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EXPANDING OPPORTUNITY FOR EVERYONE: PROTECTING BAN-THE-BOX POLICIES AND ADDRESSING RACIAL DISCRIMINATION

by The Opportunity Agenda

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Two recent studies have alleged that Ban the Box policies hurt young men of color's chances of getting a job. The studies assume that employers discriminate against these young men because hiring staff don't have access to any conviction record and therefore assume that applicants have a record.

These studies' misguided attacks on Ban the Box policies is troubling for several reasons: (1) they restate the longstanding reality, that discrimination against young men of color in America exists, but do not offer solutions to battle that discrimination, and (2) they suggest questioning or repealing a policy that has successfully and measurably opened the door for many qualified jobseekers emerging from prison or jail. In addition to these problems, critics of the studies have pointed out several methodological issues with the studies.

It's important to counter the message these studies send—that we should rethink Ban the Box—with a united strategy that focuses on our values, the bigger issues at stake, and the solutions we should all rally behind.

Therefore, it's recommended that those speaking on behalf of these policies organize messages around four main themes:

1. We can't tolerate discrimination in any form.

Making employment available to as many people as possible is the cornerstone of a strong community and democracy, and these studies spotlight how discrimination poses an ongoing barrier to African American job applicants.

- **Emphasize** what we all believe in: opportunity, equality, and that discrimination of any kind is a barrier to opportunity and to progress. Acknowledge the biases that we all carry around in our heads and must work to overcome, and make clear that those biases should never decide someone's employment future. There are laws to protect us all, and we should enforce them.
- **Remind** people of times that they may have faced discrimination for whatever reason, and that they would want to be protected. Almost everyone has felt on the outside at some point in time; building on that empathy can help firm their support for anti-discrimination measures.
- **Avoid** assuming audiences understand how or believe that discrimination can be decreased or eliminated. Explain that it is illegal, and that anti-discrimination laws work when they are rigorously enforced. Use examples of when enforcement has made a difference.

Opportunity is a core American value that means that we all deserve a chance to reach our potential. Discrimination is a major barrier to opportunity, and we all have a responsibility to eliminate it.

There are all kinds of wrong stories, stereotypes, and biases out there about different groups of people that hurt their chances to move forward in the world. We have to make sure we have laws that protect people from discrimination and that expand opportunity for all of us.

Government has a responsibility to ensure equal opportunity and freedom from discrimination. Virtually all of us are from families where someone was treated poorly because they were a woman, a little older, or had a disability. We need strong laws that knock down arbitrary and subtle barriers to equal access that any of us might face.

2. We should stick with successful policies.

"Ban the Box" is a commonsense first step that has been successful in moving people into employment, in expanding opportunity, in ensuring a second chance for people with criminal records, and in challenging and defeating negative stereotypes. Access to employment is the backbone of a strong community, we should stick with policies that work.

- **Emphasize** policies that work, commonsense, land of second chances, fresh start, removing barriers to success for people with records. Talk about *people* returning from prison or jail, *people* with records, *young people*, *workers*, *job applicants*, *moms*, *dads*, *family members*. We are all more than one label.

- **Avoid terms like: Felons, Offenders, Inmates, Ex-Cons, Juveniles.** Using defensive language like “Ban the box policies don’t encourage discrimination...” Focus on success.

We’re a country that believes in second chances when things go badly or when people make mistakes. Ban the box policies give people with records an opportunity to start fresh and apply for a job without harmful stereotypes hanging over their heads. Having a job and financial stability is an important part of starting over and rejoining a community – it’s in everyone’s best interest to remove any barriers to success so that people really are getting a second chance.

3. Let’s focus on the real problem.

These new studies, when examined closely, don’t show that ban-the-box policies are costing African American applicants job opportunities. Race based discrimination is the problem here; ban the box policies are thoughtful solutions that have helped reveal this serious problem.

- **Emphasize** that we have to live up to our values and discrimination is wrong across the board. We can’t tolerate it. These studies have real flaws that we need to examine before taking their advice.
- **Avoid** arguing against the studies’ conclusions before setting up a values proposition. The point is not to argue with the studies’ authors on their own terms, but instead to bring the argument back to challenging discrimination of any kind.

We want to be a country in which people have equal access to opportunity and are not blocked by discrimination. But these studies don’t pose any solutions for addressing discrimination. That alone is troubling, but they also have some real methodological issues that we need to talk about.

No one’s economic future should be threatened by stereotypes or discrimination in a hiring situation. We have laws that protect us all against that sort of thing and it’s our responsibility as a country to ensure that we build on and strengthen them, and that employers fully understand and follow them.

4. We all have a stake in removing barriers to opportunity.

We need to both expand opportunity for people with records and to remove barriers triggered by all kinds of discrimination in the hiring process. Emphasize that dismantling successful policy remedies can never be the answer.

- **Emphasize** that it's about all of us, our identity as a community/state/country. We're in it together and we all want to move forward. We all have a responsibility to tackle discriminatory practices.
- **Emphasize** the question, should our children and loved ones continue to be punished for things we have already been held accountable?
- **Avoid** getting forced into an "either/or" argument. We have to emphasize tackling discrimination of all kinds.

These studies say they are concerned about discrimination, but offer no real solutions to ending discrimination. We all have a stake in making sure everyone has an equal shot at success, including people with records who face some of the biggest barriers to moving forward. We need to stick with the proven policies that have protected these folks from discrimination while also continuously working to end other forms of discrimination.

We have been successful in passing laws that protect us all from discriminatory practices. It's our responsibility as a country to ensure that we build on and strengthen them, and that employers fully understand and follow them.

Building a Message with VPSA: Value, Problem, Solution, Action

One useful approach to tying these themes together is to structure communications around a **Value, Problem, Solution, and Action** structure, meaning that each message contains these four key components: Values (why the audience should care, and how they will connect the issue to themselves), Problem (framed as a threat to the shared values we have just invoked), Solution (to provide hope and purpose), and Action (a concrete ask of the audience, to ensure engagement and movement).

Values: Opportunity, Equality, Second Chances

Starting with values that matter to most Americans can help audiences to "hear" our messages more effectively than do dry facts or emotional rhetoric. Encouraging people to think about shared values encourages aspirational, hopeful thinking – a better place to start when entering tough conversations than fear or anxiety.

Problem: Discrimination in Any Form

Frame discrimination as the central problem here, and as a threat to our values. Talk about discrimination as a barrier to opportunity and a failure in moving toward a more equal society.

Solution: Positive Policies and Rigorous Enforcement

Be meticulously solution-oriented. Some people who understand that unequal opportunity and discrimination exist may also believe that nothing can be done about

them, leading to “compassion fatigue” and inaction. Describe how ban the box policies help to decrease discrimination for people with records, while also pointing to other remedies against discrimination in other forms. Keep the tone aspirational – that we can decrease discrimination and remove barriers to opportunity for everyone.

Action

Give your audiences something that they can do in the short, medium, and/or long-term.

Sample VPSAs

On the studies’ findings that discrimination is happening:

Value: *Opportunity is a core American value that means that we all deserve a chance to reach our potential. Discrimination is a major barrier to opportunity, and we all have a responsibility to eliminate it.*

Problem: *As these studies show, discrimination against African American job applicants persists. This is a blow to our national values. No one’s economic future should be threatened by stereotypes or discrimination in a hiring situation.*

Solution: *We have been successful in passing laws that protect us all against that sort of thing. It’s our responsibility as a country to ensure that we build on and strengthen them, and that employers fully understand and follow them.*

Action: *Push for the full and rigorous enforcement of equal opportunity laws that ban discrimination and uphold equal opportunity for everyone. Push to protect policies that decrease discrimination, as Ban the Box policies have done for people with records.*


On the studies’ attacks on Ban the Box policies

Value: *In moments like this, it’s important to take a step back and focus on our core beliefs as a country. We’ve long been a country that believes in opportunity for everyone, for equal treatment, and economic mobility. We also believe in second chances when things go badly or when people make mistakes. Ban the box policies upholds all of these values, giving people with records an opportunity to start fresh and apply for a job without harmful stereotypes hanging over their heads.*


Problem: *These studies ask us to reconsider this important and successful policy without addressing the core issue they identify: discrimination against African-American job applicants.*

Solution: *We have to address discrimination at all levels. And we have to do that without adding to the barriers people emerging from prison and jail face. Having a job and financial stability is an important part of starting over and rejoining a community – it’s in everyone’s best interest to remove any barriers to success so that people really are getting a second chance.*

Action: *Continue your support of this important, effective, and successful policy.*



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