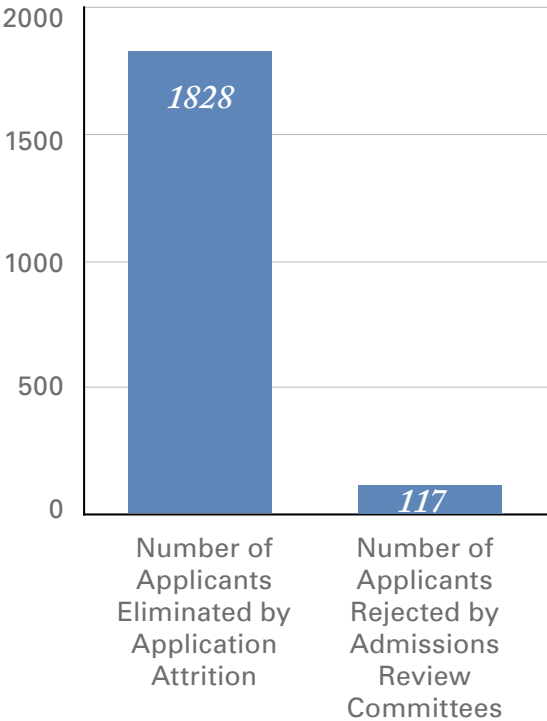
While three of the schools, the Fashion Institute of Technology, Farmingdale, and North Country Community College, report high felony rejection rates of 77.8, 68.3, and 40.4 percent respectively, the rates for the remaining schools are relatively low (Table 2). In fact, based on the data provided, six of the 20 schools analyzed did not reject a single applicant who disclosed a felony conviction, and five others have felony rejection rates under 5 percent. Alarming, however, 18 of the 20 schools – 90 percent – report felony application attrition rates that are higher than their felony rejection rates. For two-thirds of these schools (12 of 18), the felony application attrition rate is more than ten times higher than the felony rejection rate.

**Table 2: Comparison of Felony Application Attrition Rate and Felony Rejection Rate, by School**

School	Felony Application Attrition Rate	Felony Rejection Rate	Felony AAR as a Multiple of Felony RR
Adirondack Community College	24.1%	4.1%	5.9
Brockport	39.8%	1.0%	39.8
Buffalo State	72.6%	3.1%	23.4
Cayuga Community College	83.1%	16.7%	5.0
Delhi	45.1%	35.6%	1.3
Farmingdale	40.0%	68.3%	0.6
Fashion Institute of Technology	82.0%	77.8%	1.1
Genesee Community College	62.1%	0.0%	62.1
Hudson Valley Community College	70.6%	0.0%	70.6
Jefferson Community College	74.6%	1.2%	64.9
Mohawk Valley Community College	50.9%	0.0%	50.9
New Paltz	81.1%	0.0%	81.1
Niagara County Community College	79.4%	3.1%	25.6
North Country Community College	31.1%	40.4%	0.8
Old Westbury	82.2%	7.7%	10.7
Onondaga Community College	58.4%	5.8%	10.1
Plattsburgh	67.6%	33.3%	2.0
Polytechnic Institute	38.7%	0.0%	38.7
Potsdam	98.0%	0.0%	98.0
Rockland Community College	58.1%	19.4%	3.0

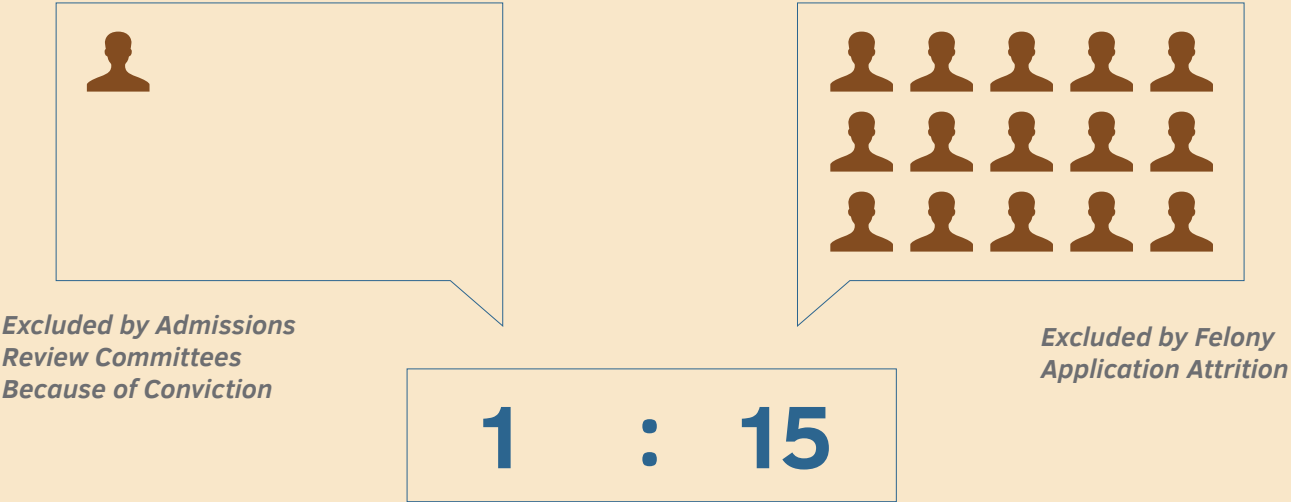
Applying the same formula we used to estimate the number of applicants who disclose a felony conviction and do not complete the admissions application (1,828), we estimate that 117 such applicants are rejected each year by the Admissions Review Committees. Figure 4 illustrates that the number of applicants who disclose a felony conviction impacted by application attrition is more than 15 times higher than the number denied admission.

**Figure 4: Annual Application Attrition and Rejection Numbers Compared, for Applicants Who Disclose a Felony Conviction**



In other words, for every one applicant rejected by Admissions Review Committees because of a felony conviction, 15 applicants are excluded by felony application attrition (Figure 5). This suggests it is the questions about criminal history records, rather than rejection by colleges, that are driving would-be college students from their goal of getting a college degree.

**Figure 5: Felony Application Attrition and Rejection Rates Compared**



FINDINGS:  
RACIAL IMPACT

The impact of SUNY felony screening practices on applicants of color is an important consideration given racial disparities in the criminal justice system (see Section VII). We compared whether African American applicants are disproportionately represented in the population of applicants checking the felony box for the 19 schools that provided usable data on the racial demographics of their applicant population. We broke out the information by type of school: community colleges (n=6) and four-year schools (n=13).

Table 3 presents data on the six community colleges that provided usable data. At all six schools, the data show Black applicants are disproportionately represented in the population of applicants checking the felony box compared to the overall population of Black applicants. In fact, at five of the six schools, the proportion of African American applicants who check the felony box is two to three times higher than their proportion in the general applicant population. For example,

African Americans are 20 percent of all applicants at Niagara Community College but 41 percent of applicants who disclose a felony conviction. This is significant given that 79 percent of applicants who check the felony box at Niagara Community College do not complete the application (see Table 1). Thus, at these community colleges, felony screening policies are more likely to affect African American applicants and discourage them from applying.

**Table 3: Black Applicants as a Proportion of All Applicants and of Applicants Disclosing a Felony Conviction at Community Colleges**

School	Percentage of All Applicants Who Are Black	Percentage of Applicants Disclosing Felony Who Are Black
Columbia-Greene CC	14.6%	28.8%
Hudson Valley CC	19.7%	47.3%
Jefferson CC	11.5%	14.9%
Niagara County CC	20.1%	41.3%
Schenectady CC	18.2%	50.4%
Suffolk County CC	11.0%	33.3%

This pattern did not hold true among the 13 four-year schools that provided usable data on racial demographics (Table 4). In fact, at four-year schools there is no discernable pattern. At some schools, Black applicants are disproportionately represented among applicants who disclose a felony conviction, but at other schools the reverse is true. At still others, the proportion of Black applicants in the general applicant pool and those who disclose a felony closely mirror one another. A possible hypothesis to explain our findings on racial implications is discussed later in Section VII.

**Table 4: Black Applicants as a Proportion of All Applicants and of Applicants Disclosing a Felony Conviction at Four-Year Schools**

School	Percentage of All Applicants Who Are Black	Percentage of Applicants Disclosing Felony Who Are Black
Alfred State	22.0%	20.0%
Brockport	17.5%	45.2%
Buffalo State	24.9%	42.3%
Canton	23.0%	10.5%
Cobleskill	17.6%	14.3%
Delhi	24.9%	19.1%
Farmingdale	9.1%	13.3%
FIT	14.4%	40.0%
Morrisville	30.7%	22.3%
New Paltz	11.5%	22.2%
Plattsburgh	17.4%	18.9%
Potsdam	12.5%	13.7%
Stony Brook	14.4%	16.7%

# IV. BOXED OUT: STIGMA AND EXCLUSION

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The data received from the FOIL requests indicate that questions about a past criminal record discourage applicants with such records from completing the application process and that felony application attrition is a more formidable barrier to enrollment at SUNY than purposeful exclusion by the Admissions Review Committee. While there is no research specific to the question about how criminal history questions discourage applicants with such records from applying to college, there is research on the larger question of stigma, how it manifests in social institutions such as the higher education system, and its impact on behaviors of stigmatized people.

While the feeling of being stigmatized is something experienced by individuals, social institutions play an important role in producing stigma. When labels – such as ex-offender or felon – are attached to individuals and associated with negative attributes, it results in status loss and discrimination for such individuals. According to Link and Phelan, “when people are labeled, set apart, and linked to undesirable characteristics, a rationale is constructed for devaluing, rejecting, and excluding them” (2001:370-371).

This loss in status then results in the individual being devalued in social interactions and, perhaps more importantly, in individual and structural discrimination against stigmatized groups. There is no doubt that individual discrimination occurs regularly, but stigma also affects the structure around individuals, leading people to be exposed to institutional discrimination. This structural or institutional discrimination is often what results in disparities in life chances between various groups in society depending on their level of stigmatization and subsequent status loss (Fine and Asch 1988; Link and Phelan 2001).

People with criminal histories experience status loss resulting in institutional discrimination in many domains – employment, housing, civic participation and, as we have discovered, higher education. Pierce et al. (2014) found, in their survey of college administrators, that the most common reasons cited for conducting criminal history screening were reducing violence, protecting against liability, reducing illegal drug use, and reducing nonviolent crime. This indicates that college admissions policies and procedures are strongly influenced by stereotypes about the significance of a criminal history.





## RANDY\*

Randy dropped out of high school in the 11th grade. At the time, he was not interested in academics and wanted to work. He secured employment and was successful in working his way up to a middle manager position in his field of work.

About 10 years ago, Randy was arrested and subsequently convicted for a sex offense and was sentenced to probation. While on probation, he earned his GED, which rekindled his interest in education. He then proceeded to apply and get admitted to the local SUNY community college. Randy was required to disclose his felony conviction, but was admitted nonetheless. Over the course of three semesters, he earned 33 credits, maintained a 4.0 cumulative average, and was inducted into the Phi Theta Kappa Honor Society.

Randy did well on probation, was discharged early, and has been trouble-free since then. Following his discharge, Randy relocated to another city in upstate New York. Because of his conviction, Randy experienced tremendous difficulty in obtaining employment. Over the course of two years, while he continued to search for a job, Randy volunteered for two not-for-profit agencies. He was subsequently hired by one of the organizations.

Randy wanted to continue with his education and applied to the SUNY community college in his new home community. He checked yes to the felony question on the application as he did when applying to his first college, but unlike his first experience, he faced considerable scrutiny and questioning and was eventually rejected.

This experience was quite discouraging, but after a few years, Randy decided to try again and he applied to several other SUNY community colleges. His experiences at most of these other colleges were equally dismaying. Although the barriers he faced differed at each school, each presented a challenge that was very hard to overcome. For example, one community college that asked for a great deal of information about his decade-old conviction did not ask Randy for evidence of rehabilitation. Randy took the proactive step to submit his Certificate of Relief from Disabilities (CRD). The head of the Review Committee informed Randy that he was not

familiar with the CRD and would have to check out its significance. A few days later, Randy received a call back from the campus official and was told that after consulting with the local District Attorney, he concluded that a CRD only applied to employment situations.

At this writing, Randy has been admitted to several of the community colleges to which he applied. While this is a seemingly positive ending, it does not negate the demoralizing and discouraging application process that Randy has endured. Randy is an atypically tenacious individual and he believes that most others would have given up in the face of the endless barriers he faced.

“

*At times I felt like the box and the supplemental procedures were put there to send a message from the admissions office: ‘Your kind are not welcome.’ The more they asked about the offense the more I felt embarrassed. It is uncomfortable to have to relive this story over again. It is traumatizing but they didn’t seem to have a clue.*

”

In fact, Darby Dickerson, now the Dean of the School of Law at Texas Tech University, has endorsed the notion that applicants with convictions should be screened out because of the perception that they are more dangerous. She argues that conducting background checks will “help set a tone for a safer campus” and “by requiring background checks of all admitted students, colleges will send a message about the type of students they want” Dickerson (2008). In contrast, Barmack Nassirian, former Associate Director of the American Association of Collegiate Registrars and Admissions Officers (AACRAO),

asserts that colleges should be serving students who have resolved to overcome their criminal histories by pursuing higher education. “If you don’t think people can change, you ought to be in a different line of work. Educating people and putting them on the right path is a social responsibility,” he said in a 2010 article in Inside Higher Education. “By asking about criminal histories on the admissions application, Nassirian said he thought the message was a big – and unwarranted – ‘keep out’ sign for anyone with a criminal past” (Epstein 2010).

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Cory Greene, now a doctoral student at the City University of New York Graduate Center, describes how he perceived the box:

*“Many students are filled with a sense of relief after submitting their application, since the process is almost over. Unfortunately, students with criminal histories rarely experience relief at this junction in the application process. Fear, helplessness, isolation, apprehension and uncertainty, among a long list of other emotions, flood our bodies. I feared that I would be marginalized by unfair stereotypes and a sense of vulnerability took residency in my being.” (Greene 2013: 2)*

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In most other domains, the criminal history box sends the same message. People with criminal histories applying for jobs or searching for housing, for example, are faced with a relentless onslaught of questions into their past and rejections because of it. They know that in most cases, their criminal history is used as a mechanism by which to exclude them. Thus, when they see the same question on college applications, they experience the same fear. As one applicant, Gary told us:

*“I was shocked to see the criminal history box on a college application. I had seen it on employment applications. My perception was that whenever I filled out an application with the box on it, I didn’t get the job. To me, it seemed like a tool for exclusion.”*

“

Stigma has profound impact on life choices. Being stigmatized is an assault on one's identity that takes a toll on a person's ability to function.<sup>10</sup> Gary's reflection on the stigmatizing impact of the SUNY application process makes this clear:

*I just felt like they were looking for reasons to exclude me... I felt beaten down....I was so turned off by this experience that I gave up on attending a SUNY school and moved back down to NYC, where I am currently attending CUNY. It took me several years to pick myself back up and try again.*

”

## GARY REESE

By the time he was 16, Gary was incarcerated. While in state prison he earned his GED and took some college courses. The opportunity to attend college both expanded Gary's world view and strengthened his self-confidence: he realized that he was capable of college-level work. He started to dream of the day that he would be released and enroll at a college. He began to view himself in a much more positive way.

Upon release, Gary applied to a SUNY community college in upstate New York. He was shocked to see the criminal history question on the college application. It made him question whether he would be welcome on the college campus, but he nonetheless submitted the initial application. His skepticism and fear were reinforced once he

was asked to provide additional information about his conviction. At no point in the process was he asked to provide information documenting his rehabilitation or why a college education was important to him.

Yet, Gary continued the process and provided all the supplementary information requested. At that point he was asked to appear before the college's Admissions Review Committee. That was the last straw: Gary faced a committee of people focused on questioning him only about his criminal behavior. The experience was traumatic and was reminiscent of Gary's experience appearing before the Parole Board. Gary became so frustrated and discouraged that he left before the interview was over.

10. There is a body of research on the ways in which people manage stigma. For examples, see Copenhaver et al. 2007; Goffman 1963; Halkovic and Fine 2013; Major et al. 1998; Pager 2003; Richman & Leary 2009; Schmader & Beilock 2012.

One of the few documented examples of how questions about past records discourage college applicants is a case study described in an article in the Journal of College Admission (Custer 2013). Custer traced the journey of an applicant he called Susan who applied to college 10 years after having been convicted of felony crimes and having successfully completed a sentence of probation. Susan completed the basic application including checking the box indicating that she had a felony conviction. However, she did not proceed further in the application process after being required to provide additional information about her decade-old conviction. Instead she wrote a letter to the college conveying her dismay at being haunted by an incident long in her past and withdrew her application. In our own interviews with applicants, we found several who, like Susan, withdrew their applications.

We encountered the power of stigma in preparing this report. To provide first-person accounts of experiences in applying to SUNY colleges, we reached out to a variety of individuals with criminal records. Many of these individuals eventually made it through college (both SUNY and non-SUNY) and have gone on to lead successful and contributory lives. Yet many remain in the closet, and while they have years, if not decades, of solid employment, a strong family life and standing in their community, they were reluctant to have their story appear in public, even with the promise of anonymity. They feared that all they have managed to achieve over the years could disappear in a flash if their past conviction was revealed.

In the context of the SUNY application, the chilling effect caused by stigma occurs at two junctures. For some would-be applicants, the chilling effect occurs before they even start the application. They see the box and stop. The number of applications never submitted cannot be quantitatively measured. For other applicants, the chilling effect and corollary felony application attrition is caused, not just by the box on the application, but by the process that ensues once an applicant discloses a felony conviction. Once an applicant checks “yes” in the felony box, all SUNY colleges require supplemental information and documentation. It is within the literature on stigma as well as the narratives of directly impacted people that we consider our findings on SUNY policies with respect to screening of applicants with criminal history records.



# V. THE GAUNTLET OF SUPPLEMENTAL REQUIREMENTS FACED BY APPLICANTS WHO DISCLOSE A FELONY CONVICTION

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As described in Section III, all SUNY applications for admission require applicants to indicate whether or not they have a felony conviction. Applicants who get past the chilling effect of the question and check the “yes” box are sent a letter from the SUNY campus to which they are applying outlining the supplementary criminal history review process and identifying the information and documents the applicant must provide. The required information and documentation is to be sent to the particular campus’s Admissions Review Committee, which makes the final decision about whether or not the applicant’s felony conviction should be a reason to deny admission to the applicant. In making this decision, each campus’s Admissions Review Committee must comply with SUNY Central’s Policy #3300 and the “Frequently Asked Questions” (FAQ), which are included in Appendix B. Policy #3300 references

New York State Correction Law Article 23-A (Correction Law §§ 750-755) as the standard to be used by the Admissions Review Committee to determine whether admission of the applicant will involve “unreasonable risk.” Article 23-A is also included in Appendix B.

There are considerable differences among SUNY campuses with respect to the supplementary criminal history review process used, including variations in the felony conviction question asked, the documents that applicants who check “yes” to the felony conviction question must provide, and the existence of waiting periods or other barriers for certain applicants. Whatever the campus’s particular process, however, our interviews of applicants with felony convictions reveal processes that are daunting, time consuming, humiliating, stressful, costly, and, at times, simply impossible to complete. The individuals we interviewed describe a gauntlet-like experience. It is so nuanced and complex that it is best understood through a first-person narrative such as Adrien’s below:

## ADRIEN CADWALLADER

As a young man Adrien struggled with drug issues which led to his incarceration in state prison where he spent more than eight years on and off, going back on several parole violations. Finally, he was transferred to a prison where he could participate in college courses provided by Sienna College.

After being given the opportunity to take college courses and doing well, Adrien was excited and motivated to go to college upon his release. Through the Sienna College program Adrien took 24 credits of courses, earning a perfect 4.0 grade point average. When he was released for the final time, Adrien felt that he had clear, achievable goals. He applied to SUNY New Paltz and another SUNY school, checking “yes” on the criminal history box. When Adrien received a follow-up letter from the “Ex-Offender Admissions Review Committee” at New Paltz, he recounts feeling overwhelmed by the list of information and documents that they required. The letter Adrien received required the following:

- 1. A copy of your full criminal record (convictions, dates, etc.)**
- 2. A report from the prison administrator, including a statement about your behavior while incarcerated.**
- 3. A report from the prison psychologist.**
- 4. A report from the parole officer/board.**
- 5. Proof of a permanent residence since release.**
- 6. Personal interview with the Ex-Offender Admissions Review Committee.**

Adrien felt put off when he thought about these requirements. "I felt like I was being set up to fail. I could never be able to complete the supplemental requirements. These tasks seemed impossible to me - kind of like the twelve labors of Hercules, except in this case there were only six."

"They required my full criminal record but didn't tell me where to get it. I knew there was no way I could get a report from the Superintendent of Mt. McGregor Correctional Facility or a statement from him about my behavior while incarcerated. I thought the request for a report from the prison psychologist and the parole board was totally unrealistic and unattainable. And I was immediately unnerved by the thought of appearing before an 'Ex-offender Committee.'"

"With that list of impossible tasks in front of me I was ready to give up. Anyone who has been to prison and is familiar with the system would perceive these as difficult or impossible. It made me wonder if anyone who checked the box could ever get to the end of this gauntlet. I was crushed. But my father coaxed and encouraged me. There is no way I would have even attempted to meet these requirements on my own. My family helped me get alternate documentation." With his father's help Adrien obtained a letter from the prison explaining that it was in the process of shutting down and no records were available from either the Superintendent or the prison psychologist. His parole officer would not provide a recommendation but did submit paperwork acknowledging that Adrien was in compliance with the terms of his parole supervision.

Adrien was eventually granted an appearance before the "Ex-Offender Admissions Review Committee." On the day of his interview, Adrien asked the committee if his father could appear with him, but was firmly told "no." Adrien's father waited outside while Adrien was escorted into the room and placed in a seat between a person who was introduced as a representative of the

local police and a person identified as the head of campus security. "I did not feel welcome," Adrien explains. Adrien remembers that there were about 6-8 people in the room. The local police representative began to question him about his criminal history record, asking about arrests for which the charges had been dismissed and misdemeanor charges. "I felt totally hopeless and tried to explain that some of what appeared on the record was not accurate." Adrien remembers feeling totally discouraged and insulted when one of the committee members asked him: "Do you know what schizophrenia is?"

After the interview, Adrien told his father, "Dad, I have more chance of becoming President of the United States than getting into New Paltz." According to Adrien, "I was ready to withdraw my application right then and there. I felt hurt, insulted, and humiliated." Adrien's father told him he was overreacting and to wait for the decision. On their drive home, Adrien received a call indicating that the committee wanted yet more documentation – letters from his treating psychiatrist and therapist. Within several days Adrien provided these additional documents.

Several weeks later, however, Adrien received a letter from New Paltz denying his admission. The letter did not give a reason for the denial, but stated only that "Our admission process is very competitive." Adrien was also denied admission to the other SUNY school to which he applied. To this day, Adrien does not know the reason for these denials, and his dream of a college education remains unrealized.

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Other applicants share Adrien's perception that the supplementary criminal history review process is a gauntlet-like experience that simultaneously discourages and stigmatizes applicants who answer "yes" to the felony conviction question. Our review of the various policies that we received from the SUNY campuses and from SUNY Central illuminates several aspects of these policies that further stigmatize applicants who check the "yes" box to the felony conviction question. Below we review the ten most problematic obstacles applicants encounter. No campus has all of these obstacles, though all campuses have at least some.



# 10 TEN MOST PROBLEMATIC OBSTACLES

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## 1

### Improper Instructions About Disclosure of Felony Convictions

SUNY Central's policy requires that applicants self-disclose if they have a felony conviction. FAQ #5 of this policy further states that applicants must be instructed that they are to answer "no" to the felony question if they were convicted of a felony as a Youthful Offender, a Juvenile Delinquent, or a Juvenile Offender, or if the applicant's record has otherwise been sealed. This instruction is critical; without it, applicants will be confused about what they are required to disclose, and many will answer "yes" to the felony question when they should answer "no."

Despite the importance of this instruction, our research reveals that not even the centralized applySUNY application properly instructs applicants on the circumstances

in which they should check "no" to the felony question. With regard to the campus-specific applications, *only one* – Schenectady Community College – has the correct instruction. Consequently, at the outset of the application process, many applicants are confused or improperly instructed on whether or not they have to check "yes" to the felony history question. If they incorrectly check "yes," they will needlessly be subjected to the gauntlet of additional requirements, felony application attrition, and the possibility of denial of admission by the Admissions Review Committee.

## 2

### Requiring Multiple Documents, Many of Which Are Difficult to Obtain

Adrien's story reveals that the supplementary information requested by SUNY campuses is often overwhelming in terms of the sheer number of documents requested. In fact, our research revealed 38 differently named documents that are required by the various SUNY campuses. (Appendix C provides a list of these documents.) This problem is compounded by the fact that applicants are often burdened by requests for different documents that essentially contain

the same information, and therefore are needlessly duplicative of each other. For example, some campuses require applicants to obtain Certificates of Disposition for their felony convictions *and* their records from the Division of Criminal Justice Services, which contain the same information as that in a Certificate of Disposition. This causes additional needless expense.



Those applicants who overcome their initial dismay at the number of documents requested are soon confronted with challenges regarding the *nature* of the documents they are required to provide. Problematic requirements of some campuses include the following:

- ***Applicants are required to obtain documents that do not exist;***
- ***SUNY campuses identify a document by a title or term that is not used by the entity from which the applicant must obtain the document; and***
- ***Applicants are often required to obtain information and/or recommendations from corrections, probation and parole officials who are reluctant to provide such information, unable to do so, or outright refuse to do so as a matter of policy.***

Adrien's story illuminates these issues. Almost immediately, he was confronted with the impossibility of obtaining some documents because the facility in which he had been imprisoned was closed. He also realized rather quickly that the officials from whom he was to request the documents would never provide them.

Given the nature of the information requested, Adrien was convinced that the process was stacked against his acceptance. Randy expressed similar feelings: *"Once I received a letter for documentation about my criminal conviction, the more I gave them the more they wanted. Each requirement made me think that the process was designed to come up with a reason to exclude me."* They also worried, like many applicants, that if they did not provide the required documentation, they would not be accepted. This concern is quite real, as many campuses specifically warn applicants that if they do not provide the required information, their application will be deemed "incomplete" and they will not be considered. Applicants who believe that all of the documents, even those that are non-existent or impossible to obtain, are required for admission will think it futile to continue and will abandon their efforts. In Adrien's case, he sought to overcome the impossibility of providing certain documents by offering alternative documentation (such as a letter from the prison indicating that the documents were not retrievable).

### 3

## Requiring Applicants to Disclose Their Confidential Records from the Division of Criminal Justice Services (DCJS)

The DCJS record is the official criminal history record in New York. The record is confidential and can be obtained only when specifically authorized by law. There is no law authorizing SUNY to obtain the DCJS record. There is, however, a regulation that authorizes individuals to obtain their own record from

DCJS. SUNY Central's policy encourages SUNY campuses to take advantage of this regulation to require that applicants obtain their own criminal history record from DCJS and re-disclose it to the Admissions Review Committee. Twenty-three SUNY campuses follow this recommendation.

While the legality of this policy is certainly questionable, there is no question that requiring applicants to obtain and re-disclose their DCJS record erects a significant barrier. Obtaining one's own DCJS record is costly - approximately \$60, which is often more than the college application fee itself. The process is also complicated because a person must be fingerprinted and send specific documents to DCJS. Many applicants are unaware of the process for obtaining their own DCJS record, and few SUNY campuses correctly inform applicants of the process.<sup>11</sup> Moreover, the record a person receives through this

process contains information about all of the person's criminal arrests, including arrests for misdemeanors, arrests that have been dismissed or otherwise did not result in a criminal conviction and have thus been sealed, and Youthful Offender, Juvenile Delinquent and Juvenile Offender arrests. Retaining counsel to identify and correct errors is costly. Thus, the SUNY campuses that require the disclosure of the DCJS record will often receive far more information about an applicant's criminal record than just felony convictions. Lettisha's comments provide a first-person perspective that applicants have about providing their DCJS record:

*"I was troubled by the criminal history box. It creates unnecessary barriers to college, to self-improvement and to attaining new goals. But I did check it. What I then found to be even more problematic was the requirement that I provide the admissions office with a "full criminal record." I sent them the official certificate of disposition and I also paid for a criminal record from the Office of Court Administration. The Admissions Office refused to accept that and insisted on the DCJS record. That document contains information that they were not entitled to see – the information had been legally sealed. What they were doing seemed wrong to me. They did not act on my application because I refused to submit the DCJS record. I guess you could say I was boxed out by application attrition. I was devastated by what the admissions office put me through. After all, I help others get into college, published a book, secured a mortgage and purchased a home. My conviction didn't stand in the way of any of those accomplishments, but they were using it to block my dream of continuing my education."*

Additionally, like all criminal history records (National Consumer Law Center 2012), DCJS records have a high error rate.<sup>12</sup> Applicants who know of this error rate and who understand that the DCJS record includes far more information than

just felony convictions are further stigmatized by the requirement that they disclose more information than just felony convictions, and are understandably reluctant to disclose their confidential DCJS record.

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11. Some campuses instruct applicants in a manner that erects higher or insurmountable barriers. At least one campus informs applicants that they must tell DCJS to send the criminal history record directly to the campus's Admissions Review Committee. However, New York regulations prohibit DCJS from doing so and state that DCJS can send the record only to the person whose record it is or the person's attorney. Another campus instructs applicants to send the DCJS record to the Admissions Review Committee in the sealed envelope in which DCJS sent it, thereby preventing the applicant from first reviewing the record to identify any possible errors.

12. The error rate may exceed 80 percent. CCA reviewed over 200 DCJS records and found an 83 percent error rate.

## LETTISHA BOYD

At age 18, Lettisha Boyd found herself behind bars for a violent crime that would cause her to be incarcerated for the next 16 years. While incarcerated, Lettisha met amazing women who were involved in education and self-improvement, and who were willing to help one another. These relationships had a profound impact on Lettisha and, while in prison, she took the opportunity to continue the education she had started prior to her incarceration.

Lettisha first enrolled in the Marymount Manhattan College through the Bedford Hills Correctional Facility College Bound program and earned her Associate's Degree in Sociology. She appreciated the help she received from her instructors and the other students in the program and joined its staff as a program assistant. When Lettisha was transferred to Albion Correctional Facility, she retained her thirst to learn. She received a certificate in legal research through the University of Buffalo and a certificate in Human Relations from Genesee Community College.

Lettisha's success at higher education increased her self-confidence and earned her the respect of all she encountered during her incarceration, enabling her to line up four job offers by the time of her release. Lettisha had a clear path in mind: she wanted to help other women use education as a catalyst for growth and self-enhancement. Lettisha was excited to accept a job at College and Community Fellowship (CCF), an organization that helps women involved in the criminal justice system engage in higher education. For Lettisha, her job as an Academic Counselor for CCF is ideal: for the past four years she has been helping formerly incarcerated women succeed in college, just as she had been helped.

Moreover, Lettisha wanted to continue her own college education in the community. She applied to a SUNY college and was confronted by the criminal history box. She checked the box, and moved on to address all the supplementary requirements: criminal history, explanations about the offense, recommendations from a parole officer, and more. Lettisha considers herself lucky to have been able to meet the requirements as her parole officer was supportive. She was aware that was not always the case and other individuals had not been able to meet this requirement.

However, Lettisha refused to provide her DCJS record because it contained information that was legally sealed and thus not subject to scrutiny by the Admissions Review Committee. She instead offered her certificate of disposition and her Office of Court Administration criminal history record. The college would not accept these alternatives.

Lettisha was put off by the SUNY college's focus on her conviction rather than the positive gains she had made in the ensuing years. Lettisha had a good job; she had published a book, secured a mortgage and purchased a home, but her application experience focused solely on her status as an "ex-offender."

Yet Lettisha would not be deterred from her educational goals. She is now enrolled at CUNY School of Professional Studies, majoring in communications and culture, and will be graduating with her BA in June of 2015.

## Requiring Applicants to List *All* Prior Convictions on a Supplemental Form

SUNY Central's policy – specifically FAQ #10 – limits the inquiry into applicants' criminal histories to felony convictions. Yet, once an applicant checks "yes" to the criminal history question, at least 30 SUNY campuses include as part of the supplementary criminal history review process a requirement that applicants self-disclose their entire criminal history record, not just felony convictions. As Adrien described, applicants who are asked about their entire record, not just their felony convictions, understandably are discouraged and feel that the process is designed to exclude them.

But there are additional problems with requiring applicants to self-disclose their entire record. Most of these supplementary requirements do not include instructions as to whether applicants with sealed records, Youthful Offender or Juvenile Delinquent adjudications, or Juvenile Offender convictions must disclose these arrests. Not only is this requirement confusing for applicants, but for at least two reasons, it may cause the Admissions Review Committee to erroneously conclude that an applicant has not been truthful in what they self-disclose. First, many applicants will not fully understand what they ought to disclose. They may not list every arrest that the Admissions Review Committee will ultimately discover upon receipt of further official documentation about the applicants' conviction histories. Second, the most commonly requested documentation, the DCJS record, commonly contains mistakes. Thus, there may be a discrepancy between what the applicant self-discloses and what is disclosed on the criminal history record the Admissions Review Committee receives.

Every SUNY campus takes seriously the failure of applicants to accurately disclose their criminal record, and each campus has its own way of informing applicants that there will be severe consequences if they provide false information or omit information about their criminal record. Niagara Community College, for example, warns applicants as follows: "Failure to disclose felony status or disciplinary dismissals, or intentional misrepresentation within any area of the application process, may result in the immediate dismissal of any student found to be culpable." As a result, requiring applicants to list their entire record when there is a significant likelihood that, through no fault of their own, what they disclose will not comport with the information received by the Admissions Review Committee is tantamount to setting applicants up for failure.

## 5

## Requiring Applicants to Sign Broad, Invasive Authorizations for Release of Information

As part of the supplementary review process, most campuses not only identify specific documents and information that applicants must provide, but also require applicants to sign authorizations for release of information, suggesting that the Admissions Review Committee will embark on its own investigation into the applicant's personal history. As shown in the examples of such releases contained in Appendix D, some of these releases are disturbingly broad, authorizing the Admissions Review Committee to obtain information from a wide range of sources, including doctors, psychologists, psychiatrists, hospitals, insurance companies, law enforcement, military, federal law enforcement, employers, credit bureaus, banks, and other financial institutions, and on a wide range of

subjects, including records regarding work, background and reputation, financial status, military service records, criminal records including arrest records, any information contained in investigatory files, attendance records, and polygraph examinations. Confronted with this type of release and the prospect that the Admissions Review Committee plans on conducting such an intensely invasive investigation, some applicants abandon the application process instead of signing the release.

## 6

## Requiring Would-Be Applicants to Complete a Waiting Period Before Applying to SUNY

SUNY Central's policy – specifically FAQ #13 – prohibits individual campuses from establishing across-the-board rules regarding the amount of time from release from prison or jail that a would-be applicant with a felony conviction must wait before applying for admission. Nonetheless, at least six campuses<sup>13</sup> impose waiting periods ranging from six to eighteen months, and would-be applicants are told that these waiting periods apply in most cases. For individuals who view higher education as a key

component of reforming their lives and “getting on the right track,” such waiting periods are demoralizing and counter-productive.

13. University at Albany, Clinton Community College, Columbia-Greene Community College, Genesee Community College, Jamestown Community College, and Sullivan Community College.

John explains what happened to him after his admission to a SUNY graduate program was delayed for a semester:

*I could easily have gotten off track and never continued with my education. These types of delays can be demoralizing. I can see how an interruption like this can cause an individual struggling with many different aspects of reentry to give up on his or her educational goals. You can't help but feel that the delay is designed to exclude you. Fortunately I benefited from a very strong support network that helped me overcome this obstacle.*

JOHN\*

As a young man, John was convicted of a violent felony. While incarcerated, he completed his undergraduate degree through a SUNY college program. Soon after his release, John applied to a SUNY school and disclosed that he had a felony conviction on the application. He was accepted and looked forward to beginning school in the fall semester. He was to enter a Ph.D. program, but for reasons he does not know, his admission was delayed a semester by the university. John acknowledges that this delay almost set him back. He was demoralized and considered giving up on his educational goals. It was a strong support network that got him through the hurdles. John went on to earn his Ph.D. and is a well-respected, tenured professor at a highly regarded university in another state.

## 7

## Delaying Consideration of Applicants Past the Admission Deadline

Paul's story highlights a recurrent theme that emerged during the interviews we conducted for this study: many applicants spoke of the experience of having their applications stonewalled. Much like Paul's story, would-be students had their enrollment delayed because their applications were not reviewed in a timely fashion or the review was pushed back past

the deadline for the upcoming semester. Paul, for example, thought the stonewalling was just another way to avoid admitting him to a school that he was otherwise qualified for: "It felt like they just wanted me to go away, without having to say 'no.'" Randy had a similar experience with one of the SUNY community colleges that he applied to:

*"I felt like they just stonewalled my application. They didn't want to admit me, but because of my volunteerism, good conduct, and excellent grades, a rejection would be hard to justify. They just wanted me to go away."*

### PAUL\*

Paul Chen began college before he was arrested for a criminal offense that landed him in state prison. He acknowledges that he wasn't really ready for college when he first enrolled and had no clear educational goals.

However, while in prison, Paul had lots of time to think about his future. As he neared his release, he realized that he had a strong interest in science and a desire to pursue a college degree that would allow him to work in the sciences.

Upon his release, Paul enrolled in a CUNY School, Medgar Evers College. He was an honor student and earned a Bachelor of Science in biology, graduating magna cum laude. In his senior year, Paul applied to the Doctor of Physical Therapy program at SUNY Downstate for entry in the fall 2014 semester. He was surprised by all of the supplemental requirements that came as a result of checking the criminal history box on the application, but he managed to meet all of them.

He even submitted a copy of the Certificate of Relief from Disabilities that he had been issued by the Board of Parole.

Once Paul responded to all of the requests for supplementary information, he thought he had reached the finish line and his application was complete. However, he became anxious when he did not hear back from the admissions office in a timely fashion. He repeatedly called the admissions office but did not get a direct response. Paul started to feel that he was getting the run-around. No one seemed to know where his application was.

Finally, in June 2014, he received a letter informing him that a hold had been put on his application and that it was now too late for him to enroll in the fall semester. Paul was advised that he could either request a refund of his application fee or reapply for admission for the next semester.

At this point Paul became discouraged. He took a part-time job at Medgar Evers to make ends meet. Paul felt that action on his application had been delayed because of his criminal history record and lost faith that he would ever be admitted.

These delaying practices constitute a de facto violation of SUNY's policy that prohibits waiting periods. The effect is the same: applicants, ready and willing to begin college, have their enrollment indefinitely delayed, discouraging their pursuit of higher education.



## Barring Applicants from Educational Programs that Lead to Careers Requiring Occupational Licensing

According to FAQ #17 of SUNY Central’s policy, campuses may not use the existence of a felony conviction as a reason to deny a qualified applicant admission to an academic program that leads to a profession requiring occupational licensing. Instead, applicants are to be counseled about the licensing requirement and the challenges they may face in obtaining a license so that they can make an informed decision about pursuing admission to the particular program. This policy makes sense, and we recommend it as a best practice. People with felony convictions are able to overcome barriers to licensing. This is particularly true in New York, which as a matter of State law and public policy, prohibits licensing agencies from imposing outright bars to licensing because of a past conviction and instead requires such agencies to consider certain statutory factors in determining if a person’s criminal record adversely affects their ability to safely perform the specific job for which they are being licensed.<sup>14</sup>

Still, four campuses<sup>15</sup> specifically state that they will deny admission to an applicant if the Admissions Review Committee determines that the applicant’s felony conviction would “preclude licensing”; three other SUNY campuses imply that they will deny admission in such circumstances. Not only do these policies violate SUNY Central’s clear admonishment against denying applicants admission because of concerns about occupational licensing, but doing so makes no sense given that, in New York, occupational licensing agencies are not permitted to maintain policies precluding applicants for licensing based on certain convictions. Doing so also ignores the reality that many students, with or without past convictions, do not pursue careers that are aligned with their college course of study. Studies and surveys show that between one-third and almost one-half of college graduates do not work in the field in which they majored (Robst 2007; Career Builder 2014).

14. New York’s law in this regard is set forth in Article 23-A, which is attached as Appendix III, specifically Correction Law § 752 and § 753. Occupational licensing agencies may provide that specific felony convictions are “presumptive” barriers to licensing, but even when this happens, applicants for licensing can overcome this presumption through evidence of rehabilitation and good conduct and/or a Certificate of Relief from Disabilities or a Certificate of Good Conduct.

15. Nassau Community College, Niagara Community College, North Country Community College, and Westchester Community College.

## 9

## Requiring Applicants to Personally Appear Before the Admissions Review Committee

Applicants who check “yes” to the felony conviction question will have their information reviewed by the particular campus’s Admissions Review Committee. Committee composition varies from campus to campus, both in terms of the number of members and representation. Some committees have as few as two members, while others have as many as nine. The various campus Admissions Review Committees commonly include the campus head of security, but otherwise representation varies widely. Buffalo State, for example, includes a member from the campus’s athletic department.

Some of the campuses require that the applicant personally appear before the Admissions Review Committee. While this may provide applicants an opportunity to tell their story, most of the people to whom we spoke shared Adrien’s perception of the experience as stressful and intimidating. As Gary’s story illustrates, for many this in-person appearance is reminiscent of appearing before the Parole Board for release from prison:

*“It felt like I was walking into a parole board. The way they kept focusing on my criminal conviction made me feel like a bad parole hearing.”*

Gary became so frustrated during his interview that he left before it was over and therefore was never considered for admission.

## A Glaring Omission: Not Asking Applicants to Provide Information About Their Rehabilitation or Good Conduct

While all SUNY campuses ask about felony convictions and as part of the supplementary criminal history review process require disclosure of substantial information about the offense, SUNY campuses do not uniformly exhibit the same interest in evidence of rehabilitation and good conduct. About half (54 percent) of SUNY campuses ask applicants to submit information about their rehabilitation and good conduct, and only 20 percent of campuses ask applicants whether or not they have been issued a Certificate of Relief from Disabilities or a Certificate of Good Conduct<sup>16</sup>.

The singular focus on past convictions conveys to applicants that their efforts at rehabilitation and good conduct simply do not matter, enhancing the stigma that flows from the supplementary application process as a whole. A process that focuses primarily on the applicant's worst conduct also further discourages applicants by leaving them with the perception that the process is not fairly balanced, but instead geared towards rejecting them. Randy spoke of this during his interview with us, stating:

*“I was discouraged when I realized that they wanted documentation and information in detail about my crime but didn’t ask anything about my rehabilitation over the past 10 years. When I showed the head of the Admissions Review Committee my Certificate of Relief from Disabilities, he acted like he did not know what it was. A few days later, he called to tell me that it only applied to employment.”*

The failure to ask applicants about their rehabilitation and good conduct also means that some SUNY campuses are making decisions about the applicants devoid of a complete picture that takes into account the applicant's mistakes and achievements. Indeed, because judgments about risk cannot be meaningfully made without also examining a person's achievements, Article 23-A of New York law requires employers to consider evidence of rehabilitation and good conduct when deciding whether to employ a person with a criminal record, and if an applicant has been issued a Certificate of Relief from Disabilities or a Certificate of Good Conduct, to presume that the applicant has been rehabilitated. With Policy #3300, SUNY has incorporated this law into its policy on the admission of students with felony convictions, which is yet another reason that failure to ask for such information is such a glaring omission in the policies of so many SUNY campuses.

16. Certificates of Relief from Disabilities and Certificates of Good Conduct are issued by either a court or the New York State Department of Corrections and Community Supervision. These certificates restore certain rights to people with a past conviction and effectuate New York's public policy encouraging the licensure and employment of such people. Under New York Correction Law 753, employers and agencies involved in occupational licensing must treat such certificates as a legal presumption of the person's rehabilitation.

## DENIAL BY APPLICATION ATTRITION

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The foregoing overview of the supplemental admissions application requirements and processes for applicants who disclose a felony conviction reveals a range of requirements that intimidate, overwhelm, and further stigmatize even the most determined applicants. Applicants understandably perceive the process as stacked against them, and many find that the further they proceed through this gauntlet of requirements, the more they feel that the campus is sending a message that they are not welcome, as Randy told us during our interview with him:

“

*It was intimidating enough just to have to check the box. When they continued to ask for additional documentation that was not required in the initial letter requesting supplementary information, I started to get worn down. It was like I was getting application fatigue. I can see how any person confronted with all of the supplemental requirements could easily abandon the application process. With all that they put me through, it would have been easier just to give up.*

”

In other instances, as we have seen in Lettisha's story, individuals decide not to subject themselves to a process that fails to see them as the people they are now. Ronald Day explained his decision to withdraw his application to SUNY Stony Brook this way:

“

*After all I had accomplished, and after running this gauntlet to get into a SUNY undergraduate school, it made no sense to me to have to do it again. I had wonderful experiences with SUNY as an undergraduate, and seemed to be valued for who I was and what contribution I had made as a student and as a peer coach. I felt like I was being judged all over again for what I had done 20 years earlier, and not for the person that I had become. I resented being made to go through this same process a second time, and decided not to pursue the opportunity with SUNY, although I have tremendous respect for the Social Welfare program at Stony Brook.*

*If we are sincere about criminal justice reform, economic independence, creating pathways out of poverty, and reducing our reliance on incarceration, then the college doors should be open to all. We can create more thoughtful and inclusive admissions policies, but we need to start by thinking outside the box.*

”

## RONALD F. DAY

By age 15, Ronald had dropped out of school and had become caught up in the life of the streets. At 17 he amazed himself by passing the GED without preparation, but that would be the last time he thought about education for the next few years. He was ensnared in drug dealing and the lifestyle that went with it. Going to prison was more likely than going back to school. Like so many of the young men from his neighborhood, he had come to accept incarceration as inevitable.

His life on the streets was short-lived and Ronald found himself on the fast track to prison for a violent felony offense with a whopping sentence of 15 to 45 years.

It was at Sing Sing Correctional Facility that Ronald first realized that a college education was possible for him. There, he connected with men who were enrolled in a college program, and talking with them sparked his interest. While at Sing Sing, Ronald enrolled at Mercy College and, to his surprise, he did well. His introduction to college helped him break through what had been a sense of hopelessness and uncertainty. The future no longer seemed so bleak.

After completing one semester of college at Sing Sing, Ronald was transferred to Green Haven Correctional Facility. There he was able to enroll in a college program being taught at the prison through Dutchess Community College. In 1995, when he was just three courses shy of earning his associate's degree, funding for Pell and TAP grants ended, and college programs in prisons all but disappeared. Ronald would not be released from prison for another 12 years. While Ronald felt like the rug had been abruptly snatched out from under him, his relationship with learning had been established and he would pursue it for the rest of his life.

Upon release from prison Ronald connected with the College Initiative, a program that works with men and women coming out of prison and helps them realize their dreams of going to college. With their help, Ronald enrolled at SUNY Empire State College. In order to get into Empire College, Ronald had to check the criminal history box and answer what seemed to be endless questions about his criminal conviction. He describes the process as running a gauntlet and believes he never would have made it through without the support of the College Initiative.

Ronald's success at Empire was remarkable. He earned all A's and helped found the Black Male Initiative. He was hired by Empire to work part-time as an Alumni Peer Coach. After graduation, Ronald applied to the Baruch College master's program in public administration. Ronald earned his MPA with a concentration in Nonprofit Administration and graduated with honors. He was initiated into Pi Alpha Alpha, the national Honor Society for Public Affairs and Administration.

Ronald had fallen in love with learning. He applied to SUNY Stony Brook for the Ph.D. program in social welfare. While he was welcomed by the Director of the program during his admissions interview, and despite his academic and professional success, Ronald nonetheless was confronted by the criminal history question on the SUNY application. Despite his respect for the SUNY Stony Brook program, Ronald decided that he would not again subject himself to this process. Instead, he enrolled in the Ph.D. program in criminal justice at the CUNY Graduate Center.

Ronald has now completed all of his course work and is preparing to work on his dissertation. He has taught at the John Jay College of Criminal Justice as an adjunct instructor in public management for the past five semesters. Ronald also continued to give back to the community first through his employment at the Osborne Association as Director of Workforce Development, and most recently as the Associate Vice President of Policy at The Fortune Society.

# VI. CAMPUS SAFETY AND CRIMINAL HISTORY SCREENING

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Ensuring campus safety is the most common justification for criminal history screening (Pierce et al. 2014). However, there is no evidence that criminal history screening makes campuses safer. The two studies that looked at whether criminal history screening improved campus safety found that it had no such effect. Olszewska (2007) found no statistically significant difference in the rate of campus crime between institutions of higher education that explore undergraduate applicants' criminal history backgrounds and those that do not. Runyan et al. (2013) showed that neither criminal background checks nor pre-admission screening questions accurately predict students likely to commit crime on college campuses.

Data available from the U.S. Department of Education, Office of Postsecondary Education (OPE), Campus Safety and Security show that college communities are far safer than the community at-large. The OPE data are collected under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Higher Education Opportunity Act that requires all U.S. colleges receiving Title IV funding (federal student aid programs) collect and report data on selected crimes.

Specifically, according to the U.S. Department of Education (Robers et al. 2014), in 2011, there were a total 30,400 reported criminal incidents on campus.<sup>17</sup> In 2010, there was a total of 15 murders on campuses which translates to 0.1 per 100,000 students. In contrast, in that same year, among the general population, there were 15,399 homicides, a rate of five per 100,000. The consistently low rates of campus crime prompted the U.S. Department of Education to conclude "students on the campuses of post-secondary institutions [are] significantly safer than the nation as a whole" (U.S. Department of Education 2001:5).

Clery Act data do not identify the perpetrators of crimes reported and there are no other data sources that provide information on the characteristics of people who commit crimes on college campuses. However, as might be expected, reports of serious or violent crimes appear in the media. While news stories are not a substitute for research, the media reports commonly cover incidents of violent and serious crimes, and it is typical for these stories to report when a perpetrator has a criminal record. Our review of such stories for this report as well as our prior study of this issue (Center for Community Alternatives 2010) finds them to be either silent on this issue or to explicitly comment that the individual in fact had no prior record. This was true for the student who killed Jeanne Clery for whom the Clery Act was named as well as for students who have been involved in more recent, highly visible crimes such as the shooting at Virginia Tech.

The same patterns hold true for SUNY schools. Clery Act data for SUNY campuses show low rates of crime. There were no reported homicides at any SUNY two- or four-year college in 2013. Four-year SUNY institutions reported 31 robberies and 45 aggravated assaults, while two-year colleges reported 12 robberies and 10 aggravated assaults. Similarly, a search of media reports on crimes on SUNY campuses over the past several years did not identify any evidence that these crimes were committed by students with criminal records. Recent media reports on homicides on SUNY campuses include the following: the 2009 murder of a SUNY Binghamton professor by a graduate student who had no criminal record; the 2012 murder of a female student at the SUNY Brockport campus committed by the student's boyfriend who had no criminal record; and the 2014 murder of a SUNY Farmingdale professor committed off

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17. We would note that crime on campuses has been declining in recent years: there was a decline of 5 percent between 2010 and 2011.



campus by her son who had no criminal record. Media reports of homicides of students at private colleges located in New York State also indicate that they are not committed by students with records but for the most part by family members or boyfriends without records.

Rape and sexual assault are the only crimes on campus that have rates comparable to or even higher than in the general population (Fisher et al. 2000; Hart 2003; Baum & Klaus 2005; Sampson 2002). They are also the crimes that appear to be on the increase: U.S. Department of Education data reported that sexual assaults at colleges rose by 79 percent from 2001 to 2012. Yet the key factors associated with sexual assault on campus are alcohol and drug use and not past criminal justice system involvement. Most research and reports describe the perpetrators as members of fraternities who are often inebriated, with many sexual assaults taking place at campus parties. In describing student assailants, there is no reference to their having any past contact with the criminal justice system. And although sexual assault on campus has been identified as a problem for at least 20 years, until 2014, colleges typically have not even imposed significant campus discipline, let alone referred the student to criminal justice agencies.

SUNY is not immune from problems of sexual assault: the New York Times (Kaminer 2014) reported there were 238 sexual assault complaints among the 219,000 students attending SUNY four-year colleges and universities during the 2013-14 academic year. Again, these crimes were not linked to students with criminal history records.

As discussed later in this report, screening for criminal history records does not make campuses safer but instead undermines broad public safety by foreclosing an opportunity that has proven to be one of the most effective deterrents to recidivism. Isaac Rothwell's story is but one example of how ensuring access to higher education for people with criminal history records enriches public safety.



## ISAAC ROTHWELL

Isaac is a product of the SUNY system. He is an example of the valuable contributions SUNY alumni can make if the doors are not closed to applicants with a criminal history record.

Isaac enrolled at SUNY Purchase and attended for four semesters. Like many college students, he got involved with using and selling drugs. Unfortunately for Isaac, he got caught. He was sentenced to three to life, and served three years in state prison. While in prison Isaac matured and gave a lot of thought to his future.

Upon his release, Isaac connected with On Point for College in Syracuse, New York, an organization with a mission of opening doors to higher education for inner-city youth. With their help, Isaac applied to SUNY Oswego for a program in music. Isaac acknowledges that if it were not for the help and encouragement from On Point for College, he never would have been able to meet all the supplemental requirements that Oswego required from him after he checked “yes” in the box disclosing his felony conviction. Isaac went on to Oswego, graduating with a BA in Music.

From the moment of his release from prison, Isaac has been focused on giving back to his community in Syracuse. While a summer intern in the On Point for College program, Isaac worked at the Center for Community Alternatives (CCA) in its youth program. He engaged young people, much like him, in learning to use technical equipment and create hip hop music that provided a creative outlet for their anger and despair. Isaac demonstrated such commitment and promise that he was soon hired as a CCA employee full time, first working in the youth program and later moving to a position as a Reintegration Specialist in CCA’s Reentry Clinic. In the clinic, Isaac helped others, like himself, who were trying to turn their lives around and find employment or continue with their education.

Isaac stayed connected to On Point for College because he strongly believes in their mission. He eventually joined their staff as the On Point for Jobs Coordinator, helping On Point graduates identify career goals and find jobs.

Isaac has made other valuable contributions to his community, participating in coalitions and organizations dedicated to the redevelopment of the Near Westside, the impoverished inner city neighborhood in which he lives. He serves on the board of directors of the New Westside Initiative and is a member of the Westside Residents Coalition and the Westside Arts Council.

Isaac has also used his entrepreneurial and music skills to make an impact on the larger Syracuse community. In 2013 Isaac teamed up with two other local musicians on a project that has contributed to the resurgence of Syracuse’s Near West Side. They purchased an old brick building, renovated it almost entirely with local reclaimed materials and opened a recording studio, StudioDog Pro. In the spring of 2015, Isaac will unveil a new start-up audio-visual company.

Isaac and his wife have one child and another on the way. Isaac has embraced the community he lives in, constantly finding new ways to contribute to the community and provide a helping hand to people who are making a new start.

## VII. MASS CRIMINALIZATION AND RACIAL DISPARITIES

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The practice of screening people with criminal history records for college admission is yet another in a long list of what have come to be known as lifetime consequences of a criminal history. This practice must be considered in the context of two defining features of our nation's criminal justice system – its tremendous growth and expanded reach over the past four decades and the disparate impact this growth has had on people of color.

### THE WIDE NET OF THE CRIMINAL JUSTICE SYSTEM

The recent National Academy of Sciences (NAS) report on the growth of incarceration attributes the tremendous expansion of the U.S. criminal justice system to be a reflection of “powerful institutional, cultural, political, economic, and racial forces” that “helped propel the United States down a more punitive path” (NAS 2014, 128). Beginning in the 1960s, the U.S. criminal justice net has stretched to encompass a variety of perceived social problems including mental health problems, substance use, domestic violence, and, more recently, school misbehavior. The U.S.'s widening criminal justice net now includes millions of people whose behavior would not have been considered criminal 30 or 40 years ago.

It is difficult to measure the number of behaviors that have been added to the 50 state penal codes across the nation. However, the federal system is illustrative of the widening criminal justice net in the U.S. A 1998 study by the American Bar Association found that an astonishing 40 percent of federal crimes enacted since the Civil War were passed into law between 1970 and 1998 (ABA 1998).

It is widely recognized that net-widening has contributed to the dramatic increase in incarceration and as a result, by 2012, the United States' jail and prison population had grown to 2.23 million adults, a figure nearly seven times the number of people in jail or prison in 1972 (NAS 2014). Incarceration is just one measure of the tremendous expansion, and the significant increase in the number of people behind bars since 1972 was paralleled by an equally significant expansion of the number of people under correctional supervision (i.e., parole or probation). All told, by 2010, slightly more than seven million U.S. residents were under some form of correctional control, either in jail or prison or under parole or probation supervision. This represents at least one in every 33 adults (NAS 2014).

The same patterns hold true for New York State. While New York State is now making progress in reducing the number of people in prison (now at between 53,000 and 54,000), this is a relatively recent phenomenon. Between 1972 to its peak in 1999, New York State's prison population grew 472 percent from 12,500 to 71,500 (Correctional

Association of New York 2006). In 2012, New York's incarceration rate was 441 per 100,000. There were an additional 111,908 and 47,243 people under probation or parole supervision respectively (Sentencing Project 2014).

Screening for criminal history records as part of college admissions impacts far more than even the large numbers of formerly incarcerated people or people under correctional supervision. A criminal record lasts a lifetime even for those who have never spent a day in jail or prison. The rise in correctional control is just part of the broad expansion of the criminal justice system into the lives of citizens. As of 2012, an estimated 100.5 million people in the U.S. had a criminal arrest record (arrest and/or conviction); almost 20 million people have a felony conviction (SEARCH 2009). The Federal Bureau of Investigation recently reported its master criminal database includes the files of almost 78 million people, which represents nearly one of every three U.S. adults, leading the *Wall Street Journal* to conclude that "America has a rap sheet" (Fields & Emshwiller 2014). Shannon et al. (2011) estimate that 20 million people across the country have a felony conviction. The criminal justice system in New York State has had a similarly far-reaching impact. Data from the Bureau of Justice Statistics (Greenspan & DeBacco 2014) show that an estimated 7.4 million people in New York State have a criminal record on file in the State repository.

Despite the criminal justice system's expansive reach, not all people who engage in criminal behavior are arrested, prosecuted, and convicted. This reality is strikingly conveyed in the web-based project, *We Are All Criminals* (at [www.weareallcriminals.com](http://www.weareallcriminals.com)), which seeks to challenge society's perception of crime by looking "at those of us who have had the luxury of living life without an official reminder of a past mistake." Project participants, many of whom describe themselves as White or Caucasian and from families of means, write about the crime they got away with including: the lawyer who used to sell drugs; the librarian who committed a burglary when she was younger; the corrections professional who had a past history of selling drugs; and the school social worker who, as a teenager, regularly engaged in theft. Many of the participants tell stories of reckless behavior shortly before or while in college, which comports with data revealing that many prospective college students engage in criminal behavior, particularly illegal drug use, but are not arrested or convicted for such behavior.<sup>18</sup>

In the college admissions context, the *We Are All Criminals* project and the data about criminal behavior among college-aged people provoke the question: Is it the bad fortune of getting caught and having a criminal conviction that makes one potentially unfit, necessitating heightened scrutiny, or is it the "criminal behavior?"

## THE IMPACT OF THE CRIMINAL JUSTICE SYSTEM ON PEOPLE OF COLOR

It is well-documented that the U.S. criminal justice net captures significantly higher rates of Black and Hispanic people. Disparities exist at every juncture of the criminal justice system beginning with high levels of police deployment in communities of color, racial profiling, and "stop and frisk" practices (Markowitz & Jones-Brown 2000; New York Attorney General 2013).

The disparate enforcement of drug laws is a significant contributor to the overrepresentation

of people of color in the criminal justice system (NAS 2014). While rates of illegal drug use are roughly the same among Whites, Blacks, and Hispanics (Substance Abuse and Mental Health Services Administration 2007), 62 percent of people incarcerated for a drug crime are African American (Human Rights Watch 2000). The racial disparities are particularly striking for marijuana arrests, which in 2010 accounted for more than half of all drug arrests in the U.S. (American Civil Liberties Union 2014). Indeed, marijuana arrests

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18. A national survey conducted by the National Center for Addiction and Substance Abuse at Columbia University (1994) found that almost half of all full-time college students binge drink and/or abuse drugs, and a study by the U.S. Department of Substance Abuse and Mental Health Services Administration found that in the age group 18-25, more than one quarter acknowledged marijuana use in the past year.

generate extreme racial disparities: in 2010, the nationwide White arrest rate was 192 per 100,000 Whites, while the Black arrest rate was 716 per 100,000 Blacks. The racial disparities in marijuana arrest rates contrast sharply with marijuana use rates: overall the rates of marijuana use among African Americans and Whites is about equal. Notably, among college-age people (18 to 25 years), Whites use marijuana at higher rates than African Americans (American Civil Liberties Union 2014).<sup>19</sup> While the use of other drugs does not differ by ethnicity or race, at the height of New York's prosecution of drug crimes, about 90 percent of people incarcerated for such crimes were Black and Latino (Correctional Association of New York 2008). In New York in 2013, almost 50 percent of the prison population was Black (DOCCS 2013), even though African Americans make up slightly less than 18 percent of New York's population (U.S. Census Bureau 2014). The Sentencing Project reports that in New York State there are 9.4 African Americans incarcerated for every one White person, and the comparable ratio for Latinos is 4.5:1 (Sentencing Project 2014). Clearly, New York State is not immune from racial disparities.

As a result, an estimated one in three adult Black men has a felony conviction (Shannon et al. 2011). In 2004 alone, more than one million people were convicted of felony offenses in state courts, almost 40 percent of whom were African American, far exceeding their 12 percent representation in the U.S. population (Durose & Langan 2007). Racial disparities are starkly apparent in incarceration rates; in 2010, the imprisonment rate for African Americans was 4.6 times that for Whites (NAS 2014). In its 2010 report, the Pew Center found that one in 31 adults is under some form of correctional control, but when controlling for race and gender, this same report found that one in 11 African American adults and one in nine African American adult males is under correctional control (Pew Center on the States 2009).

Because so many people of color are caught in the criminal justice net, the use of institutional barriers to college admission because of a past conviction constitute a de facto return to race-based discrimination in higher education, undermining efforts of colleges to enhance campus diversity in New York State and elsewhere. Although limited, the data on race that we analyzed (see Table 3 and Table 4) suggest that applicants with felony convictions, particularly those who are African American, may view four-year schools as out of reach and apply to community colleges as a gateway to higher education.

This hypothesis is supported by research that indicates that community colleges are typically the most accessible institutions of higher education for underserved populations including people with criminal history records (Contardo & Tolbert 2008; Brazell et al. 2009). Community colleges have an articulated mission to be accessible to the entire community. They are more affordable than private and public four-year institutions; they offer more flexible scheduling that can better accommodate work schedules; and they are closer to students' homes, obviating the need for room and board expenses. Community colleges are, by definition, "uniquely situated within local communities" and have connections to employers, service providers, and others who should be engaged in the reentry process (Contardo & Tolbert 2008). Within the context that people of color are underrepresented among the college population in New York State, they are more likely to be enrolled in community colleges than four-year institutions. African Americans and Hispanics are 14 percent of the overall undergraduate enrollment at four-year SUNY colleges compared to 23 percent of community colleges in urban communities and 16 percent of community colleges overall (U.S. Department of Education 2007).<sup>20</sup>

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19. In the 18 to 25 age group, in 2010, 34 percent of whites and 27 percent of Blacks reported having used marijuana in the last year. The same year, 59 percent of Blacks and 54 percent of whites reported having never used marijuana (American Civil Liberties Union 2014).

20. We consider the urban community college to be a better base of comparison as community colleges tend to enroll students from the immediate local community. Community colleges in rural communities are located in predominately white jurisdictions. For example, fewer than 2 percent of students enrolled in Adirondack Community College are Black or Latino, but Essex County, where the campus is located, is only 6 percent people of color.

## VIII. ACCESS TO HIGHER EDUCATION AND POLICY IMPLICATIONS

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Our findings, while specific to SUNY, are applicable to other public university systems and private colleges that are committed to equal access to their institutions. The State University of New York is not alone in its problematic policies regarding admission of students with criminal histories (Center for Community Alternatives 2010). As such, this study has national implications.

Our data analysis and review of SUNY policies show that asking applicants about past felony convictions has a chilling effect, discouraging people from completing the application process, and often ending their hopes of a college degree. We see that many people abandon their plans for a college education when faced with the gauntlet of questions and investigation into their background. Juxtaposed, however, to these disheartening findings, we also see that SUNY colleges are safe places, that crimes on campus are not committed by students with past criminal records, and that most SUNY campuses are not rejecting inordinately high numbers of people with past felony convictions. We are left asking what we as a society lose by driving people away from college with stigmatizing questions that have no nexus to campus safety. The story of Charles Lanier is one example of what we in fact gain from welcoming people with criminal histories into colleges and universities.

Higher education is essential in 21st-century America both for the individual and for society as a whole. Some of the benefits are utilitarian – notably the development of human capital needed to spur economic growth. Other utilitarian benefits include the extent to which a college education reduces recidivism and the corresponding decrease in spending on imprisonment. The value of higher education is not derived from just a cost-benefit analysis. Rather, higher education has long been valued for its importance to preserving a democratic society – a deeply held tenet dating back to the foundation of the country.



## CHARLES LANIER

Charlie Lanier was incarcerated at age 28 and spent the next 12½ years in state prison for a violent felony offense. Charlie's education began in prison and, by the time he was released, he had already been published and had started to make valuable contributions to the field of criminal justice.

While incarcerated, Charlie earned his Bachelor's Degree in Political Science from Marist College and his Master's Degree in Sociology from SUNY New Paltz. He was committed to higher education and, while still incarcerated, Charlie applied to the SUNY Albany School of Criminal Justice and was accepted into their Ph.D. program. Charlie in fact began his Ph.D. studies while confined during a period of time when incarcerated individuals could attend school through the temporary release program. Each day he would take the bus from Hudson Correctional Facility to SUNY Albany and return by bus to the prison. After his release, Charlie completed his Ph.D. program and received his degree from SUNY Albany in 2004.

Charlie has given back to his community, to the academy, to the criminal justice field, and to other men and women struggling to make it through a punitive criminal justice system. Charlie has been an adjunct professor at Sage College, Excelsior College, and Hudson Valley Community College; he is currently an adjunct professor at SUNY New Paltz. He is a well-regarded professor, making valuable contributions in the classroom. He is also a researcher and has published books and articles focusing on the use of capital punishment in the United States. He has served as a defense consultant on capital murder cases around the country. In recent years he has been employed as a reentry program coordinator.

Charlie has shared his life lessons, research and knowledge willingly, generously, and with the compassion and understanding that has made a difference to thousands of lives. He is a loving

husband and father. Charlie has never allowed his worst act to define his life and has taken full advantage of his opportunity to gain a university education.

Charlie Lanier is a true SUNY success story. Had SUNY closed its doors, as it has to so many people with criminal history records in recent years, it would have been a loss to Charlie, to SUNY, and to so many people who have benefited from his work as a professor, author, death penalty mitigator, and advocate for meaningful reentry and reintegration.



## ECONOMIC BENEFITS

The individual and social economic benefits of a college education are clear. Even though recent college graduates have faced a difficult job market, a college diploma still enhances employability (College Board 2013). Recent analyses by the Economic Policy Institute (Shierholz et.al 2014) and the *New York Times* (Leonhard 2014) show a significant pay gap between individuals with college degrees and those without. College degrees are increasingly preferred for jobs that in the past did not require them. A study of online job ads found that 50 percent of ads for manufacturing jobs, one-fifth of ads for office support workers, and even 11 percent of ads for food service workers required a bachelor's degree (Carnevale et al. 2014). The bachelor's degree requirement is largely intractable with two-thirds of employers surveyed indicating that they never waive the requirement (Fischer 2013).

Individuals with a college education are far less likely than those with just a high school diploma to live in poverty, and they are also less likely to be unemployed (College Board 2013). According to the College Board (2013), the lifetime earnings of those with a college degree are remarkably higher than of those without. During a 40-year full-time working life, the median earnings of those with an associate's degree are 27 percent higher than those with a high school diploma, while the median earnings of those with a bachelor's degree are 65 percent more.

Current economic trends reveal that access to post-secondary education will continue to grow in importance for job seekers and businesses. Since 1989, the highest growth in employment opportunities has been for people with a bachelor's degree or better. These trends will continue into the future: the Center on Education and the Workforce at Georgetown University (2013) projects 165 million jobs in the U.S. economy by 2020, with 65 percent of all jobs requiring post-secondary education. Higher education will be even more essential for the four fastest growing industries where eight out of ten jobs require post-secondary education. Thus barriers to post-secondary education for

people with criminal convictions will leave them with bleak prospects for almost any type of employment, as well as with diminished earnings. It will also leave business and industry with a shortage of human capital.

The economic benefits of a college education translate into larger social benefits. States with a better educated population have a higher median income, and therefore a stronger tax base. Higher education provides the human capital to support innovation in multiple fields such as business, technology, and health care. In general, a better educated workforce increases productivity (Berger & Fisher 2013). There are reduced costs for welfare and other public subsidies, and reduced costs for corrections.

Economic benefits of higher education can also be measured in cost savings directly related to the reduction of recidivism, the gainful employment of an individual, and the elimination of re-incarceration costs. With increased employability due to a college degree also comes an increase in taxes paid (federal and state) over a lifetime. The public also benefits by avoiding the costs for public assistance and health care for the individual and family members, the cost to new victims, and the cost of prosecuting new crimes (Robinson 2013, Correctional Association of New York 2009).

Failure to provide full and fair access to education for people with criminal records has substantial negative impact on the economy. It is well accepted that there is an inverse relationship between the completion of college courses and the resumption of criminal activity upon release from prison (Robinson 2013). For the purpose of this report we will only look at the cost savings from the reduction in recidivism and the avoidance of re-incarceration. To determine cost effectiveness several assumptions need to be made. These assumptions will be made very conservatively. First, we need to assume the cost of re-incarceration. The cost of re-incarceration was carefully analyzed by the Vera Institute of Justice (2012) for each state in January 2012. The cost per person for incarceration in a New York State prison is \$60,076 per year. We will assume

the mean length of stay for re-incarceration to be 3.6 years based upon the Pew Center on the States study (2012) and New York DOCCS data.<sup>21</sup> From this we estimate the re-incarceration cost of one person for an average re-incarceration period of confinement to be \$216,273.60. Therefore, for each person who benefits from a college education and does not return to prison, New York can expect cost savings of more than \$200,000. Such cost-savings estimates are consistent with a recent RAND study (Davis et al. 2013) and an earlier study by Fine et al. (2001).

## PUBLIC SAFETY BENEFITS

Higher education opens doors of opportunity, enhances critical thinking, and leads to better and more stable employment. Critical thinking skills are important to one's ability to productively problem-solve life challenges and, thus, contribute to desistance from crime. Studies show dramatically lower recidivism rates for people who attend college while in prison than for people who did not attend college while incarcerated. A 2013 study by the RAND Corporation found that, on average, people in prison who participated in education programs (higher education, vocational education, and GED) had a 43 percent lower chance of returning to prison than people who did not (Davis et al. 2013). A research brief prepared by the Open Society Institute (1997) citing a Texas study of higher education in prison reported recidivism rates of 15 percent, 13 percent and less than 1 percent for people who earned an associate's, bachelor's, and master's degree respectively, considerably lower than national recidivism rates at the time that were over 60 percent (Vacca 2004). Other state-level studies also showed significant impact on reducing recidivism: Texas (Tracy & Johnson 1994); California (Chase & Dickover 1983); Alabama, Illinois, Oklahoma, Florida, and Maryland (Stevens & Ward 1997).

Research focusing on post-secondary educational programs in New York State's prisons similarly finds compelling evidence of recidivism rate reductions. Post-secondary educational programs have been shown to reduce recidivism by approximately 40 percent (New York State

Commission on Sentencing Reform 2007). The recidivism rates for incarcerated people who participate in the highly touted Bard Prison Initiative that operates in six prisons in New York State are reported to be 4 percent compared to an overall rate of 40 percent statewide (Bard Prison Initiative n.d.; Editorial Board 2014). A study of recidivism rates among women who took college courses while incarcerated at Bedford Hills showed that only 7.7 percent of those who took such courses returned to prison after release, compared to 29.9 percent of those who did not participate in the college program (Fine et al. 2001).

One of the few studies that looked at the impact of higher education on people with justice system involvement outside the prison setting (Ford & Schroeder 2010) also found an impact on recidivism. People who had been involved in the justice system as adolescents and who continued their education post high school were more likely to refrain from further criminal involvement. The study provides evidence that the decision to attend college has the potential to change the offending trajectories of individuals, especially those who were high-rate juvenile offenders. The findings from their study caused these researchers to conclude that "higher education is a more important turning point in the lives of the subjects than marriage or employment. This was particularly true for people with more serious criminal histories" (Ford & Schroeder 2010).

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21. NY DOCCS, Year 2013 Releases and Discharges from Incarceration (2014) reports that the average length of incarceration (state prison and jail time) for people released from state prison in 2013 was 4 years.

Experiences from community-based organizations that help formerly incarcerated people attend college bolster this rationale. The College and Community Fellowship, an organization that supports formerly incarcerated women's enrollment in and completion of college has stellar success rates. The program has enrolled more than 200 formerly incarcerated women in its first seven years and reports a recidivism rate of less than two percent (Haberman 2006; College and Community Fellowship 2014; Sokoloff & Fontaine 2014(b)).

Ford and Schroeder (2010) provide solid reasons why higher education works. Among the rationales are: school is a major agent of

socialization; strong bonding to school promotes socially conforming behavior; education's positive impact on the perception of risk; enhanced employability; increased social capital; improving self-esteem and encouraging personal growth. Based on their research, Ford and Schroeder conclude that college education is an important turning point in the life course.

In short, education, particularly higher education, is an important strategy for promoting the successful reentry and reintegration of people with criminal convictions, thereby enhancing public safety for the community as a whole. But this strategy cannot be fully utilized if colleges continue to erect barriers to admission for people with past convictions.

## **BENEFITS TO CIVIC PARTICIPATION**

Finally, there has long been strong support for higher education as a foundation for democracy. This was made clear in 1946 when President Harry Truman established the President's Commission on Higher Education to consider the role of higher education in preserving democratic principles responsive to the nation's growing diversity as well as changing international relations in the aftermath of World War II. With respect to diversity, the Commission stated, "The American Nation is not only a union of 48 different States; it is also a union of an indefinite number of diverse groups of varying size. Of and among these diversities our free society seeks to create a dynamic unity. Where there is economic, cultural, or religious tension, we undertake to effect democratic reconciliation, so as to make of the national life one continuous process of interpersonal, intervocational, and intercultural cooperation" (President's Commission on Higher Education, 2). Similarly, higher education was seen to play an important role in enabling the U.S. to maintain relations in an increasingly global environment: "With World War II and its conclusion has come a fundamental shift in the orientation of American foreign policy... The need for maintaining our democracy at peace with the rest of the world has compelled our initiative in the formation of the United Nations, and America's role in this and other agencies of international cooperation requires of our citizens a knowledge of other peoples – of their political and economic systems, their social and cultural institutions – such as has not hitherto been so urgent" (President's Commission on Higher Education, 2).

Higher education encourages participation in processes and institutions considered essential to a democratic society. Higher education is associated with a better informed citizenry and higher rates of voting and prepares citizens to make knowledgeable decisions about the political issues of the day (Dee 2004; Milligan et al. 2004; Helliwell & Putnam 2007). Those with post-secondary education are also much more likely than their counterparts with only a high school diploma to state that they understand the political issues facing our country (45 percent versus 15 percent) (College Board 2013). According to the College Board (2013), people with a four-year degree are twice as likely to volunteer as high school graduates.



# IX. CONCLUSION AND RECOMMENDATIONS

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## SUMMARY FINDINGS

1

Asking applicants about past felony convictions has a chilling effect, discouraging people from completing the application process. The supplemental application processes at SUNY campuses for people disclosing felony convictions can be characterized as an experience of running a gauntlet, with applicants who check the felony box “yes” subject to far-reaching, multiple requests for information, some of which are impossible to provide.

**A** | We estimate that each year 2,924 applicants to SUNY check the box disclosing a felony conviction. Of those, 1,828 do not complete the application.

**B** | This means almost two out of every three applicants who check “yes” to the felony conviction question do not complete the application process and are never considered for admission.

2

The application attrition rates for individuals who check “yes” to the felony conviction question on the SUNY application are significantly higher than the application attrition rates for the general applicant population.

**A** | The median felony application attrition rate of 62.5 percent is three times higher than the median general application attrition rate of 21 percent.

**B** | Two-thirds of the SUNY schools included in the study report felony application attrition rates over 50 percent. In contrast, the general application attrition rate is under 50 percent at all campuses included.

### 3

Felony application attrition is a more formidable barrier to admission at SUNY campuses than rejection based upon a felony conviction.

- A** | Felony application attrition rates are higher than felony rejection rates: 90 percent of SUNY schools included in this study reported felony application attrition rates that are higher than their felony rejection rates.
- B** | For two-thirds of these schools, the felony application attrition rate is more than 10 times higher than the felony rejection rate.
- C** | For every one applicant denied admission because of a felony conviction, 15 such applicants are denied admission because of application attrition.

### 4

The data suggest that criminal history screening policies and procedures have a disparate impact on African American applicants, particularly at the community college level.

People are returning from incarceration, supervision, or courthouses to their communities in record numbers. Access to education is one of the few clear roads to successful reentry and reintegration. Research has established the value of education, particularly higher education, as a key factor in reducing recidivism, increasing upward mobility, increasing earning capacity and civic engagement, and strengthening families. For thousands of people who seek to improve their lives, the promise of education remains unfulfilled when they encounter obstacles while applying to college. Almost two-thirds of applicants who check “yes” on the felony box are driven away from completing the application by the gauntlet of requirements for supplementary information, documentation, and additional procedures.

## RECOMMENDATIONS

Based on our findings, the Center for Community Alternatives, in concert with the Education from the Inside Out Coalition, strongly recommends that the State University of New York and all colleges and universities refrain from including the criminal history question on the application and prohibit the use of criminal history information in admissions decision making.

Additionally, we support the enactment of state laws such as the proposed New York Fair Access to Education Act, S.00969 and A.03363 (2015-2016 session) that effectively bans the box from the admissions applications and prohibits institutions of higher education, both public and private, from using criminal history information for admissions decisions or to rescind an offer of admission. See Appendix E for a copy of the proposed legislation.

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*We also offer the following suggestions for policies and practices to welcome people with criminal history records and address their needs in their pursuit of a college education.*

- 1 | Offer voluntary support services.**
  - a. Support services should include peer support groups, as services designed by and for students with criminal justice backgrounds play a key role in providing emotional support.
  - b. All support services should be provided to students with past criminal records on a voluntary basis to reflect individual needs and preferences and to avoid stigma that attaches to mandatory requirements.
  - c. Provide funding and support for community-based organizations such as College and Community Fellowship, the College Initiative, and On Point for College that offer assistance in completing college applications and applications for financial aid, as well as ongoing support services such as tutoring, mentoring, and counseling.
- 2 |** Provide funding for prison-based education programs to provide reentry services that help formerly incarcerated people make a smooth transition to college in the community. Establish agreements and other partnerships between correctional post-secondary education programs and colleges and universities so that a seamless transition and admission can be provided for individuals reentering the community from prison who seek access to higher education.
- 3 |** Assist in overcoming barriers to licensing. Establish and provide counseling and advocacy services for students with criminal history records to assist with career and professional choices, licensing, certification and internships. This should include career assistance teams that will provide advocacy for licensing and certification and advocacy training for the individual.
- 4 | Address public safety concerns that affect college campus communities by focusing on aspects of campus culture that promote high-risk behavior: rape culture and binge drinking.**
  - a. Reallocate funds and resources now spent on criminal history screening to more effective interventions that promote campus safety such as those identified in the National Institute on Alcohol Abuse and Alcoholism (NIAAA) College Drinking: Changing the Culture (<http://www.collegedrinkingprevention.gov/>) and American College Health Association (ACHA) (<http://www.acha.org/>).
  - b. Encourage peer learning among SUNY campuses to disseminate effective interventions already being implemented, such as those identified on SUNY University Life (<http://system.suny.edu/university-life/alcohol-and-other-drug-prevention> or <http://system.suny.edu/university-life/sexual-assault-prevention>).

## CONCLUSION

There are those who would argue that SUNY can simply correct overbearing and erroneous elements of their policies and practices. Yet our findings show that the felony application attrition rate for even those campuses that have relatively “user-friendly” policies remains high. For people who have faced barriers in virtually every important social domain, there is no way to make the questions welcoming or less traumatic. The power of label and stigma, which shapes the life experiences of people with criminal history records in 21st-century America, discourages many from trying to push open doors that seem locked tight.

There are also those who would say that few individuals are impacted by the questions. To this callous calculation, we would recall one of the most seminal events in the history of the Civil Rights Movement: Governor George Wallace standing at the doors of the University of Alabama to keep two Black students from enrolling in the university and thus defend his mantra *“segregation now, segregation tomorrow, segregation forever”* (Wallace 1963). President Kennedy was forced to call in 100 members of the Alabama National Guard to ensure the admission of these two students - Vivian Malone and James A. Hood. Equal opportunity to higher education for people with criminal records is a moral issue that cannot be reduced to a body count.

It is also easy to dismiss the academic potential of people with past criminal justice involvement by assuming that such individuals are “not interested in college” and were never on a college trajectory. Yet all these assumptions are belied by the experiences of organizations like College and Community Fellowship (CCF) and by the narratives of people who have excelled at college and are now assets to their families and communities, such as the individuals whose stories are referenced in this study and the many people participating in the EIO Coalition and beyond.

The impact of screening for criminal history records in the college admissions process is not just a race issue, but as with every other aspect of American life, and particularly with the criminal justice system, race is there, and race matters. Though race-neutral on its face, a policy that creates barriers to admission for applicants who are more likely to be people of color constitutes a de facto return to race-based discrimination in higher education.

As one of the premier public higher-education systems in the country, SUNY has an opportunity to provide significant national leadership on removing barriers to the admission of students with criminal history records. Our responsibility to do so is well-captured in this statement:

“

*When we look back at the segregation of our public schools during Jim Crow, it is an outrage. We look back comfortably with the distance of time and deplore it as a moral evil. It is a stain on the American story. Some might say, 'but I didn't have anything to do with it.' In the same way, future observers of our time will look back and say it is a shame that we allowed the use of the criminal history box on college applications to happen. In light of racial disparities in our criminal justice system, it is just another way to promote segregation. We all bear responsibility for that.*

”

**KHALIL GIBRAN MUHAMMAD, DIRECTOR  
THE SCHOMBURG CENTER FOR RESEARCH IN BLACK CULTURE**

# APPENDIX A

## METHODOLOGY AND SAMPLE FOIL REQUEST LETTERS

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### DATA COLLECTION: ADMISSIONS POLICIES AND OUTCOMES

We conducted the data collection in two phases. In the first phase, we sent a FOIL letter to the FOIL Officer at each SUNY campus<sup>22</sup> requesting all campus-specific policies and procedures pertaining to the processing of applications for individuals who self-identify as having a felony conviction on their admissions application. The requests were all sent on July 1, 2013 with responses received between July 20 and October 22, 2013. There was a 100 percent response rate from the SUNY colleges (31 four-year colleges and 29 community colleges). A sample of the FOIL letter appears at the end of this appendix.

The second phase involved a FOIL request sent to the FOIL Officer at each SUNY campus requesting the following information: the number of applicants; the number of applicants self-disclosing a felony conviction on the admissions application; the number of completed applications; and the number of applicants denied admission as a result of a felony conviction. We requested this information for the previous five-year period. The requests were sent between July 24, 2013 and August 19, 2013, and responses were received between August 19, 2013 and May 2, 2014. A sample of the FOIL letter used to request these data appears at the end of this appendix.

The responses to our application-related data requests were more problematic than those to the FOIL request for policies and procedures. Some campuses responded in a timely manner while others were quite slow, if not reluctant, to provide the information. Some colleges responded that they did not have the data that we requested, even though colleges are required to collect the information.<sup>23</sup> We made repeated efforts to follow up with the colleges that provided insufficient data or no data at all.

There were also problems in the quality of data provided that made the data unusable. For example, some colleges provided information about general admissions but did not provide data on the number of applications that disclosed a felony conviction. Other colleges provided data on the outcomes of applications in code but did not include an explanatory key that defined the codes.<sup>24</sup> Other schools combined the number of applications that indicated felony convictions with the number of applications that reported college disciplinary violations so that there was no way to isolate the impact of a felony conviction.<sup>25</sup> In some cases, schools provided data with responses to questions that conflicted in such a way as to

---

22. We did not send FOIL requests to the State's four land grant colleges at Cornell University.

23. The completion of all Integrated Postsecondary Education Data System (IPEDS) surveys and filing with the National Center for Educational Statistics (NCES) is mandated by 20 USC 1094, Section 487(a)(17) and 34 CFR 668.14(b)(19).

24. We were unsuccessful in obtaining the code definitions despite requests for the information and thus were unable to interpret what the data mean.

25. The SUNY application also asks applicants to disclose any disciplinary violations they received from another institution of higher learning.

render the data meaningless, such as colleges that reported that the number of applicants who checked the felony conviction box and completed the supplemental requirements as greater than the number of applicants who checked the box in the first place. In total, we had to exclude 24 schools from analysis due to various data problems. Additionally, two schools failed to provide any data at all. Two other schools reported that zero applicants had disclosed a felony conviction and thus were eliminated from the quantitative analysis. And two others are so small and highly specialized that, after conversations with officials at each school, we excluded them from the study.<sup>26</sup>

After reviewing the data, we were able to use information from a total of 30 schools: 17 of the 31 four-year schools (55 percent) and 13 out of the 29 community colleges (45 percent). The overall response rate for admissions data that could be used in our analysis was 50 percent. Table 1 provides a list of the colleges that provided data used in the analysis.

**Table A1: Schools That Provided Usable Data on Applications With and Without Felony Conviction Disclosed, n=30**

School	Years of Data Provided
Adirondack Community College	5
Albany	5
Alfred State	5
Binghamton	2
Brockport	5
Buffalo State	4
Canton	5
Cayuga Community College	1
Cobleskill	5
Columbia-Greene Community College	4
Delhi	5
Farmingdale	5
Fashion Institute of Technology	2
Genesee Community College	4
Hudson Valley Community College	5
Jefferson Community College	5
Mohawk Valley Community College	5
Morrisville	5
New Paltz	5
Niagara County Community College	5
North Country Community College	6
Old Westbury	4
Onondaga Community College	1
Plattsburgh	3
Polytechnic Institute	5
Potsdam	5
Rockland Community College	4
Schenectady Community College	5
Stony Brook	5
Suffolk County Community College	5

26. These schools were the College of Optometry and the College of Ceramics at Alfred University.

Application attrition rates were calculated for the 30 schools that provided usable data. Twenty of those schools also provided data that could be used to calculate the rejection rates for applicants who disclosed felony convictions. Table 2 provides a list of those schools.

***Table A2: Schools That Provided Usable Data on Rejection Rate of Applications with Felony Conviction Disclosed n=20***

School	Years of Data Provided
Adirondack Community College	5
Brockport	5
Buffalo State	4
Cayuga Community College	1
Delhi	5
Farmingdale	5
Fashion Institute of Technology	2
Genesee Community College	4
Hudson Valley Community College	5
Jefferson Community College	5
Mohawk Valley Community College	5
New Paltz	5
Niagara County Community College	5
North Country Community College	6
Old Westbury	4
Onondaga Community College	1
Plattsburgh	3
Polytechnic Institute	5
Potsdam	5
Rockland Community College	4

## **DATA COLLECTION: NARRATIVES OF PEOPLE DIRECTLY IMPACTED**

Finally, critical to the understanding of the attrition and rejection of applicants who disclose a felony conviction are the stories of such applicants. Throughout this report, we include narratives from people directly impacted by SUNY's policies regarding the admission of people with felony convictions. We gathered these stories by reaching out to CCA's network of program participants, staff, and colleagues in partner organizations, notably the Education from the Inside Out Coalition (EIO). We conducted telephone interviews with individuals and asked their permission to use their stories. Some individuals allowed us to do so if we agreed to use a pseudonym.

## **DATA ANALYSIS METHODS**

To analyze the qualitative data on admissions policies, we reviewed each policy and coded it. We identified ways in which the policies of each individual school conformed with or deviated from the policies established by SUNY Central. We also catalogued the various supplemental materials requested by each school from applicants who disclosed a felony conviction. These policy factors were documented in Microsoft Excel spreadsheets and then imported into IBM SPSS software for further analysis.





*Marsha Weissman, Ph.D.*  
EXECUTIVE DIRECTOR

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*Josefina Bastidas, Esq.*  
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*Kimberly S. Scott*

July 1, 2013

Greg Houle  
Director of Communications  
SUNY College of Optometry  
33 West 42<sup>nd</sup> Street  
New York, New York 12759

**Re: Freedom of Information Law Request of Records**

Dear Records Access Officer:

Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, I hereby request a copy of records and documents, or portions thereof, pertaining to/containing the following:

**Policies and Procedures**

1. All written policies for your campus pertaining to the processing of applications from individuals who self-identify as having a felony conviction on their admissions application.
  - a. This should include, but is not limited to, any policies and/or requirements regarding any of the following: additional documentation required from the applicant; the evaluation process for applicants who self-identify as having a felony conviction; any waiting period or residency requirement based upon incarceration release date or status on parole or probation; restrictions on campus residency or program participation.
2. Copy of any follow-up form letter sent to applicants who self-identify as having a felony conviction;
3. Copy of any supplemental application, questionnaire, or form that an applicant who self-identifies as having a felony conviction is required to complete;

4. A list of individuals, by title or job description, who comprise the Admissions Review Committee responsible for reviewing applicants who self-identify as having a felony conviction;
5. Copy of any written policy identifying the Admissions Review Committee's procedure for reviewing applicants who self-identify as having a felony conviction;
6. Documentation describing any support programs or services your campus provides for students who self-identify as having a felony conviction or for students who have a past conviction history.

I understand there may be a fee for duplication of the records requested. However, if the records requested can be sent electronically, please do so by using the following e-mail address: [arosenthal@communityalternatives.org](mailto:arosenthal@communityalternatives.org). You can also contact me by phone at (315) 422-5638 ext. 227.

As you know, New York's Freedom of Information Law requires that an agency respond to a request within five business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Sincerely,



Alan Rosenthal, Esq.

Co-Director Justice Strategies  
Center for Community Alternatives



*Marsha Weissman, Ph.D.*  
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*Kwame Johnson*

*Gretchen Purser*

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*Kimberly S. Scott*

August 19, 2013

Barbara A. Walck  
Records Access Officer  
Niagara County Community College  
3111 Saunders Settlement Road  
Sanborn, New York 14132

**Re: Freedom of Information Law Request of Records**

Dear Records Access Officer:

As a follow-up to our previous request of July 1, 2013, we submit this final request as it relates to data and demographics for your SUNY campus. Under the provisions of the New York Freedom of Information Law, Article 6 of the Public Officers Law, I hereby request a copy of records and documents, or portions thereof, pertaining to/containing the following:

*A. Base Data:*

The following data per year for each of the past five years for individuals who applied for admission to your SUNY campus:

1. Number of individuals who submitted an admissions application;
2. Number of individuals who completed an admissions application;
3. Number of individuals who self-disclosed a felony conviction on the admissions application (regardless of whether the application was completed or not);
4. Number of individuals who self-disclosed a disciplinary action by a previous college on the admissions application (regardless of whether the application was completed or not);
5. Number of individuals who self-disclosed a felony conviction who completed the admissions application;

6. Number of individuals who self-disclosed a disciplinary action by a previous college who completed the admissions application;
7. Number of individuals who did not complete the admissions application either as a result of the timing out of the application or failing to provide complete information;
8. Number of individuals who self-disclosed a felony conviction who did not complete the admissions application;
9. Number of individuals who self-disclosed a disciplinary action by a previous college who did not complete the admissions application;
10. Number of individuals who self-disclosed a felony conviction who were denied admission because they did not qualify academically and were therefore not requested to provide additional information;
11. Number of individuals who self-disclosed disciplinary action by a previous college who were denied admission because they did not qualify academically and were therefore not requested to provide additional information;
12. Number of individuals who did not disclose either a felony conviction or disciplinary action by a previous college who were denied admission;
13. Number of individuals who self-disclosed a felony conviction who completed all of the additionally required materials and information;
14. Number of individuals who self-disclosed a disciplinary action by a previous college who completed all of the additionally required materials and information;
15. Number of individuals in (13) who were denied admission by the standing review committee (As referred to in SUNY Document Number 3300 - Campus Admissions Review for persons with prior felony convictions);
16. Number of individuals in (14) who were denied admission by the standing review committee (As referred to in SUNY Document Number 3300 - Campus Admissions Review for persons with prior felony convictions);
17. Number of individuals in (13) who were accepted;
18. Number of individuals in (14) who were accepted;
19. Number of all individuals accepted;
20. Number of all individuals enrolled.

*B. Demographic Breakdown of Base Data:*

We also request demographic information per year for each of the past five years for each of (1) through (20) above, including, but not limited to:

1. Percentage or number of individuals self-identifying as:
  - a. African American/Black
  - b. Caucasian/White
  - c. Hispanic/Latino
  - d. Asian
  - e. Native Hawaiian or other Pacific Islander
  - f. American Indian/Native Alaskan
  - g. Other
  - h. Multiracial
2. Percentage or number of individuals self-identifying as:
  - a. Male
  - b. Female
  - c. Did not answer
3. Percentage or number of individuals in each age group:
  - a. 18-20 years old
  - b. 21-23 years old
  - c. 23 and older

I understand there may be a fee for duplication of the records requested. However, if the records requested can be sent electronically, please do so by using the following e-mail address: [arosenthal@communityalternatives.org](mailto:arosenthal@communityalternatives.org). You can also contact me by phone at (315) 422-5638 ext. 227.

As you know, New York's Freedom of Information Law requires that an agency respond to a request within five business days of receipt of a request. Therefore, I would appreciate a response as soon as possible and look forward to hearing from you shortly.

If for any reason any portion of my request is denied, please inform me of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Sincerely,




Alan Rosenthal, Esq.  
Co-Director Justice Strategies  
Center for Community Alternatives



# APPENDIX B

## POLICY DOCUMENTS USED BY SUNY CENTRAL

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 <b>Category:</b> Student Affairs  <b>Responsible Office:</b> <u>Enrollment Management</u>	<b>Policy Title:</b> Admission of Persons with Prior Felony Convictions or Disciplinary Dismissals  <b>Document Number:</b> 3300  <b>Effective Date:</b> September 01, 1998  <b>This policy item applies to:</b> Community Colleges State-Operated Campuses
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[History](#)  
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---

### Summary

The State University of New York (University) policy requires applicants for admission as undergraduates and graduate students to report whether they have been convicted of a felony or have been dismissed from an institution of higher education for disciplinary reasons. Applications from such candidates must be reviewed by a campus committee.

---

### Policy

The University-wide application for undergraduate admission to campuses of the University contains a question regarding whether the applicant previously has been convicted of a felony or dismissal from an institution of higher education for disciplinary reasons. It is the policy of the University that such a question be included in applications for both undergraduate and graduate admissions, full-time and part-time, by campuses processing local applications or not participating in the Application Service Center (ASC).

#### Campus Admission Review

New York State Corrections Law [Sections 750, 752 and 753] forbids discrimination against individuals previously convicted of criminal offenses. However, University counsel advises that the law allows an institution to deny admission to an applicant based on prior criminal convictions where such admission would involve an unreasonable risk to property or would pose a risk to the safety or welfare of specific individuals or the public. Campus policy should include procuring appropriate information related to previous criminal and incarceration records and obtaining recommendations from corrections officials and, at times, current employment or educational supervisors. Campuses must utilize a standing committee to review applicants who affirm that they have either been convicted of a felony or been dismissed from a college for disciplinary reasons.

The purpose of the campus committee is to review appropriate information and decide whether an applicant with a felony conviction or disciplinary dismissal from an institution of higher education should be admitted. If admitted, the conditions of admissibility must also be decided; for example, eligibility for on-campus housing and counseling

services. The committee may request the applicant to provide the following:

1. The specifics of the felony conviction or disciplinary dismissal such as background, charges filed and date of occurrence. Appropriate releases may have to be executed by the applicant for receipt of criminal history information or educational disciplinary records;
2. For applicants with felony convictions, references must be provided from the Department of Correctional Services, Division of Parole, including the name and addresses of parole officers. For those currently in parole status, the committee should obtain the conditions of parole and determine if the campus environment affords compliance. The committee should also review whether specific services will be needed for the ex-offender. Parole officials should be questioned as to whether the applicant would pose a threat to the safety of the campus community;
3. A personal interview to either clarify or verify information will be necessary.

After review of all available information, the committee must decide whether to deny admission, admit the applicant or admit the applicant with certain conditions. To clarify the lines of communication, the president of each campus should designate a campus official to act as the liaison person with the Division of Parole of the Department of Correctional Services and the local parole office.

---

### Definitions

**Dismissal from a college for disciplinary reasons** – Permanent separation from an institution of higher education on the basis of conduct or behavior.

**Suspension** – A sanction imposed for disciplinary reasons that results in a student leaving school for a fixed time period, less than permanently.

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### Other Related Information

The following link to FindLaw's [New York State Laws](#) is provided for users' convenience; it is not the official site for the State of New York laws.

[NYS Corrections Law:](#)

§ 750 (Definitions)

§ 752 (Unfair discrimination)

§ 753 (Factors to be considered).

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of [New York State Consolidated](#).

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### Procedures

There are no procedures relevant to this policy.

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### Forms

[SUNY Common Application](#)

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## **Authority**

Memorandum Presidents from the Assistant Vice Chancellor for University Life and University Police, dated April 27, 2000.

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## **History**

Amended – May 11, 2001

- Application Processing of Persons with Felony Convictions and/or Disciplinary Dismissals Addendum to Proposal.

Established – April 27, 2000

- Admissions of Persons with Felony Conviction of Disciplinary Dismissals.
- 

## **Appendices**

There are no appendices relevant to this policy.



The State University  
of New York

Office of Academic Affairs  
and the Provost

State University Plaza  
Albany, New York 12246

[www.suny.edu](http://www.suny.edu)

## MEMORANDUM

TO: Directors of Admission  
Chief Enrollment Officers  
VP's for Student Affairs – State Operated Campuses  
VP's for Student Affairs – Community College Campuses

From: Edward Engelbride, Associate Vice Chancellor  
Dona Bulluck, Associate Counsel *DSB*

Date: June 17, 2013

Re: Admission of Persons with Prior Felony Convictions

The State University Policy on the admission of persons with a prior felony conviction has been in place since 1998. The accompanying Frequently Asked Questions (FAQ) seeks to clarify existing policy and provide additional guidance to campuses.

The SUNY policy on the admission of persons with a prior felony conviction seeks to balance the right of an individual with a previous felony conviction to have their admissions application reviewed in a non-discriminatory manner and the need to protect the safety of the campus community. The policy outlines the procedure campuses must follow to review applications for undergraduate and graduate admission.

A review of current practices indicated that a majority of campuses were closely following SUNY policy. In an effort to enhance compliance across the State University, campuses are asked to review the policy, the FAQ (attached), and evaluate current campus practice. The SUNY policy is available via [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=342](http://www.suny.edu/sunypp/documents.cfm?doc_id=342).

If you have questions regarding this policy, please feel free to contact Dona Bulluck [dona.bulluck@suny.edu](mailto:dona.bulluck@suny.edu) or Ed Engelbride, [ed.engelbride@suny.edu](mailto:ed.engelbride@suny.edu).

Copy: D. Lavalle  
B. Howard  
J. Duncan-Poitier  
B. McBride  
C. Perrillo

### Attachments

To Learn  
To Search  
To Serve



## Frequently Asked Questions Regarding Applicants with Previous Felony Convictions

*This FAQ attempts to answer some of the most common questions regarding the State University of New York's policy on the admission of persons with previous felony convictions. The State University of New York (SUNY) has put such policies in place due to the need to balance the rights of the applicant to have his/her application reviewed in a non-discriminatory manner and the campus need to protect the safety of the campus community.*

1. **Do all SUNY campuses have to ask the question: "Have you ever been convicted of a felony?"**  
Yes – the State University of New York policy on the "Admission of Persons with Prior Felony Convictions or Disciplinary Dismissals" (Document # 3300) requires all applicants seeking admission as an undergraduate or graduate student at any of SUNY's 64 campuses to answer the question.

Link to SUNY Policy (Document #3300): [http://www.suny.edu/sunypp/documents.cfm?doc\\_id=342](http://www.suny.edu/sunypp/documents.cfm?doc_id=342)

2. **What happens if the applicant answers "Yes," indicating that he/she has been convicted of a felony?**  
If the applicant checks "Yes" on the application, the applicant is contacted, in writing, and advised of the review process. This communication should outline the steps of the review process and identify the documents needed for the application to be completed. This documentation includes information regarding the felony conviction(s). Once all documents have been received, the campus shall convene its Admissions Review Committee, or campus equivalent, to evaluate the application materials. A campus may choose to interview the applicant prior to concluding its review. Once a decision is reached, the admissions office will communicate the decision to the applicant.
3. **SUNY policy dictates that the application and materials of applicants with prior felony convictions be reviewed by an Admissions Review Committee or campus equivalent. Who should serve on the committee?**  
In addition to representation from the campus admissions staff, it is strongly recommended that the following individuals/offices have representation on the Admissions Review Committee:
  - Student affairs
  - Counseling or student health
  - Public safety/university police
  - Faculty
4. **What if an applicant answers "Yes" and their prior felony conviction(s) is from a state other than New York?**  
If the applicant checks "Yes" on the application and their prior felony conviction(s) are from a state other than New York, the applicant must provide the information from the Department of Criminal Justice Services or equivalent agency from the state in question and follow the same process as outlined for those applicants with in-state felony conviction(s).

5. **If an applicant was convicted of a felony as a Youthful Offender, Juvenile Delinquent, or Juvenile Offender or has otherwise had his/her records sealed, how should they answer the mandated question?**

They should answer “No.” The Help function on the SUNY application informs applicants with Youthful Offender, Juvenile Delinquent or Juvenile Offender status to respond “No.”

6. **What if an applicant has a New York State Certificate of Relief from Disability? Do they still have to answer “Yes”?**

Receipt of or possession of a Certificate of Relief from Disabilities (“Certificate”) does not prevent an applicant’s need to answer “Yes” to the question if they have been convicted of a felony. Thus, individuals possessing a Certificate are still “convicted of a felony” and therefore, must answer “Yes” to the question. The Certificate does not eliminate or nullify the conviction, nor does it operate like Youthful Offender status and seal the conviction. Possession of a Certificate allows the holder to apply and to be considered for employment or a license. Possession does not guarantee either. The felony conviction remains on their record.

7. **What types of information can be collected from an applicant who indicates he/she has been convicted of a felony?**

In addition to the regular academic information collected to evaluate admission, the following types of information may be requested:

- Official Criminal History Record from the Department of Criminal Justice Services (to be obtained by the applicant)
- Report(s) from the applicant’s probation/parole officer (if applicable), and their contact information
- Personal references which may include but not be limited to counselor, parole/probation officer, current or past employer, religious advisor.

8. **How can a campus access the Criminal History Record of an applicant?**

Campuses must request the Criminal History Record from the applicant. Currently, New York State law does not provide a mechanism by which a campus may request and receive an applicant’s Criminal History Record from the Department of Criminal Justice Services (DCJS).

9. **Currently, the official Criminal History Record from the Department of Criminal Justice Services includes the applicant’s complete criminal history. How should offenses other than felony convictions (i.e., misdemeanors, citations,) be handled?**

The purpose of the Admissions Review Committee or the campus equivalent is to review appropriate information and decide whether an applicant with a felony conviction should be admitted. The committee may discuss the entire record; however, the final decision should be based only on felony conviction information.



**10. On the admissions application, can a campus ask about other crimes that are not felonies?**

SUNY Board of Trustees policy limits inquiries to felony convictions. In the review process, campuses may not utilize information from any records that were sealed, including those wherein the applicant was accorded Youthful Offender, Juvenile Delinquent, or Juvenile Offender status. The Admissions Review Committee or equivalent is urged to consult with campus or SUNY Counsel for advisement if there is a question.

**11. Can we conduct a criminal background check on an applicant (with a felony conviction)?**

No. Criminal background checks do not provide the level of detail and accuracy provided by a Criminal History Record produced by Division of Criminal Justice Services (DCJS).

**12. What types of restrictions can be placed on an applicant convicted of a felony?**

Depending on the nature of the felony conviction(s), restrictions may include but not be limited to limiting an applicant's access to campus residential housing, on-campus clubs and organizations, and/or child care centers; especially if such restriction is imposed as a condition of the applicant's probation/parole. Other restrictions may be appropriate on a case-by-case basis depending on the nature of the felony conviction.

**13. Can a campus require an applicant with a previous felony conviction to wait six months or one year, post-incarceration before they apply?**

A campus may not adopt a rule that requires every applicant with a previous felony conviction to wait a predetermined amount of time before applying for admission. As previously stated, each application is decided on a case-by-case basis. The Admission Review Committee or the campus equivalent, after due consideration of the applicant's file, may determine that under the circumstances, the applicant's admission should be delayed. The Admission Review Committee or campus equivalent would advise the applicant accordingly.

**14. What if an individual applies a week before classes start and checks "Yes" on the application?**

Campuses should stipulate that applicants must submit their applications with adequate time to review all application materials. If an applicant checks "Yes," the campus should inform the applicant that the application is not complete until all corresponding documentation has been received by the campus. Therefore, the application for admission cannot be acted upon.

**15. What happens if the campus learns that an applicant failed to answer the felony conviction question truthfully?**

If an applicant fails to report that they have a prior felony conviction and it becomes known during the application process, the Admission Review Committee or the campus equivalent may consider this information during the review of the applicant's application for admission. If the campus obtains this information after the applicant has been accepted or enrolled, the acceptance may be rescinded, depending on the timing, or the applicant may be subject to charges under the campus' student code of conduct.

**16. What if a student is convicted of a felony after they are enrolled?**

If a student is convicted of a felony after they are enrolled, the matter should be handled as indicated by the student code of conduct.

**17. May an applicant be denied access to an academic program based on their prior felony conviction(s)?**

No. An applicant may not be denied admission to a particular academic program based upon a felony conviction(s). This is true even for an academic program that leads to a profession that requires licensure (i.e. nursing, x-ray technician, etc.) Students are allowed to enroll in the program, however they must be advised that successful completion of the program does not guarantee that they will be granted the necessary license and/or that their felony conviction may preclude receipt of the necessary license. This advisement should be put in writing and signed by the student and the appropriate representative from the campus admissions staff.

**18. Does the SUNY policy regarding applicants with prior felony convictions apply to applicants seeking to become non-matriculated students, students attending courses online or through third-parties such as Workforce Development and other such programs?**

SUNY policy requires campuses to ask individuals applying for undergraduate and graduate admissions, full or part-time, about previous felony convictions. Campuses, at their discretion, may ask this question of all individuals taking classes taught by the State University of New York. The type of program to which the applicant seeks admission may be considered in the review process.

**19. Where can I find New York State Law on this topic?**

NYS Corrections Law outlines the legal requirements for this area. Below, please find links to the pertinent NYS law. See:

- § 750 (Definitions) - <http://goo.gl/8HuXn>
- § 752 (Unfair discrimination) - <http://goo.gl/oKM25>
- § 753 (Factors to be considered) - <http://goo.gl/kVtoD>

**If you have questions concerning this policy, contact your campus counsel or Counsel's Office in SUNY System Administration.**

Last updated: June 14, 2013

NEW YORK CORRECTION LAW  
ARTICLE 23-A  
LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY  
CONVICTED OF ONE OR MORE CRIMINAL OFFENSES

Section 750. Definitions.

751. Applicability.

752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.

753. Factors to be considered concerning a previous criminal conviction; presumption.

754. Written statement upon denial of license or employment.

755. Enforcement.

§ 750. Definitions. For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§ 751. Applicability. The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more



criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

§ 752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited. No application for any license or employment, and no employment or license held by an individual, to which the provisions of this article are applicable, shall be denied or acted upon adversely by reason of the individual's having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when such finding is based upon the fact that the individual has previously been convicted of one or more criminal offenses, unless:

(1) there is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or

(2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

§ 753. Factors to be considered concerning a previous criminal conviction; presumption. 1. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall consider the following factors:

(a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.

(c) The bearing, if any, the criminal offense or offenses for which

the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

§ 754. Written statement upon denial of license or employment. At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

§ 755. Enforcement. 1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.

# APPENDIX C

## LIST OF DOCUMENTS REQUESTED BY SUNY CAMPUSES

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1. DCJS criminal history record
2. Report from applicant's parole or probation officer
3. Recommendation from applicant's parole or probation officer
4. Prison records
5. Report from prison administrator
6. Complete a form in which applicant self-reports all criminal history convictions
7. Psychiatric evaluation
8. Psychological evaluation
9. Medical information
10. "Letter of Reasonable Assurance" from parole or probation officer
11. "Letter of Discharge"
12. Date of discharge or "prescription"
13. "Supply a document printed on official letterhead citing the youthful offender status"
14. Certificate of Relief from Disabilities or Certificate of Good Conduct
15. Copy of arrest record as it pertains to the subject arrest from the respective police or prosecutorial agency
16. Certificate of Conviction from County Clerk or Court Clerk's Office
17. Certified Record of Conviction from court of jurisdiction
18. Personal statement
19. Letter of recommendation from Department of Correction
20. "An official notice of conditions of release from either the Office of the District Attorney, Office of Probation or the Office of Parole, or the Department of Corrections"
21. Report from the Parole Board
22. A report from the prison administrator "including a statement about your behavior while incarcerated"
23. A report from the prison psychiatrist
24. "An official copy of your record of conviction (may be obtained from any police department)"
25. Any previous convictions
26. Behavioral assessment
27. Conviction history
28. Criminal history
29. Supplemental admissions form to be signed by Superintendent of correctional facility of PO regarding behavior, whether recommended for college, and what rehabilitation recommended
30. Releases for a wide array of documents including arrest records, information contained in investigatory files etc.
31. Certified copy of "Certificate of Disposition"
32. A copy of the official description of the felony conviction(s) from the Criminal History Record available to you from the Department of Criminal Justice Services
33. Summary of sentence or judiciary judgment
34. An official copy of all conviction records and pertinent documents
35. A written personal statement explaining the circumstances of the crime
36. Proof of permanent residence since release
37. Conditions of parole
38. Conditions of probation

# APPENDIX D

## SAMPLE RELEASES REQUIRED BY SUNY CAMPUSES

### AUTHORIZATION FOR RELEASE OF INFORMATION

TO WHOM IT MAY CONCERN: I \_\_\_\_\_ have applied for admission to The State University of New York at Farmingdale. In order for the college to make a decision on my application it is necessary for the college to review my background.

I hereby authorize any representative of The State University of New York at Farmingdale bearing this release to obtain any information in your files pertaining to me and I hereby direct you to release such information upon request of the bearer. I do hereby authorize a review of and full disclosure of all records, or any part thereof, concerning myself, by and to any duly authorized agent of the State University of New York at Farmingdale, whether said records are of public, private, or confidential nature. The intent of this authorization is to give my consent for full and complete disclosure. I reiterate and emphasize that the intent of this authorization is to provide full and free access to the background and history of my personal life, for the specific purpose of pursuing a background investigation that may provide pertinent data for the State University of New York at Farmingdale to consider in determining my suitability for attendance. It is my specific intent to provide access to personnel information, however personal or confidential it may appear to be.

I consent to your release of any and all public and private information that you may have concerning me, my work record, my background and reputation, my military service records, educational records, my financial status, my criminal history record, including any arrest records, any information contained in investigatory files, efficiency ratings, complaints or grievances filed by or against me, the records or recollections of attorneys at law, or other counsel, whether representing me or another person in any case, either criminal or civil, in which I presently have, or have had an interest, attendance records, polygraph examinations, and any internal affairs investigations and discipline, including any files which are deemed to be confidential, and/or sealed.

I hereby release you, your organization, and all others from liability or damages that may result from furnishing the information requested, including any liability or damage pursuant to any state or federal laws. I hereby release you, as the custodian of such records of your organization, including its officers, employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may at any time result to me, my heirs, family, or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. I direct you to release such information upon request of the duly accredited representative of the State University of New York at Farmingdale regardless of any agreement I may have made with you previously to the contrary. The college requesting the information pursuant to this release will discontinue processing my application if you refuse to disclose the information requested.

For and in consideration of the State University of New York at Farmingdale acceptance and processing of my application, I agree to hold the State University of New York at Farmingdale, its agents and employees harmless from any and all claims and liability associated with my application or in any way connected with the decision whether or not to accept my application at The State University of New York at Farmingdale.

A photocopy or FAX copy of this release form will be valid as an original thereof, even though the said photocopy or FAX copy does not contain an original writing of my signature.

This waiver is valid for a period of one year from the date of my signature.

I agree to indemnify and hold harmless the person to whom this request is presented and his agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or by reason of complying with this request.

Applicants Name: \_\_\_\_\_ Applicants Signature: \_\_\_\_\_

Applicants Social Security # \_\_\_\_\_ Applicants Date of Birth: \_\_\_\_\_

Signature Witnessed By: \_\_\_\_\_

SUNY Delhi  
College of Technology  
Delhi, New York 13753

**AUTHORIZATION FOR RELEASE OF INFORMATION**

To: Any Doctor, Physician, Psychologist, Psychiatrist, Dentist, Hospital, Nursing Home, Medical Association; The United States Armed Forces; Maritime Service, Veteran's Administration, Selective Service Administration; Any Academic Dean, Registrar, Principal, Guidance Counselor or Authorized Person at Any: School, College, University, Business School, Trade School, Elementary or High School; Any Local, State, Federal Law Enforcement Agency; Any Past or Present Employer; Any Credit Bureau or Retail Merchants Association; Any Bank or Financial Institution; Any Insurance Company; Any Licensing Authority or Authority Responsible of Investigation of Complaints Made Against the Below Signed License Holder.

I, \_\_\_\_\_  
(Applicant's Name: First, Middle, Last)

have applied for enrollment at the State University of New York, College of Technology at Delhi. I am aware that my entire background will be thoroughly investigated and I hereby authorize and request the release of any and all information you have that concerns me, including academic transcripts and disciplinary matters, to a representative of the State University Department of Enrollment Services. This Authorization, or a reproduction thereof, shall be valid for a period of one year from the date of execution of this document.

Date of Birth: _____	Place of Birth: _____
Armed Forces Membership: _____	Selective Service No. _____
Veteran's Administration File No. _____	Service No. _____
Type of Offense: _____ (Felony or Misdemeanor)	Court Location: _____

Given Under My Hand this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_

_____ Signature of Notary & Date	_____ Signature of Applicant & Date
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Current Address: \_\_\_\_\_  
Street City State Zip

Please send Reply: Misty Fields  
SUNY Delhi, Bush Hall  
454 Delhi Drive  
Delhi, New York 13753  
Fax: 607-746-4104



# APPENDIX E

## THE FAIR ACCESS TO EDUCATION ACT

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STATE OF NEW YORK

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S.00969

2015-2016 Regular Sessions

IN SENATE

January 7, 2015

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Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and  
when printed to be committed to the Committee on Crime Victims, Crime  
and Correction

AN ACT to amend the correction law and the executive law, in relation to  
college admission for persons previously convicted of one or more  
criminal offenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The correction law is amended by adding a new article 23-B  
2 to read as follows:  
3 ARTICLE 23-B  
4 COLLEGE ADMISSIONS FOR PERSONS PREVIOUSLY CONVICTED  
5 OF ONE OR MORE CRIMINAL OFFENSES  
6 SECTION 770. DEFINITIONS.  
7 771. LEGISLATIVE INTENT.  
8 772. PROHIBITION AGAINST INQUIRIES ABOUT ARRESTS THAT DID NOT  
9 RESULT IN A CRIMINAL CONVICTION AND CRIMINAL CONVICTIONS  
10 THAT HAVE BEEN SEALED.  
11 773. PRE-ACCEPTANCE PROHIBITION AGAINST INQUIRY INTO CRIMINAL  
12 HISTORY.  
13 774. POST-ACCEPTANCE INQUIRY ABOUT CRIMINAL HISTORY PERMITTED.  
14 775. INQUIRIES INTO CRIMINAL HISTORY NOT REQUIRED.  
15 776. ENFORCEMENT.  
16 S 770. DEFINITIONS. 1. "COLLEGE" SHALL MEAN COLLEGES, UNIVERSITIES,  
17 PROFESSIONAL AND TECHNICAL SCHOOLS AND OTHER INSTITUTIONS OF HIGHER  
18 EDUCATION AUTHORIZED TO CONFER DEGREES PURSUANT TO SUBDIVISIONS TWO,

19 THREE AND EIGHT OF SECTION TWO OF THE EDUCATION LAW.

20 2. "ADMISSIONS DECISION-MAKING PROCESS" SHALL MEAN SUBMISSION OF THE  
21 APPLICATION AND ALL ASPECTS OF THE APPLICATION PROCESS THROUGH ADMIS-  
22 SION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD01680-01-5

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2

1 3. "DIRECT RELATIONSHIP" MEANS THAT THERE IS A SUBSTANTIAL CONNECTION  
2 BETWEEN THE NATURE OF THE CRIME FOR WHICH THE ACCEPTED INDIVIDUAL WAS  
3 CONVICTED AND THE ACTIVITY OR ASPECT OF CAMPUS LIFE AT ISSUE AND SUCH  
4 CONNECTION WOULD CREATE AN UNREASONABLE RISK TO THE PROPERTY OR TO THE  
5 SAFETY OR WELFARE OF SPECIFIC INDIVIDUALS OR THE CAMPUS AS A WHOLE IF  
6 THE ACCEPTED STUDENT IS PERMITTED TO PARTICIPATE WITH OR WITHOUT CONDI-  
7 TIONS.

8 S 771. LEGISLATIVE INTENT. COLLEGE EDUCATION PLAYS A CRITICAL ROLE IN  
9 DEVELOPING GOOD CITIZENSHIP, CREATING ECONOMIC AND SOCIAL OPPORTUNITIES,  
10 AND ENHANCING PUBLIC SAFETY BY REDUCING THE RECIDIVISM OF INDIVIDUALS  
11 WITH A CRIMINAL HISTORY RECORD. THEREFORE, IT IS THE PUBLIC POLICY OF  
12 THIS STATE TO PROMOTE THE ADMISSION TO COLLEGE OF INDIVIDUALS PREVIOUSLY  
13 CONVICTED OF ONE OR MORE CRIMINAL OFFENSES AND TO ALLOW SUCH INDIVIDUALS  
14 TO FULLY PARTICIPATE IN ALL ASPECTS OF COLLEGE LIFE.

15 S 772. PROHIBITION AGAINST INQUIRIES ABOUT ARRESTS THAT DID NOT RESULT  
16 IN A CRIMINAL CONVICTION AND CRIMINAL CONVICTIONS THAT HAVE BEEN SEALED.  
17 AT NO TIME DURING THE ADMISSION DECISION-MAKING PROCESS OR WHILE A  
18 STUDENT IS ENROLLED SHALL COLLEGES MAKE ANY INQUIRY OR CONSIDER INFORMA-  
19 TION ABOUT ANY ARREST OR CRIMINAL ACCUSATION OF AN INDIVIDUAL WHO IS  
20 APPLYING FOR ADMISSION OR HAS BEEN ADMITTED THAT WAS FOLLOWED BY A  
21 TERMINATION OF THAT CRIMINAL ACTION OR PROCEEDING IN FAVOR OF SUCH INDI-  
22 VIDUAL AS DEFINED IN SUBDIVISION TWO OF SECTION 160.50 OF THE CRIMINAL  
23 PROCEDURE LAW AND SECTION 375.1 OF THE FAMILY COURT ACT, OR BY A YOUTH-  
24 FUL OFFENDER ADJUDICATION AS DEFINED IN SUBDIVISION ONE OF SECTION  
25 720.35 OF THE CRIMINAL PROCEDURE LAW, OR BY A JUVENILE DELINQUENCY ADJU-  
26 DICATION AS DEFINED IN SUBDIVISION ONE OF SECTION 380.1 OF THE FAMILY  
27 COURT ACT, OR BY A CONVICTION FOR A VIOLATION SEALED OR SEALABLE PURSU-  
28 ANT TO SECTION 160.55 OF THE CRIMINAL PROCEDURE LAW, OR BY A CONVICTION  
29 WHICH IS SEALED PURSUANT TO SECTION 160.58 OF THE CRIMINAL PROCEDURE  
30 LAW.

31 S 773. PRE-ACCEPTANCE PROHIBITION AGAINST INQUIRY INTO CRIMINAL HISTO-  
32 RY. COLLEGES MAY NOT MAKE ANY INQUIRY OR CONSIDER INFORMATION ABOUT AN  
33 INDIVIDUAL'S PAST CRIMINAL CONVICTION OR CONVICTIONS AT ANY TIME DURING  
34 THE APPLICATION AND ADMISSIONS DECISION-MAKING PROCESS.

35 S 774. POST-ACCEPTANCE INQUIRY ABOUT CRIMINAL HISTORY PERMITTED. 1.



36 AFTER AN INDIVIDUAL HAS BEEN ADMITTED AS A STUDENT, COLLEGES MAY MAKE  
37 INQUIRIES ABOUT AND CONSIDER INFORMATION ABOUT THE INDIVIDUAL'S PAST  
38 CRIMINAL CONVICTION HISTORY FOR THE PURPOSE OF OFFERING SUPPORTIVE COUN-  
39 SELING AND SERVICES.

40 2. COLLEGES MAY ALSO MAKE INQUIRIES ABOUT AND CONSIDER INFORMATION  
41 ABOUT THE INDIVIDUAL'S PAST CRIMINAL CONVICTION HISTORY FOR THE PURPOSE  
42 OF MAKING DECISIONS ABOUT PARTICIPATION IN ACTIVITIES AND ASPECTS OF  
43 CAMPUS LIFE ASSOCIATED WITH THE INDIVIDUAL'S STATUS AS A STUDENT,  
44 INCLUDING BUT NOT LIMITED TO HOUSING. IN MAKING SUCH INQUIRIES AND  
45 CONSIDERING SUCH INFORMATION:

46 (A) COLLEGES SHALL NOT USE INFORMATION ABOUT AN ADMITTED INDIVIDUAL'S  
47 CRIMINAL CONVICTION HISTORY TO RESCIND AN OFFER OF ADMISSION.

48 (B) COLLEGES SHALL NOT ESTABLISH OUTRIGHT BARS TO ANY ACTIVITIES OR  
49 PARTICIPATION IN ASPECTS OF CAMPUS LIFE BASED ON AN ADMITTED INDIVID-  
50 UAL'S CRIMINAL CONVICTION HISTORY. INSTEAD, COLLEGES MUST DEVELOP AN  
51 INDIVIDUALIZED PROCESS FOR DETERMINING WHETHER OR NOT THERE IS A DIRECT  
52 RELATIONSHIP BETWEEN THE ACCEPTED INDIVIDUAL'S CRIMINAL CONVICTION  
53 HISTORY AND THE ACTIVITY OR ASPECT OF CAMPUS LIFE AT ISSUE. THIS INDI-  
54 VIDUALIZED PROCESS MUST BE SET FORTH IN WRITING AND MUST INCLUDE CONSID-  
55 ERATION OF:

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3

1 (I) THE AGE OF THE INDIVIDUAL AT THE TIME OF THE BEHAVIOR UNDERLYING  
2 THE CRIMINAL CONVICTION OR CONVICTIONS;

3 (II) THE TIME THAT HAS ELAPSED SINCE THE BEHAVIOR UNDERLYING THE CRIM-  
4 INAL CONVICTION OR CONVICTIONS;

5 (III) THE NATURE OF THE CONVICTION OR CONVICTIONS AND WHETHER IT BEARS  
6 A DIRECT RELATIONSHIP TO THE ACTIVITY OR PARTICIPATION IN ASPECTS OF  
7 CAMPUS LIFE AT ISSUE; AND

8 (IV) ANY EVIDENCE OF REHABILITATION OR GOOD CONDUCT PRODUCED BY THE  
9 ACCEPTED INDIVIDUAL.

10 (C) THIS INDIVIDUALIZED PROCESS MUST FURTHER PROVIDE AN ACCEPTED INDI-  
11 VIDUAL AN OPPORTUNITY TO APPEAL ANY DENIAL OR LIMITATION OF ACCESS TO  
12 ANY ACTIVITY OR ASPECT OF CAMPUS LIFE. COLLEGES MUST FURTHER INFORM  
13 ACCEPTED INDIVIDUALS OF THIS PROCESS IN WRITING, INCLUDING THEIR RIGHT  
14 TO PROVIDE EVIDENCE OF REHABILITATION AND GOOD CONDUCT AND THEIR RIGHT  
15 TO APPEAL.

16 S 775. INQUIRIES INTO CRIMINAL HISTORY NOT REQUIRED. THIS ARTICLE DOES  
17 NOT REQUIRE COLLEGES TO MAKE INQUIRIES INTO OR CONSIDER AN INDIVIDUAL'S  
18 CRIMINAL CONVICTION HISTORY FOR ANY REASON. IF COLLEGES ELECT TO DO SO  
19 FOR THE PURPOSE OF DETERMINING IF THERE IS A DIRECT RELATIONSHIP BETWEEN  
20 THE ACCEPTED INDIVIDUAL'S CONVICTION OR CONVICTIONS AND ACTIVITIES OR  
21 PARTICIPATION IN ASPECTS OF CAMPUS LIFE, COLLEGES MUST CONSIDER THE  
22 STATE'S POLICY TO PROMOTE THE ADMISSION TO COLLEGE OF INDIVIDUALS PREVI-  
23 OUSLY CONVICTED OF ONE OR MORE CRIMINAL OFFENSES AND OF ALLOWING SUCH

24 INDIVIDUALS FULL ACCESS TO ALL ASPECTS OF COLLEGE LIFE.  
25 S 776. ENFORCEMENT. FAILURE TO COMPLY WITH THIS SECTION SHALL BE AN  
26 UNLAWFUL DISCRIMINATORY PRACTICE AS DEFINED IN SUBDIVISION TWENTY-TWO OF  
27 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW.  
28 S 2. Section 296 of the executive law is amended by adding a new  
29 subdivision 22 to read as follows:  
30 22. IT SHALL BE AN UNLAWFUL DISCRIMINATORY PRACTICE FOR ANY COLLEGE,  
31 AS DEFINED IN SUBDIVISION ONE OF SECTION SEVEN HUNDRED SEVENTY OF THE  
32 CORRECTION LAW, TO MAKE ANY INQUIRY INTO OR CONSIDER INFORMATION ABOUT  
33 AN INDIVIDUAL'S PAST ARREST OR CONVICTION HISTORY AT ANY TIME DURING THE  
34 APPLICATION AND ADMISSIONS DECISION-MAKING PROCESS OR TO RESCIND AN  
35 OFFER OF ADMISSION BASED UPON INFORMATION ABOUT AN INDIVIDUAL'S ARREST  
36 OR CONVICTION THAT OCCURRED PRIOR TO ADMISSION.  
37 S 3. This act shall take effect immediately.

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