

## Barriers to Reentry

### Portrait of a Returning Citizen

In February 2010, Louis Sawyer, a 49-year-old black man, was released from federal prison in Pennsylvania after spending more than half his life behind bars for murder.<sup>424</sup>

His application to live with family was denied, and he was directed to a for-profit halfway house, Hope Village, in Washington, DC. Despite the blizzard underway, he had until midnight to arrive, or he would be considered an escapee. Sharing a two-bedroom apartment there with seven roommates, he set out to look for work and a permanent place to live. The clock was ticking: after four months, he'd be evicted and could end up homeless.

Louis began signing up for classes. One taught him about the internet, which he had never encountered. Hope Village threw up obstacles, though: the computer lab was reserved mostly for a GED course, not job searches, and cell phones and laptops were not allowed. (Remarkably, Xboxes and DVD players were allowed.) Another training

program rejected him because there was a nursery school in the building where it met. He read through the 253-page directory of services produced by DC's Public Defenders office, but most of its offerings repeated classes he'd taken while in prison.

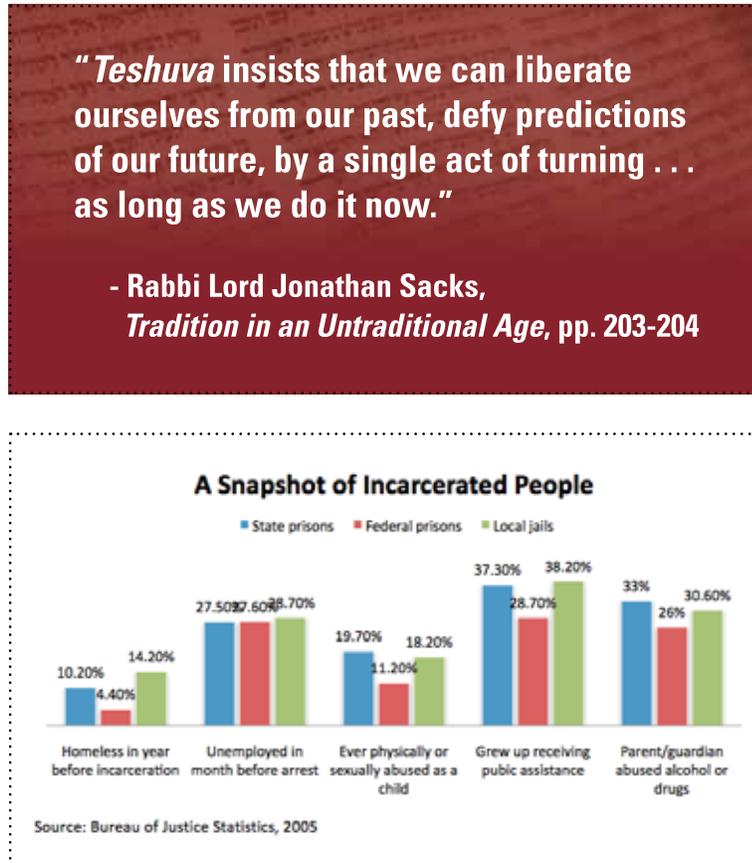
***"Teshuva insists that we can liberate ourselves from our past, defy predictions of our future, by a single act of turning . . . as long as we do it now."***

**- Rabbi Lord Jonathan Sacks,  
*Tradition in an Untraditional Age*, pp. 203-204**

His job applications were rejected, one after another, because he had to check "the box" indicating he had a criminal record. He went to city jobs fairs, though he soon learned that most of the organizations represented there did not hire returning citizens—"window dressing," he called the whole operation.

Louis testified in a Congressional hearing about the conditions affecting returning citizens. Because the invitation had arrived only the night before, he hadn't had time to get

permission from his case manager. As a result, Hope Village put him under a movement restriction, which almost made him miss an interview for a transitional home where he could live more permanently.



<sup>424</sup> This account is condensed from <http://www.washingtonpost.com/wp-dyn/content/article/2011/01/14/AR2011011405709.html>

Louis was accepted into the transitional home and eventually did land a job, more than six months after leaving prison, through a contact he made at church. He works as a peer advocate for returning citizens, which he says is like a dream job. Nevertheless, it cannot be that the only jobs that will hire returning citizens are those related to prison reform or providing services for returning citizens; that's not sustainable or fair. Moreover, Louis was in many ways a "model returning citizen." He doesn't drink or use drugs, he is deeply religious and attends church regularly, he was able to develop marketable skills while in prison, and he is healthy (in particular, he has good teeth). So many returning

## Release Is Only the Beginning

We tend to think of release from prison as the end of the story. We want to believe that those who go home reunite with their families, find jobs, learn from their mistakes, and build new lives. But the reality usually doesn't live up to these ideals.

For most incarcerated people, their struggles do not start when they enter prison. By and large, members of this group faced serious barriers to success even before incarceration. Incarcerated people experience high rates of drug addiction, mental illness, and trauma, and often lack high school degrees

or job experience within the mainstream economic system. With prison education programs on the chopping block, we should not expect people leaving prison to be more successful than they were before incarceration.

### How do we facilitate *teshuvah*?

**There was once a [thief] who wanted to do *teshuvah*. His wife said to him: idiot, if you do *teshuvah*, you won't even have a belt left [because all your belongings are stolen!] [This] prevented [him] and he did not do *teshuvah*. At that time they decreed: thieves and usurers who return [their ill-gotten gain], one is forbidden to accept money from them [lest they be reminded of all they owe], and one who does accept money from them makes the sages ill at ease. (Talmud *Bava Kamma* 94b)**

Obstacles Facing Incarcerated People			
	State and Federal Prisons	Jails	General Population
Any disability <sup>425</sup>	31.6%	39.9%	~10% <sup>426</sup>
Cognitive disability <sup>427</sup>	19.5%	30.9%	4.8%
Ever had a chronic condition <sup>428</sup>	43.9%	44.7%	~29%
Ever had a serious infectious disease <sup>429</sup>	21%	14.3%	~4.7%
History of homelessness <sup>430</sup>	15%	7.5-11.3x more than general population	5%
Did not complete high school <sup>431</sup>	Men: 40% Women: 37%		15% 14%

citizens struggle or must overcome obstacles on these and other fronts. Our society does not make their lives any easier.

<sup>425</sup> <http://www.bjs.gov/content/pub/pdf/dpji1112.pdf>, 2011-2012

<sup>426</sup> Due to statistical measures, the rate of prevalence in the general population may be slightly different when comparing prison and jail populations. For simplicity, we have combined the two data sets into this single chart. Data marked with ~ indicate an approximate combination of two data points.

<sup>427</sup> <http://www.bjs.gov/content/pub/pdf/dpji1112.pdf>, 2011-2012

<sup>428</sup> <http://www.bjs.gov/content/pub/pdf/mpsfji1112.pdf>, 2011-2012

<sup>429</sup> <http://www.bjs.gov/content/pub/pdf/mpsfji1112.pdf>, 2011-2012; includes Tuberculosis, Hepatitis A and B, and STDs; excludes HIV/AIDS.

<sup>430</sup> [http://www.nhchc.org/wp-content/uploads/2011/09/infocus\\_incarceration\\_nov2013.pdf](http://www.nhchc.org/wp-content/uploads/2011/09/infocus_incarceration_nov2013.pdf), 2013

<sup>431</sup> [https://www.census.gov/hhes/socdemo/education/data/acs/Ewert\\_Wildhagen\\_prisoner\\_education\\_4-6-11.doc](https://www.census.gov/hhes/socdemo/education/data/acs/Ewert_Wildhagen_prisoner_education_4-6-11.doc), 2009 data; this source combines data from jails and prisons.

On top of these challenges, returning citizens face a range of legal barriers. Some states prevent people convicted of certain crimes to receive food stamps or to live in public housing. Nationwide, the American Bar Association has documented 46,523 statutes that impose collateral consequences on people convicted of crimes.<sup>432</sup> Many states bar people with past felony convictions from jobs that require licenses—that can include nursing, hair dressing, cosmetology, and plumbing.

Even in professions not bound by such restrictions, returning citizens find it difficult to get hired. Many employers are reluctant to hire people with criminal records.

A person who checks the box indicating that s/he has a prior felony conviction rarely can expect a call back. Studies indicate that having a criminal record reduces the likelihood of a job callback or offer by approximately 50%.<sup>433</sup>

When returning citizens do gain employment, they rarely earn a living wage. According to one study, “...having a below-living wage job creates more problems for them, perpetuating cycles of poverty and incarceration.”<sup>434</sup> And

this doesn't just affect those who served time; simply having an arrest record can affect an employer's decision-making. Nearly one-third of American adults have been arrested by age 23<sup>435</sup>, yet approximately one-third of arrests do not lead to a conviction<sup>436</sup>. Nevertheless, these people technically now have a criminal record. This statistic is further complicated by the fact that the FBI—the gold standard of background checks—is

**Nowhere is it written in statute or discussed in a court of law that the lifelong, extrajudicial punishment for crime should be the forfeiture of one's humanity. If these men can't gain employment, education, or enfranchisement, many times because of a mistake made in their youth, the damage is not singular; the collateral impact threatens an entire race and the ideals of America.<sup>439</sup>**

### **A return to status quo ante**

**An answer to those who ask if a Kohen who sinned and did *teshuvah* may offer the priestly blessing and have the first aliyah: I am inclined to say yes... since he did *teshuvah*, behold he is just like his brothers the Kohanim... (*Machzor Vitry* 125)**

missing data on the end-result of arrest for about half its records. These discrepancies disproportionately affect African Americans.<sup>437</sup> A similar study found that federal background checks erroneously reported a felony conviction in 42% of cases.<sup>438</sup>

432 The database is searchable, state-by-state, at <http://www.abacollateralconsequences.org/map/>

433 <http://www.nij.gov/journals/270/pages/criminal-records.aspx>

434 Dill, LeConté J. “I Want A Second Chance,” American Journal of Men's Health, Feb. 10, 2015.

<http://www.theatlantic.com/education/archive/2015/02/a-second-chance-educations-role-in-reversing-mass-incarceration/386168/>

435 Brame et. al., “Cumulative Prevalence of Arrest From Ages 8 to 23 in a National Sample” Exit Notice, Pediatrics (January 2012): 21–27.]

436 <http://www.nij.gov/journals/270/pages/criminal-records.aspx>

437 “Wanted: Accurate FBI Background Checks for Employment,” Madeline Neighly and Maurice Emsellem, National Employment Law Project, 2013. <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>

438 <http://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html>

439 <http://www.theatlantic.com/education/archive/2015/02/a-second-chance-educations-role-in-reversing-mass-incarceration/386168/>

In an effort to give returning citizens an equal shot, fourteen states and DC, plus 100 cities and counties, have signed on to “Ban the Box” policies, according to the National Employment Law Project.<sup>440</sup> This campaign prevents employers from asking candidates to indicate on a job application if they have ever been arrested, at least until they have had an initial interview. The United States might learn something from European countries, which restrict the availability of arrest records out of a concern for privacy and for successful reintegration.<sup>441</sup> We know from research that finding and keeping a job is an important foundation for returning citizens’ success.<sup>442</sup>

Many returning citizens also face voter disenfranchisement. Only thirteen states currently allow people to resume voting upon leaving prison, and only Maine and Vermont allow people to vote while in prison.<sup>443</sup> Beyond the symbolic importance

of voting as a basic right of citizenship, the denial of voting means that returning citizens cannot vote for the people who will make the policies that affect them, and that candidates for public office do not need to address the concerns of this population.

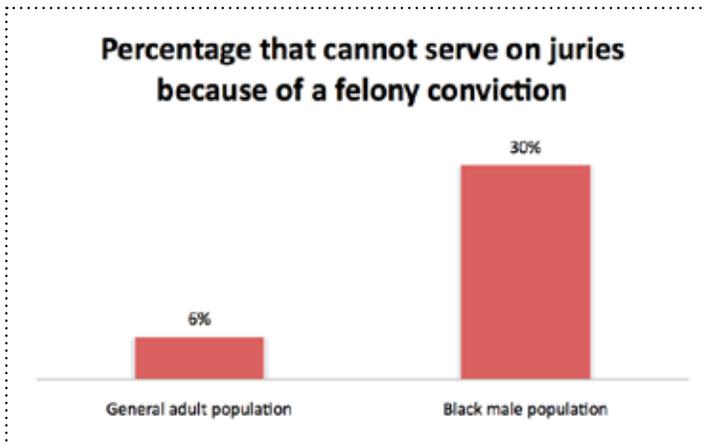
In thirty-one states and in the federal court system, people with felony convictions lose another basic right of citizenship—the right to serve on a jury. This restriction compounds the treatment of black people in the courts, who have a harder time receiving “a trial by their peers.”

The list of restrictions goes on. About 20 states prohibit unemployment assistance if a person loses a job due to drug use, and more than 12 restrict welfare for anyone convicted of a drug felony.<sup>444</sup> Eligibility for federal aid for higher education is severely limited<sup>445</sup>, though the Obama administration has relaxed rules about aid

for kids incarcerated in juvenile detention facilities and is exploring further expansions<sup>446</sup>. An entire household may be

## Why Ban the Box Matters

**Michael Mirsky was making a six-figure living as a phone-line technician until he lost his job. As he searched for new work, including training as an HVAC technician, he fell behind on child support payments, which meant a warrant was automatically issued for his arrest. He didn't know that had happened until the police showed up to arrest him. He struggled with them and was charged with resisting arrest. After pleading guilty to a single felony charge, Michael was off mostly scot-free, just \$411 in court costs—and a criminal record. Until his state “banned the box” in 2014, that felony on his record made it virtually impossible for him to get a new job.<sup>447</sup>**



440 [http://www.washingtonpost.com/local/womans-criminal-record-upends-her-life-25-years-later/2015/03/30/4cb95966-ccf5-11e4-8a46-b1dc9be5a8ff\\_story.html?hpid=z4](http://www.washingtonpost.com/local/womans-criminal-record-upends-her-life-25-years-later/2015/03/30/4cb95966-ccf5-11e4-8a46-b1dc9be5a8ff_story.html?hpid=z4)

441 Gotschalk, p. 243

442 <http://www.nij.gov/journals/270/pages/criminal-records.aspx>

443 [http://www.slate.com/articles/news\\_and\\_politics/crime/2015/03/why\\_can\\_t\\_ex\\_cons\\_vote\\_the\\_surprisingly\\_complicated\\_politics\\_behind\\_felon.html](http://www.slate.com/articles/news_and_politics/crime/2015/03/why_can_t_ex_cons_vote_the_surprisingly_complicated_politics_behind_felon.html)

444 <http://www.thenation.com/article/173654/gops-drug-testing-dragnet#>

445 <https://studentaid.ed.gov/eligibility/criminal-convictions>

446 <http://www.pbs.org/newshour/rundown/prisoners-might-get-access-pell-grants-first-time-two-decades/>

447 Condensed from <http://www.nytimes.com/2015/03/01/business/out-of-trouble-but-criminal-records-keep-men-out-of-work.html>

evicted from public housing if any member of the household is arrested for any reason, even if the arrest ultimately leads to exoneration.<sup>448</sup> Public Housing Authorities cast a similarly wide net when considering applications; in addition to the applicant and anyone who currently does, or might in the future, live with the applicant, the PHA runs a criminal background check on “Any biological parent of any children who will be living in the household, even parents who do not plan to live with you and are not part of the public housing application.”<sup>449</sup> In late 2013, the New York City Housing Authority (NYCHA) announced a two-year pilot program that would allow 150 people returning from prison or jail to live in public housing with their families.<sup>450</sup>

**“The real question is about fear. And I think it invades the political process.”**

**– Senator James Webb (D-VA), 2008<sup>451</sup>**

### **Genesis Rabbah 84:5**

**Why does the section “And Jacob dwelt” (Gen. 37:1) immediately follow the history of the kings of Edom (Gen. chapter 36)? Rabbi Choniya said: This may be compared to one who was walking along the way and saw a pack of dogs, and was afraid of them, and went to sit among them. When our father Jacob saw Esau and his generals, he was afraid of them, and he went to dwell among them.**

## **Sample Partner Organizations**

- Ban the Box—ACLU and NAACP
- Public Housing—Vera Institute of Justice

<sup>448</sup> <http://www.bronxdefenders.org/housing-and-arrests-or-criminal-convictions/>

<sup>449</sup> <http://www.bronxdefenders.org/housing-and-arrests-or-criminal-convictions/>

<sup>450</sup> <http://www.nyc.gov/html/nycha/html/residents/re-entry-program.shtml>

<sup>451</sup> [http://www.hamiltonproject.org/events/from\\_prison\\_to\\_work\\_overcoming\\_barriers\\_to\\_reentry/](http://www.hamiltonproject.org/events/from_prison_to_work_overcoming_barriers_to_reentry/)

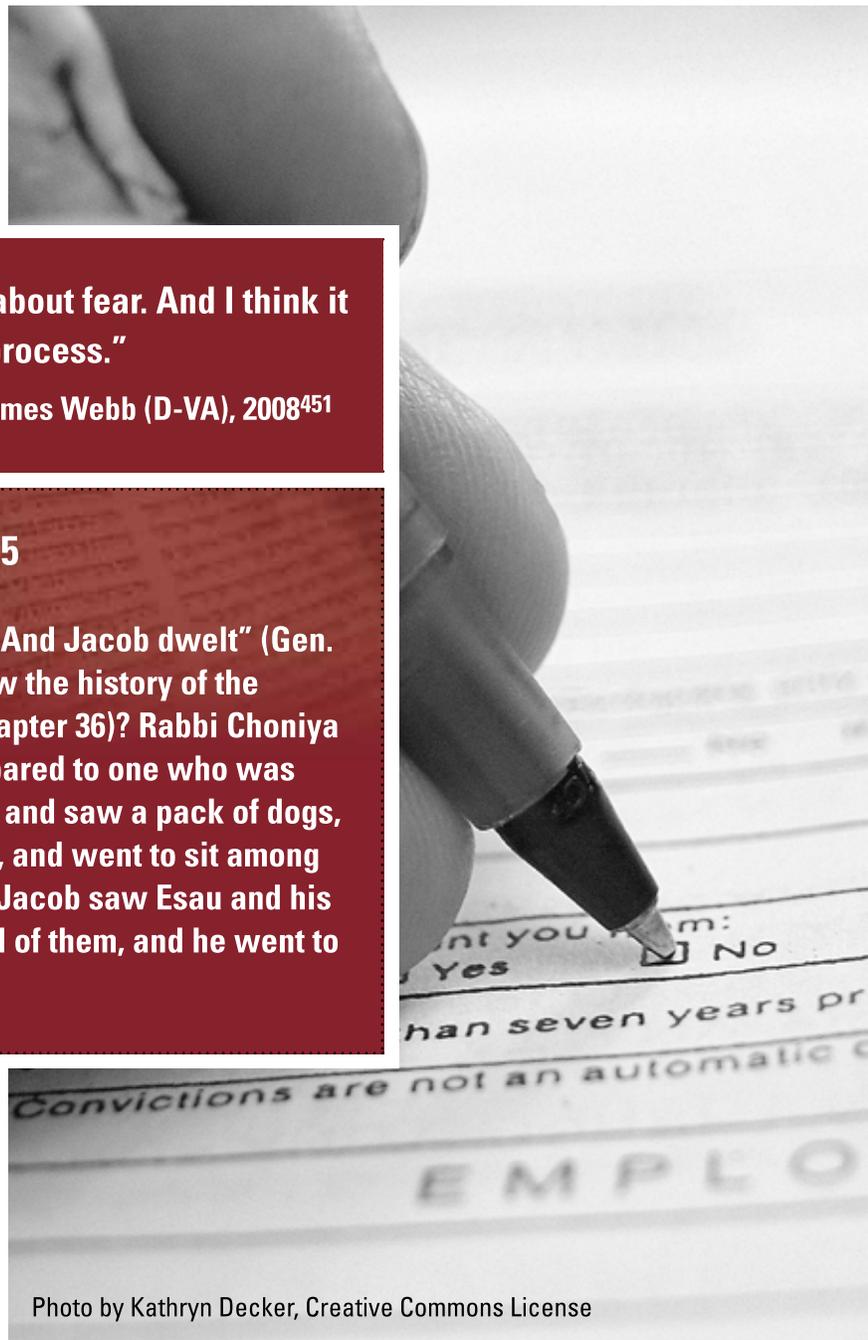


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