

How Likely Are Ex-Offenders to Get a Job Offer?

By Marilyn C. Moses

When inmates are released from prison, they face seemingly insurmountable barriers to success when reentering society. One could argue that corrections professionals also face overwhelming challenges in this regard. They are tasked with remedying, in a relatively short period of time, the result of long-standing human limitations and the collateral consequences associated with failed public health, child welfare, education and criminal justice systems. The following three studies funded by the National Institute of Justice highlight the difficulties that ex-offenders face when applying for jobs post-release. The studies found that despite the hard skills job applicants had, race played a significant factor in their rate of hire.

Audit Studies

In 1968, the Fair Housing Act became law. The legislation's goal was to ensure that all individuals have an equal opportunity to live in the neighborhood of their choice. In 1975, the U.S. Department of Housing and Urban Development (HUD) solicited ideas about how to effectively measure housing discrimination. Two years later, HUD pioneered audit studies as a way to test for discrimination. Since then, the audit method has also been used to test for discrimination in employment.

An audit study involves sending out two nearly identical people (called auditors or testers), varying in only one characteristic (e.g., race, ethnic group) to determine if there is a discriminatory response to the pair based on the selected characteristic. Audits are "live" tests such as entering a restaurant seeking service, or going on an in-person job interview. Devah Pager, currently at Harvard, uses this

method to test the role that race and criminal record play in an employer's decision to hire. Funded partially by NIJ, Pager conducted employment audits in Milwaukee and New York City in 2001 and 2004 respectively.¹ A third study, funded by NIJ and conducted in 2012 by researchers at Arizona State University in Phoenix, replicated Pager's earlier studies.²

Three Cities, Similar Results

Testers posing with and without a criminal record applied for more than 850 entry-level jobs in three cities. Although the economic, demographic and legislative environments differed in these cities, the results of the tests were remarkably similar.

Table 1. Study Profiles

| | Milwaukee (Midwest) 2001 | New York City (Northeast) 2004 | Phoenix (Southwest) 2012 |
|--------------------------|--|--|---|
| Tester Profile | 23 years old, college-educated, screened and trained | 22-26 years old, mostly college-educated, screened and trained | 24 years old, mostly college-educated, screened and trained |
| Fictitious Resume | | | |
| Education | High school diploma | Same | Same |
| Work History | Solid history of continuous entry-level employment after high school, plus six months in-prison work history | Same | Same |
| Criminal Record | Felony: cocaine possession with intent to distribute, 18-month prison sentence | Same | Same, but with a three-year sentence |
| Audit Teams | Two white (one ex-offender, one nonoffender) Two black (one ex-offender, one nonoffender) | Same Same | Same Two Hispanic (one ex-offender, one nonoffender) |
| Tests | 350 applications/ number of employers not specified | 250 applications/ 250 employers | 266 applications/ 57 employers |
| Employers | Wide variety of entry-level employers | Wide variety of entry-level employers | Restaurant/ food service |

Milwaukee. In Milwaukee, two teams of college-educated males (one team with two black males and one team with two white males) were formed to be as physically identical as possible (e.g., attractiveness, height, weight). These “actors” were trained to apply for entry-level positions under audit study conditions. Within each racial pair, the testers were randomly assigned to pose as ex-offenders and were provided fictitious work histories. A “callback” for an interview or a job offer was the outcome measured. Three hundred fifty in-person job applications were completed by the auditors. A criminal record reduced a white applicant’s probability of getting a callback by 50 percent. Blacks indicating a criminal past had more severe results. Their chance of getting a job offer was reduced by 65 percent. Most disturbing, however, was that employers called back white ex-offenders at about the same rate as blacks who reported no criminal record. Both had approximately a 17 percent chance of a follow-up call.

New York City. Pager repeated the experiment in New York City.³ Here, the four testers (two white males and two black males) applied for 250 low-wage positions. White men without a criminal record received a higher rate of callbacks (31 percent) than their black peers (25 percent). All applicants posing as ex-offenders were penalized. However, a white candidate’s chance of getting a callback was reduced by 30 percent, while a black applicant was penalized twice as much (60 percent) for having a criminal past. As in Milwaukee, a black nonoffender had about the same chance of receiving a job offer (25 percent) as a white ex-offender (22 percent).

Phoenix. Scott Decker and his colleagues from Arizona State University repeated the study a third time in Phoenix. Here, the two auditing teams each had three individuals (Hispanic, black and white). These auditors submitted 266 job applications. As in the prior audit studies, the penalty for a criminal record was not evenly assessed across all applicants. Hispanic men, regardless of criminal background, received no callbacks from employers.⁴ Whites

Table 2. Probability of a Callback (Reported in Percentages)

| | White | | Black | |
|-------------------------------|-------|----|-------|----|
| | NCR* | CR | NCR | CR |
| Milwaukee (2001) | 34 | 17 | 17 | 5 |
| Size of the penalty | | 50 | | 65 |
| New York City (2004)** | 31 | 22 | 25 | 10 |
| Size of the penalty | | 30 | | 60 |
| Phoenix (2012) | 31 | 14 | 21 | 12 |
| Size of the penalty | | 55 | | 43 |

* NCR = no criminal record; CR = criminal record

** Hispanics were included in this audit study, but the teams were not configured as they were in Phoenix. Hence, the results of this test are not discussed here. The New York study also involved other team configurations. Black and Hispanic male nonoffender pairs were fielded along with white testers posing as ex-offenders.

without a criminal record had the best chance of getting a callback. While white nonoffenders were more likely than blacks without a criminal record to get a job offer, white males were penalized for their criminal record more severely (55 percent) than their black counterparts (43 percent). Blacks without a criminal record in Phoenix, unlike those in New York and Milwaukee, had significantly better odds of receiving a job offer than white ex-offenders.

across the country with the hope of increasing the odds that ex-offenders could at least get their foot in the employer’s door for an interview. One such change is known as “ban the box.”⁵ Approximately 10 states and 56 cities and counties have eliminated the criminal history question from applications for public employment — thus, they have “banned the box.”⁶ If the job seeker is deemed desirable, questions about the candidate’s criminal history may be considered when an employment offer is contemplated.

On a national level, since 1987, the Equal Employment Opportunity Commission (EEOC) has maintained the position that discriminating against those with criminal records can have an adverse impact on blacks and Hispanics because of their disproportionate presence in the criminal justice system. Reinforced by some of the research discussed here, in 2012, EEOC issued updated guidance to employers regarding the use of criminal background checks in hiring decisions.⁷

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Future Research

These studies provide empirical dimensions to the theory that discrimination against ex-offenders and those of color — particularly black men — exists. Now, the question is, what should advocates, practitioners and policymakers do to move forward? How will we know whether the

Study Implications

Practitioners and advocates, relying in part on their interpretation of these study findings, have convinced policymakers to make reforms. Various changes were implemented

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⁸ Slovenko, R. 2003. The transinstitutionalization of the mentally ill. Paper presented on March 21, 2003 at the 26th Annual Law Review Symposium at Ohio Northern University Pettit College of Law. Retrieved from <https://litigationessentials.lexisnexis.com/webcd/app?action=DocumentDisplay&crawlid=1&doctype=cite&docid=29+Ohio+N.U.L.+Rev.+641&srctype=smi&rcid=3B15&key=3baddaa84435e0a84cbf3e303b4dd9ab>.

⁹ Human Rights Watch. 2009. *Mental illness, human rights, and U.S. prisons*. New York: Author. Retrieved from <http://www.hrw.org/news/2009/09/22/mental-illness-human-rights-and-us-prisons>.

¹⁰ Association of State Correctional Administrators. 2014. *Top ten issues ASCA members addressing-2013*. Retrieved from <http://www.asca.net/system/assets/attachments/6694/Top%20Ten%20Present%20Issues.pdf?138991971>.

¹¹ Schwirtz, M. 2014. Mental illness and violence rise at Rikers Island. *Santa Fe New Mexican*. Retrieved from http://www.santafenewmexican.com/news/mental-illness-and-violence-rise-at-rikers-island/article_eb133325-d90b-5205-a3bbe78c1f0fee.html.

¹² Treatment Advocacy Center. 2009. Treatment Advocacy Center briefing Paper: Jails and prisons. Arlington, Va.: Treatment Advocacy Center. Retrieved from <http://www.treatmentadvocacycenter.org/resources/consequences-of-lack-of-treatment/jail/1371>.

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Research Notes

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policy response helps or hurts ex-offenders?

The testers in these studies were the “cream of the crop.” If these attractive, confident and well-trained actors received such a poor response from employers, what is the likelihood that “real” ex-offenders will receive a job offer? What about the repeat offender? What is their probability of receiving a job offer? Possession of cocaine with intent to distribute was the offense tested in these studies. Would the result be the same for offenders convicted of burglary, rape or homicide? Is “once a felon, always a felon” the employer’s view? Is the likelihood of receiving a job offer the same for an offender after he or she has remained crime-free for 10 years? Unless advocates, practitioners and policymakers demand funding for rigorous research and evaluation, we will not find the answers to these questions.

ENDNOTES

¹ Pager, D. 2003. The mark of a criminal record. *American Journal of Sociology*, 108(5):937-75.

Pager, D., B. Western and B. Bonikowski. 2009. Discrimination in a low-wage market: A field experiment. *American Sociological Review*, 74(5):777-799.

Pager, D., B. Western and N. Sugie. 2009. Sequencing disadvantage: Barriers to employment facing young black and white men with criminal records. *The Annals of Political and Social Science*, 623(1):195-213.

² Decker, S.H., C. Spohn, N. Ortiz and E. Hedberg. 2014. Criminal stigma, race, gender and employment: An expanded assessment of the consequences of imprisonment for employment. Unpublished Report. Retrieved from <https://www.ncjrs.gov/pdf/files1/nij/grants/244756.pdf>. Also note: This study at Arizona State University added Hispanics, women, a community college degree and the online job application to their audit protocol. This article focuses solely on that portion of their study that replicated the two prior studies versus the added variables.

³ Ibid.

⁴ It is believed that these results may be due to regional and political characteristics. Arizona is a border state that has experienced a high rate of illegal immigration, and those living in this area have experienced Hispanic gang violence and drug wars. This may have resulted in an employer perception that the Hispanic male is the least desirable prospective employee.

⁵ Henry, J.S. 2007. Ban the box to promote ex-offender employment. *Criminology and Public Policy*, 6(4):755-761.

Henry, J.S. 2008. Criminal history on a “need to know” basis: Employment policies that eliminate the criminal history box on employment applications. *Justice Policy Journal*, 5(2):1-22.

⁶ National Employment Law Project. 2014. *Ban the box: Major U.S. cities and counties adopt fair hiring policies to remove unfair barriers to employment of people with criminal records*. New York: Author. Retrieved from <http://www.nelp.org/page/-SCLP/CityandCountyHiringInitiatives.pdf?nocdn=1>.

⁷ U.S. Equal Employment Opportunity Commission. 2012. *Enforcement guidance on the consideration of arrest and criminal conviction records in employment decisions under Title VII of the civil rights act of 1964, as amended*. Washington, D.C.: Author.

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