

The consequences of a criminal record for employment

At the end of 2001, over 5.6 million Americans—nearly 1 in 40 adults—were in prison or had served time there. In 2002, almost 4 million other Americans were under supervision in the community—generally probation. About 1 in 5 of these were in Texas and California.¹

Not only is the number of Americans with criminal records large and still increasing, but the racial distribution of this population is also highly skewed. In 2001, 16 percent of black males and 7.7 percent of Hispanics, but only 3.5 percent of white males, were current and former inmates. Thus the consequence of incarceration for employment, especially for minority groups, is of major policy importance. We know that arrest and imprisonment are associated with lower employment and earnings, perhaps 10–30 percent lower than for comparable individuals with no criminal record, but the reasons are not self-evident. Do the characteristics that send men to prison also make them less acceptable employees? Or are employers simply less willing to hire men with criminal records?

The two articles that follow examine aspects of these issues. Economist Harry Holzer and his colleagues draw evidence from a recent survey of employers in Los Angeles, sociologist Devah Pager from an experimental audit study of job applications in Milwaukee.

¹T. P. Bonczar, *Prevalence of Imprisonment in the U.S. Population, 1974–2001*, Bureau of Justice Statistics Special Report, NCJ 197976, August 2003, and L. E. Glaze, *Probation and Parole in the United States, 2002*, Bureau of Justice Statistics Bulletin, NCJ 201135, August 2003.

How willing are employers to hire ex-offenders?

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California houses a disproportionate share of the nation's recently released prisoners, and in 2001, over a third of the prisoners released in the state returned to Los Angeles. The successful reintegration of this large group into society depends in part on the likelihood that they will find jobs. Using data from the early 1990s, we found that employers' willingness to hire ex-offenders was very limited, even relative to other groups of disadvantaged workers such as welfare recipients or the long-term unemployed. More troubling, employers who did not formally check criminal backgrounds tended to discriminate statistically against applicants who were black or had weak employment records.¹

This earlier work left some unanswered questions. Does willingness to hire ex-offenders differ among employment sectors or by the size of the firm? Do employers who express willingness to hire ex-offenders actually do so?

How important is background checking and how do employers go about it?

We examined these and related questions through a survey of over 600 employers in Los Angeles County, administered from May to November 2001.² When we began the survey, the Los Angeles region was registering some of the lowest unemployment rates in 30 years (around 5 percent) and appeared largely to have escaped the recession afflicting the rest of the country. While the survey was in the field, the Los Angeles economy began to weaken, particularly in the manufacturing sector (by November, the unemployment rate stood at 6.2 percent).³

The firms we surveyed were drawn at random from a sample of firms previously stratified by establishment size. We gathered extensive information on their characteristics: industry, presence of collective bargaining, minority ownership status, and the racial composition of the applicants. We also asked about the most recent job filled that did not require a college degree (what, for example, were its tasks and skill requirements?), and about the ways in which employers screened applicants and hired for that job. We asked about willingness to hire ex-offenders for this position and whether employers had in the past year hired anyone with a criminal record. (We defined a "criminal record" as a previous conviction for a felony, whether or not the person had served time in prison.) We sought to determine the likelihood that employers would know if they had hired someone with a criminal record, and the extent to which they made use of criminal background checks.

Employers' willingness to hire

In answer to our survey, over 40 percent of employers indicated that they would “probably” or “definitely” not be willing to hire an applicant with a criminal record for a job not requiring a college degree (see Figure 1). Comparisons with data from 1992–94 suggest little change in attitude over this decade, despite a much tighter labor market (in 1994, unemployment in the Los Angeles region was almost double the rate in 2001). In marked contrast, over 90 percent of employers indicated that they would definitely or probably hire disadvantaged workers from other groups, such as former or current welfare recipients or workers with a GED but no high school diploma.

The continued reluctance to hire ex-offenders may reflect problems in both the supply of labor and the demand for it. The incarcerated do not generally accumulate work experience and the skills they have may erode while they are serving time. Their ties to legitimate employers and to labor market networks in general are likely to be severed by arrest and imprisonment. That employers' unwillingness to hire them persisted, even in a tight labor market, perhaps reflects steady shrinkage of the pool of manufacturing and blue-collar jobs, such as machine operators and unskilled laborers, for which less educated ex-offenders were more likely to be qualified.

For employers, a criminal history may signal an untrustworthy employee who may break rules, steal, or deal poorly with customers. Employers' reluctance to hire such individuals may be prompted by law or by fear of litigation. Some occupations, such as those involving contact with children, are legally closed to people with felony convictions. And employers may be legally liable for the crimes committed by employees and so be wary of hiring those who already have a record.

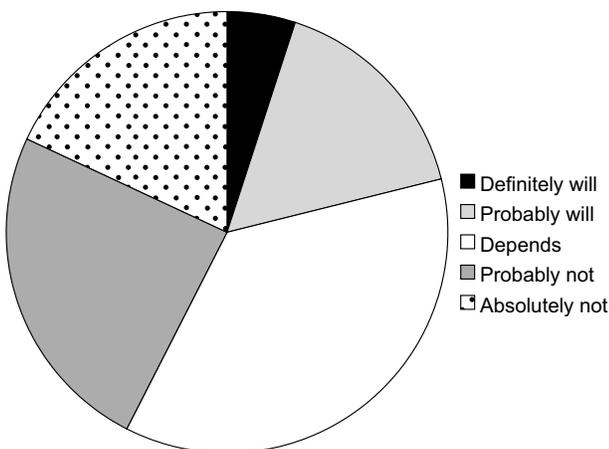


Figure 1. Employers' willingness to hire ex-offenders.

Source: Authors' survey of Los Angeles County employers, 2001.

Does the measure of employers' reported willingness to hire ex-offenders reflect their actual behavior? We believe that it does. In the preceding year, for example, about 20 percent of employers in the sample claimed they had hired at least one ex-offender. Among employers willing to hire an ex-offender, around 60 percent said they had hired at least one ex-offender in the past year; among employers openly unwilling to hire, only 7 percent had hired an ex-offender. And by far the greater proportion of the firms hiring ex-offenders noted that those they hired were not fresh from prison, but had work experience after they were released. The large percentage who answered “It depends” suggests that a host of personal factors—how recently the person was released, the nature of the offense, and work experience before and after prison—entered into the decision whether to hire.

Employer attitudes and firm characteristics

Which employers were most likely to hire ex-offenders? Table 1 explores firm characteristics, such as the industrial sector, size of the firm, vacancy rates, and percentage of unskilled jobs, in the context of the firm's willingness to hire those with criminal records. Several clear patterns emerge. First, the firms most likely to hire ex-offenders were those in the manufacturing, construction, and transportation sectors, that is, firms that likely have fewer jobs requiring customer contact. They were also disproportionately those with large fractions of unskilled jobs and those that hired over 20 workers in the past year (a rate that reflects firm size and turnover of employees). Service industries, in contrast, were by far the least willing.

Firms that said they always checked also were less willing to accept ex-offenders; not-for-profit firms were less willing to hire ex-offenders but minority firms were more so.

We also examined the characteristics of applicants that might affect hiring. Blacks and Hispanics are overrepresented among the ex-offender population, and applicants from these groups will likely include higher fractions with criminal records. Black males and Hispanics did not apply to firms in our sample that were willing to hire ex-offenders in larger numbers than they applied to firms expressing unwillingness to hire ex-offenders (Table 2). However, both groups applied in significantly larger numbers to firms that had actually hired ex-offenders over the past year.

We asked specifically whether employers were willing to hire those newly released and without work experience, and whether their willingness depended in part on the offense committed. The responses were in some ways predictable. Employers were strongly averse to hiring those imprisoned for violent offenses (90 percent would be unwilling to hire such individuals), and not enthusias-

Table 1
Average Characteristics of Firms According to Employers' Expressed Willingness to Hire Ex-Offenders

Characteristic	% of All Firms	% Willing to Accept	% for Whom It Depends on Crime	% Unwilling to Accept
Industry				
Manufacturing	17.1	23.0	14.2	16.2
Retail	18.6	21.3	19.4	16.6
Service	43.5	34.4	43.6	47.0
Construction	3.4	4.9	2.8	3.6
Transport, Communications and Utilities	5.3	5.7	8.5	2.8
Firm Size				
Small (1–19 employees)	17.2	19.0	17.6	17.4
Medium (20–99 employees)	42.2	39.7	37.3	48.8
Large (100+ employees)	40.6	41.3	45.1	33.9
Avg. Vacancy Rate	3.0	3.9	2.3	3.3
Firms with				
0% jobs vacant	56.0	54.5	54.2	57.7
1–4% jobs vacant	23.5	23.1	27.6	19.5
4+% jobs vacant	20.5	22.3	18.2	22.8
Unskilled Jobs in Firm				
0%	33.7	38.9	33.0	30.7
1–20%	46.0	40.2	46.0	49.4
20+ %	18.9	18.9	22.7	17.0
Firms Hiring in Past Year				
0–5 new hires	35.1	36.8	44.8	26.3
6–19 new hires	37.1	29.8	38.3	40.7
20–39 new hires	34.5	36.0	29.9	37.3
>40 new hires	28.3	34.2	31.8	22.0
Always Check Criminal Background (%)	44.4	28.7	53.1	43.3
Collective Bargaining (%)	24.0	20.0	23.2	26.3
Not-for-Profit (%)	21.3	13.1	21.3	26.3
Minority-Owned (%)	21.6	29.5	17.5	21.5

Source: Authors' survey of Los Angeles County employers, May–November 2001.

tic about hiring the recently released without work experience (only 35 percent of employers would offer a job to someone in this category). They were much more relaxed about those convicted of property or drug charges—almost half would be willing to hire someone convicted of a drug offense—suggesting that the potential employer demand for nonviolent offenders may be greater than previously thought. This is a mildly encouraging finding. Over the 1990s, most of the dramatic rise in the prison population was driven by increases in drug-related offenses, disproportionately involving young black men.

Use of criminal background checks

Criminal background checks are one mechanism through which employers access information about the criminal histories of applicants, and for us they constituted an indirect means of gauging employers' aversion to hiring ex-offenders. Between 1992–94 and 2001, the proportion of employers claiming that they always made a criminal background check rose from 32 to 44 percent, and the proportion who said they never checked fell from 51 to 38

percent.⁴ The increase was especially large in retail trade, in manufacturing, in firms with over a hundred employees, and in the suburbs. Small firms remained the least likely to check. Large establishments, not-for-profits, firms with collective bargaining agreements, and firms with higher percentages of black applicants were among those more likely to check. But most of the increase in checking was driven by service firms, where, of course, most current and future employment growth will occur.

Over 70 percent of employers who checked for criminal background did so before hiring, that is, before most ex-offenders had any chance to demonstrate their ability to successfully hold the jobs for which they were applying. This practice likely reinforces the barriers to employment inherent in a criminal record.

The extent of background checking is in part driven by state law, which is often unclear on the subject; at least half of the employers in our sample believed that they were legally required to conduct a criminal background check for the last noncollege position they filled. But it may also reflect the increased availability of low-cost

Table 2
Job Applications from Black and Hispanic Adults in Previous Year

Firms	Black Men	Black Women	Hispanics
All	8.9	7.3	33.8
Willing to Accept Ex-Offenders	9.6	7.4	37.5
Depends on Crime	9.5	7.8	34.5
Unwilling to Accept Ex-Offenders	9.1	7.2	33.4
Hired Ex-Offenders in Last Year	14.0	7.6	45.2
Did Not Hire Ex-Offenders in Last Year	7.7	7.1	31.1

Source: Authors' survey of Los Angeles County employers, May–November 2001.

checking services in the private market over the 1990s. Nearly 50 percent of Los Angeles employers in our 2001 survey used a private service to check criminal backgrounds rather than a public criminal justice agency.

That fact in itself raises questions. How accurate and complete is the information provided by these services, many of which are Internet-based? And does the ready access of employers to such information necessarily work to the disadvantage of the applicant, as advocates for ex-offenders have claimed? Is it possible that the provision of *more* information would actually increase the willingness to hire ex-offenders and diminish the likelihood of statistical discrimination based on race or status? Indeed, some organizations that act as labor market intermediaries for ex-offenders favor the provision of such information to employers, on precisely those grounds.⁵

Our survey suggests that employers are much less averse to hiring people convicted of certain kinds of offenses than of others, and that they take post-prison work experience into account in hiring decisions. Thus there may be potential returns to public policies that provide transitional jobs to those leaving prison. And because so many employers now check backgrounds and refuse on legal grounds to hire ex-offenders, review of these legal barriers, particularly of laws that prevent hiring into specific occupations and industries, may be in order. ■

⁵These findings are reported in three articles by H. Holzer, S. Raphael, and M. Stoll, "How Do Crime and Incarceration Affect the Employment Prospects of Less-Educated Black Men?" paper prepared for the Extending Opportunities Conference, Washington, DC, 2002; "Perceived Criminality, Background Checks, and the Racial Hiring Practices of Employers," IRP Discussion Paper 1254-02, University of Wisconsin–Madison, 2002; and "Will Employers Hire Ex-Offenders?"

Employer Perceptions, Background Checks, and Their Determinants," in *Imprisoning America: The Social Effects of Mass Incarceration*, ed. M. Pattillo, D. Weiman, and B. Western (New York: Russell Sage, 2004).

²For a longer version, see H. Holzer, S. Raphael, and M. Stoll, "Employer Demand for Ex-Offenders: Recent Evidence from Los Angeles," IRP Discussion Paper 1268–03, University of Wisconsin–Madison, 2003.

³Unemployment rates for the Los Angeles region from the Bureau of Labor Statistics Web site, <<http://data.bls.gov/cgi-bin/surveymost>>, extracted April 30, 2004.

⁴About 60 percent of our surveys were administered before the terrorist attacks of September 2001, the remainder thereafter. Before September 11, about 12 percent of employers said they would consider hiring ex-offenders. After the attacks, this percentage halved, and a slightly higher fraction indicated that they always checked the criminal backgrounds of applicants. But given that the percentage of employers always checking for criminal background was rising before the attacks, the effects of the attacks remain questionable.

⁵For example, the Safer Foundation in Chicago <<http://www.saferfund.org/>> specifically requests permission from ex-offenders to release such information to potential employers.