

To Reduce Prison Population, Stop Denying Employment

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By Margaret Dooley-Sammuli and Michelle Natividad Rodriguez

The US Supreme Court this week upheld a 3-judge federal court order requiring California to significantly reduce its prison population in two years. California will not have to let any inmates out early to achieve this reduction – but it will need to slow the rate of putting people back in. About 60 percent of people (the highest rate in the nation) will be returned to prison in California within three years of their release. The state’s shamefully high re-incarceration rate is driven by many factors, but perhaps the most pernicious are practices that all but ban employment of formerly incarcerated people. Denying jobs to people with a conviction history punishes us all.

Criminal background checks for employment are inescapable in most industries today. Although many employers have legitimate reasons for employee screening, in a [recent report](#) by the National Employment Law Project (NELP), a survey of online job postings on Craigslist revealed that both large and small employers are engaging in the systematic, unlawful rejection of people with convictions or arrests.

An estimated 65 million Americans – or more than one in four adults – have been arrested or convicted at some point in their lives and face barriers to employment as a result. Often these workers are being turned away for jobs for records that are completely unrelated to the performance of job duties. A huge portion of records involve drug law violations. Over 1.6 million people were arrested for a drug law violation in 2009 alone, 1.4 million of them for a possession offense and about half for marijuana. Even when a worker can show rehabilitation, too often employers are rejecting people with any mark on their criminal records.

Not only is this practice of using criminal records as an absolute bar to employment unfair, it is illegal. Fortunately, there are legal remedies for this type of discrimination and in 2010 courts saw a significant increase in cases challenging employment practices that systematically exclude people from jobs with a conviction or arrest.

Given the breadth of the discrimination and vastness of the population of people with criminal records, a multitude of strategies to improve the employment prospects of people with a criminal record must be implemented. In addition to litigation, sentencing reform that reduces the criminal penalties at the front end may be another viable and popular approach.

According to a new [Lake Research poll](#) surveying 800 California general election voters, a whopping 72% support reducing the penalty for possession of a small amount of illegal drugs for personal use from a felony to a misdemeanor, including a solid majority who support this reform strongly. Given the higher stigmatization of people with felonies as compared to misdemeanors, this reform could have a significant impact on reducing job barriers for people with criminal records.

The March survey, which was commissioned by the Drug Policy Alliance, the ACLU of Northern California and the Ella Baker Center for Human Rights, found that support for reducing drug possession penalties crosses all the partisan, regional, and demographic lines that normally divide California voters. Solid majorities of Democrats (79%), Independents (72%), and Republicans (66%) from every corner of the state overwhelmingly agree that it’s time for a new approach. The consensus is so broad and so strong, that politicians stand in the way of this sentencing reform at their own risk. A 41% plurality of those surveyed say they’d be more likely to support a candidate who reduced the penalty to a misdemeanor, compared to just 15% who say they’d be less likely. Poll [results](#) and [analysis](#) are available online.

Some of this support comes from an interest in reducing waste in the prison system. But according to the survey, Californians aren't just interested in saving money. California voters understand that a life-long felony record for drug possession makes it tough to find a job or support a family. Instead of a lifetime of punishment, voters want people to be engaged in society by contributing to their communities and thereby increasing the well-being and public safety for all Californians.

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*Margaret Dooley-Sammuli is deputy state director in Southern California with the [Drug Policy Alliance](#), the nation's leading organization working to end the war on drugs. Michelle Natividad Rodriguez is staff attorney with the [National Employment Law Project \(NELP\)](#) and co-author of the recently published [65 Million "Need Not Apply": The Case for Reforming Criminal Background Checks for Employment](#).*

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