



# MAPPING INJUSTICE: RESOURCES TO SUPPORT AND EMPOWER COMMUNITIES FIGHTING MASS INCARCERATION

## **Collateral Consequences**

An arrest is never just an arrest. A criminal case can interfere with school or work, jeopardize a parent's custody of their children, or expose a non-citizen to threat of detention and deportation. All of these consequences can start with the arrest, before any sort of trial or conviction for a crime or offense. These consequences are frequently called "collateral consequences", but in many cases, collateral consequences can have just as much of an impact on someone's life as incarceration or probation. This document highlights some collateral consequences for individuals and families facing a criminal case.

## EMPLOYMENT

Employment is at risk the moment someone is taken into custody. Court dates and proceedings may interfere with the ability to take on hours or make it to scheduled shifts. The pendency of a criminal case may make it difficult for unemployed individuals to seek employment. Additionally, discrimination against individuals with criminal records is well-documented, specifically amongst employers who conduct background checks. Importantly, an arrest can show up in a background check, whether or not there is ultimately a conviction. Depending on the state or jurisdiction where an arrest occurred, there may be opportunities to seek expungement. Expungement is a process in which the legal record of an arrest or criminal conviction is “sealed”, erased in the eyes of the law. Seeking out opportunities for expungement can help limit the effect an arrest has on employment. You should also make sure that find out how any professional license could be impacted by a criminal case or conviction.

## HOUSING

Stable housing is critical for every family and individual, but those facing criminal charges may find difficulty securing or retaining their housing. In particular, individuals seeking public housing may categorically be excluded or evicted on the basis of a pending criminal case. Landlords or public agencies may use criminal records to prevent people from accessing affordable or public housing. Additionally, landlords may use convictions, arrests, or police activity in general to initiate eviction proceedings. Even if an eviction is unsuccessful, the time and resources necessary to defend against an eviction can inflict irreparable harm on a family. In many jurisdictions, probation or parole includes a requirement that people avoid contact with or proximity to other people with criminal records. This again limits the amount of available housing options for individuals with criminal records. Finally, numerous jurisdictions criminalize homelessness, creating a vicious cycle where individuals, especially those with criminal records, who cannot obtain affordable housing are reincarcerated. For more resources on the effects of arrest/conviction on housing see [Opportunity Starts at Home \(www.opportunityhome.org\)](http://www.opportunityhome.org)

## IMMIGRATION

Non-citizens who are arrested or face a criminal case may encounter severe consequences pertaining to immigration. A guilty plea or conviction can lead to immediate Immigration and Customs Enforcement (“ICE”) detention and the start of deportation (“removal”) proceedings. Even immigrants who are lawful permanent residents may face consequences: they may lose their green card status, be barred from becoming a U.S. citizen, or prevented from travelling internationally. Most crimes that make an immigrant removable require an actual conviction, but certain offenses like drug-related offenses may provide independent grounds for denying citizenship based on arrest alone. An arrest or conviction may impact a current visa or a visa renewal, including student visas. United States Citizenship and Immigration Services (“USCIS”) and ICE officials have broad discretion to deny or revoke immigration benefits, and any encounter with law enforcement may provide grounds for stripping away immigration benefits. Applicants for citizenship must disclose all arrests, typically on the Form N-400, and failure to disclose run-ins with the law, be it an arrest or a traffic ticket, may put someone at risk at being stripped of U.S. citizenship in the future. Make sure to let your lawyer know your immigration status at the beginning of any criminal case.



## PARENTAL RIGHTS

Parents who are arrested or face criminal charges may face the threat of losing custody of their children. Every state has statutes providing for the termination of parental rights by a court. A court may find an arrest or criminal conviction as grounds for the termination of parental rights, or other restrictions such as supervised custody and limited visitation. State child protection agencies may initiate an investigation into the home, take steps to take custody of the parent's child(ren), or launch proceedings to terminate parental rights. If a parent is sentenced to a prison sentence, and cannot find a suitable permanent arrangement, the child will be placed in foster care. Some jurisdictions provide that the foster care agency can petition to terminate parental rights, if a permanent arrangement is not found quickly enough. Oftentimes women are criminalized through the child welfare system. State child protection agencies that investigate the conditions of a home may turn information over to local police for criminal prosecution for offenses like child endangerment. Above all, a criminal record generally makes it less likely a court will rule in a parent's favor in the event of custody proceedings.

## VOTING AND OTHER CIVIL RIGHTS

Numerous privileges and rights may be threatened by a pending criminal case. The right to serve on a jury, to vote, or to own a firearm can be threatened if an individual is convicted and/or incarcerated as the result of a criminal case. Additionally, an individual may have their driver's license suspended on the basis of an arrest, particularly if the case involves a controlled substance or driving under the influence of drugs or alcohol.

It is important to check and see what the voting laws are in your community. There are some jurisdictions where people can vote while incarcerated pre-trial, and while completing terms of probation and parole. Maybe people are under the misconception that they cannot vote because of a conviction when in fact they CAN vote.

## PUBLIC BENEFITS AND OTHER CONSEQUENCES

Individuals facing criminal charges may be excluded from receiving public benefits like Food Stamps or federal cash assistance. Eligibility for other forms of public assistance like federal student loans or scholarships may also be threatened by way of an arrest or criminal case. You can also be restricted from obtaining a passport as a result of a criminal case.

FOR MORE INFORMATION ON COLLATERAL CONSEQUENCES SEE:

[The People's Guide to the Consequences of Criminal Proceedings.](#)