

Why Public Health Practitioners Should Care About Job Prospects for People with Criminal Records: Employment Challenges and Successful Prison and Jail Reentry

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Saluja S and Rosen H. Why public health practitioners should care about job prospects for people with criminal records. *Harvard Public Health Review*. Summer 2015;7.

Each year in the United States, over half a million individuals in prison and another nine million in jail will return to the community.^{1,2} Many of these men and women face extreme uncertainty when they are released: they may not know where their next meal will come from; they may not have a safe place to stay; they are often left without insurance or healthcare; their families may have left them; and very few know where to find work so they can begin to put food on the table and pay off court-ordered fines and fees. Among the myriad of needs a person has when they return from incarceration, individuals with criminal records and their probation or parole officers cite employment as the lynchpin to success.³

Although policymakers and corrections agencies have recently made it a priority to

improve employment opportunities and outcomes for this population, many of the challenges are embedded in a system that continues to punish someone long after they have completed their sentence. A search in the *American Bar Associations National Inventory of Collateral Consequences of Conviction* website reveal nearly 30,000 statutes across the U.S. which address employment for people with criminal records. In Florida, occupational restrictions targeting people with criminal records affect approximately 40% of jobs.⁴ Beyond codified legislation, many employers use criminal background checks in the screening

¹ Bureau of Justice Statistics. Prisoners in 2011. December 2012. Available at: <http://www.bjs.gov/content/pub/pdf/p11.pdf>.

² Amy L. Solomon, et al., *Life after Lockup: Improving Reentry from Jail to the Community* (Washington: Urban Institute, May 2008). Available at www.ncjrs.gov/pdffiles1/bja/220095.pdf.

³ Demelza Baer et al. *Understanding the Challenges of Prisoner Reentry: Research Findings from the Urban Institute's Prisoner Reentry Portfolio* (Washington: Urban Institute, 2006).

⁴ Mills, *Inventories and Reforming State-Created Employment Restrictions Based On Criminal Records: A Policy Brief and Guide*.

and hiring process, a practice, which deters many qualified candidates from even considering applying.

Routine exclusion of people with criminal records from the workforce has drastic consequences for individuals, families, and the economy. Job discrimination against those with criminal histories fuels poverty, recidivism and ultimately poor health in vulnerable populations. However, some states, counties, and municipalities have taken aim at ending these trends with so-called “ban the box” initiatives, which prevent employers from using criminal background checks unfairly during the hiring process. We review of the impact of incarceration on job-seekers and their families, as well as summarize how “ban the box” efforts can begin to undo systemic barriers to success after incarceration.

The Individual Experience

Although many people returning from incarceration see employment as the key to staying crime-free, less than half will have a

job within a year.⁵ In fact, for the approximately 65 million people in the U.S. of working age with a history of incarceration,⁶ their criminal record is the equivalent of a permanent scarlet letter—a criminal record reduces the likelihood of a job callback by more than 50%.⁷ The impact of incarceration on employment prospects contributes to high rates of unemployment and economic hardship among what is already a low-income population.⁸ Those with criminal histories who are unable to find legal employment are more likely to commit another crime and return to prison.^{9,10} Lastly, unemployment is both directly and indirectly associated with higher rates of morbidity and mortality.^{11,12,13}

Impact on Families

Exclusion from the workforce impacts more than just those with criminal records. In 2007, 1.7 million minors (2.3% of children under the age of 18) had parents that were incarcerated; and similarly, a majority of inmates report being parents of minors.¹⁴ Incarceration has serious impacts

⁵ Christy Visser, Sara Debus, Jennifer Yahner. Employment after Prison: A Longitudinal Study of Released in Three States. Urban Institute, Justice Policy Center. October 2008. Available at: http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf.

⁶ Maurice Emsellem and Michelle N. Rodriguez, 65 Million “Need Not Apply”: The Case for Reforming Criminal Background Checks for Employment (New York: National Employment Law Project, 2011).

⁷ Devah Pager. The Mark of a Criminal Record. *American Journal of Sociology*. Volume 108 Number 5 (March 2003): 937–75

⁸ Devah Pager. The Mark of a Criminal Record. *American Journal of Sociology*. Volume 108 Number 5 (March 2003): 937–75

⁹ Stephen J. Tripodi, Johnny S. Kim, and Kimberly Bender Is Employment Associated With Reduced Recidivism?: The Complex Relationship Between Employment and Crime *Int J Offender Ther Comp Criminol* October 2010 54: 706–720.

¹⁰ Nally et al. Post-Release Recidivism and Employment among Different Types of Released Offenders. *International Journal of Criminal Justice Sciences*. June 2014. Vol. 9(1): 16–34.

¹¹ Lundin A, Lundberg I, Hallsten L, Ottosson J, Hemmingsson T. Unemployment and mortality—a longitudinal prospective study on selection and causation in 49321 Swedish middle-aged men. *Journal of Epidemiology & Community Health* 2010; 64(01):22–8.

¹² Clemens T, Popham F, Boyle P. What is the effect of unemployment on all-cause mortality? A cohort study using propensity score matching. *The European Journal of Public Health* 2015; 25(1):115–21.

¹³ Stern J. The relationship between unemployment, morbidity and mortality in Britain. *Popul Stud (Camb)* 1983; 37(1):61–74.

¹⁴ Bureau of Justice Statistics. Parents in Prison and their Minor Children. August 2008. Available at: <http://www.bjs.gov/content/pub/pdf/pptmc.pdf>

on a parents' ability to contribute to the family income. Somewhere between 40 to over 50% of people with criminal records report no annual income even several years after their incarceration and wage growth is reduced by over 30% among former inmates.^{15, 16} Children with parents who are unemployed have poorer performance in schools and these findings are more pronounced in lower income families.¹⁷ It is therefore of little surprise that children of parents with a history of incarceration are more likely to commit crimes and become incarcerated themselves.¹⁸ Lack of employment prevents parents who are ex-offenders from providing for their children and puts already disadvantaged youth at a higher risk of negative outcomes.

Disparate Impacts

Hiring discrimination widens socioeconomic disparities in unemployment and income, negatively impacting health outcomes in vulnerable populations.¹⁹ Incarceration disproportionately affects minorities, particularly Blacks, with 1 in 6 Black men having been incarcerated since 2001.

Furthermore, Black individuals with criminal histories face even harsher stigma and steeper barriers to economic stability as they are 24 percent less likely to be called back for an interview compared to their white counterparts.²⁰ Since over 70% of children with incarcerated parents are children of color, more minority youth experience the negative consequences of ex-offender unemployment, perpetuating socioeconomic disparities into the next generation.²¹

Bad Hiring Practices are Bad for the Economy

Discriminatory hiring practices have adverse implications for the economy. One study found that in 2008 job discrimination against ex-offenders removed 1.5 to 1.7 million workers from the market leading to a productivity loss of 57 to 65 billion dollars that year.²² Allowing these individuals to work creates increased tax revenue for the government and, if recidivism declines, may actually decrease the cost to taxpayers through reduced prison and legal costs.

¹⁵ Needels KE. Go Directly to Jail and Do Not Collect? A Long-Term Study of Recidivism, Employment, and Earnings Patterns among Prison Releasees. *Journal of Research in Crime and Delinquency* 1996; 33(4):471–96.

¹⁶ Western B. The Impact of Incarceration on Wage Mobility and Inequality. *American Sociological Review* (Internet). 2002; 67:526–546.

¹⁷ Stevens AH, Schaller J. Short-run Effects of Parental Job Loss on Children's Academic Achievement (Internet). Cambridge, MA: National Bureau of Economic Research; 2009 (cited 2015 Mar 15). Available from: <http://www.nber.org/papers/w15480.pdf>.

¹⁸ Dallaire, D.H. (2007). Incarcerated mothers and fathers: A comparison of risks for children and families. *Family Relations*, 56(5), 440–453.

¹⁹ Memorandum opinion in the United States district court for the district of Maryland. Equal Employment

Opportunity Commission versus Freeman. Accessed at <http://www.mdd.uscourts.gov/Opinions/Opinions/EEOC%20v.%20Freeman%20%5B09-2573%5D%20Memorandum%20Opinion%20and%20Order%208.9.13.pdf>.

²⁰ Devah Pager. The Mark of a Criminal Record. *American Journal of Sociology*. Volume 108 Number 5 (March 2003): 937–75.

²¹ Sarah Schirmer, Ashley Nellis, and Marc Mauer. Incarcerated Parents and their Children: Trends 1991 to 2007. The Sentencing Project. February 2009. Accessed

at http://www.sentencingproject.org/doc/publications/publications/inc_incarceratedparents.pdf.

²² John Schmitt and Kris Warner. Ex-offenders and the Labor Market. Center for Economic Policy and Research. November 2010. Available at: <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.

Need for Action and “Ban The Box”

Employment discrimination based on criminal histories is an unfair practice that perpetuates income and health inequality. Individuals who are found to have committed crimes are punished through prison sentencing and should not be punished a second time with job discrimination and further economic hardship when they are attempting to return to society. Moreover, a person’s criminal history has little, if any, effect on their ability to perform their job. Lastly, if we believe part of the purpose of the justice system is to serve as rehabilitation, allowing job discrimination against ex-offenders is in direct conflict of this goal. Fortunately, several cities, states and businesses have adopted “ban the box” policies that reduce discriminatory employment practices.

There are number of means to reduce discriminatory hiring, many of which have been adopted by states, cities and businesses. While these policies do not prevent employers from running background checks or considering an applicant’s criminal past before making a decision about hiring, they do give ex-offenders a better chance of getting a job. Many of these policies simply ask employers to delay asking about criminal history, allowing employers to get to know an

applicant personally and reducing their chances of dismissing qualified ex-offenders prematurely by 15%.²³ Other components of “ban the box” policies include asking applicants only about relevant criminal history, or recent criminal convictions.

By 2014, 13 states, 70 cities and counties and numerous businesses have implemented “ban the box” policies.²⁴ Many of these states and cities extend their anti-discrimination policies to private employers as well. Several places have seen the benefits of “ban the box” policies—which have allowed for more ex-offenders to get jobs and for employees to gain qualified employers. After enacting a “ban the box” policy, the city of Minneapolis actually found their hiring process increased in efficiency while more than half of the applicants in the city with criminal histories were hired.²⁵ Since Durham’s “ban the box” policy took effect in 2011, the city has seen a seven fold increase in the number of people hired with a criminal background.²⁶ The rapid adoption of “ban the box” policies alone is a testament to their success.

Critics of “ban the box” policies typically argue these policies make employers feel unsafe. Employers want to make sure that they are not hiring someone who puts their business, employees, and clients at

²³ Statement of Devah Pager, Professor of Sociology at Princeton University. Meeting of November 20, 2008—Employment Discrimination Faced by Individuals with Arrest and Conviction Records. EEOC. Available at: <http://www.eeoc.gov/eeoc/meetings/11-20-08/pager.cfm>

²⁴ Ban the Box Resource Guide. National Employment Law Center. January 2015. Available at: <http://www.nelp.org/page/-/SCLP/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf?nocdn=1>

²⁵ Ban the Box Research Summary. National Employment Law Center. Available at: http://www.nelp.org/page/-/SCLP/2014/Guides/NELP_Research_Factsheet.pdf?nocdn=1

²⁶ The Benefits of Ban the Box: A Case Study of Durham, NC. The Southern Coalition for Social Justice. Available at: http://www.southerncoalition.org/wp-content/uploads/2014/10/BantheBox_WhitePaper-2.pdf.

risk.²⁷ Opponents of “ban the box” claim background checks are the easiest way to quickly determine if someone poses a threat.²⁸ However, background checks are often inaccurate and they are not predictive tools; an individual’s risk of reoffending decreases with each year after their release; and only about 3% of violent crimes in the workplace are committed by current and former employees.²⁹ ³⁰ ³¹fact, there may be more reason to hire someone with a criminal record than without: the federal government and some states run bonding programs (a type of insurance against a bad hire) and provide tax incentives to hire people with criminal records.³² ³³ ³⁴ Lastly, employers tout the benefits of hiring people with criminal records, citing lower turnover and problematic discharge rates³⁵

Despite the recent success of fair hiring policies there is still much to be done to end hiring discrimination against ex-offenders. 37 states have no policy against hiring discrimination whatsoever. Most states that

have “ban the box” policies exclude private employers. Many of the states that extend the policy to private employers make exemptions for small businesses.³⁶ Additionally, the ex-offender population can be challenging to study so little data exists to determine the most successful aspects of “ban the box” policies and to guide the next steps in reducing hiring discrimination.

As members of the public health and health services fields, we should encourage local and state governments to adopt “ban the box” policies as a means of improving the health of vulnerable populations and decreasing health inequities. Our fields should devote greater attention to studying the health consequences of incarceration for individuals with criminal histories and their families. Without our support for fair hiring policies and concerted resources allocated to studying ex-offenders, we will continue to see health disparities widen and communities destroyed by the epidemic of mass incarceration.

²⁷ Harless, William. *Ban the Box Laws Make Criminal Past Off-Limits*. The Wall Street Journal. August 3, 2013. <http://www.wsj.com/articles/SB10001424127887323997004578640623464096406>

²⁸ “Why Do Background Checks: The Pros and Cons.” A Matter of Fact. Accessed 17 March 2015: <http://www.amof.info/why-background.htm>

²⁹ Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses. National Consumer Law Center. April, 2012. <http://www.nclc.org/issues/broken-records.html>

³⁰ Alfred Blumstein, and Kiminori Nakamura, “‘Redemption’ in an Era of Widespread Criminal Background Checks,” *NIJ Journal* 263 (2009).

³¹ Bureau of Justice Statistics, U.S. Department of Justice, “Workplace Violence 1993–2009,” <http://www.bjs.gov/content/pub/pdf/wv09.pdf>

³² *Work Opportunity Tax Credits*. U.S. Department of Labor, Employment and Training

Administration. <http://www.doleta.gov/business/incentives/opptax/>

³³ The Federal Bonding Program. U.S. Department of Labor. <http://www.bonds4jobs.com/>

³⁴ S. Heinrich, *Reducing Recidivism Through Work: Barriers and Opportunities for Employment of Ex-Offenders*. Great Cities Institute, University of Illinois at Chicago, September, 2000

³⁵ Paulk, P. *The Johns Hopkins Health System in “Understanding the EEOC’s New Criminal Records Guidance: Education and Enforcement Opportunities.”* Hosted by National Employment Law Project and Community Legal Services of Philadelphia. May 30, 2012. Retrieved from: http://www.nelp.org/page/-/SCLP/Webinar/Webinar_EEOC_CrimRecordsGuidance_5-30-2012.pdf?nocdn=1.

³⁶ *Ban the Box Resource Guide*. National Employment Law Center. January 2015. Available at: <http://www.nelp.org/page/-/SCLP/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf?nocdn=1>

