

October, 2001

**WILL EMPLOYERS HIRE EX-OFFENDERS?
EMPLOYER PREFERENCES, BACKGROUND CHECKS,
AND THEIR DETERMINANTS**

Harry J. Holzer
Georgetown Public Policy Institute
Georgetown University
E-mail: hjh4@gunet.georgetown.edu

Steven Raphael
Goldman School of Public Policy
University of California, Berkeley
E-mail: raphael@socrates.berkeley.edu

Michael A. Stoll
School of Public Policy and Social Research
University of California, Los Angeles
E-mail: mstoll@ucla.edu

We thank the Russell Sage Foundation for their generous support of this project.

Abstract

In this paper, we analyze employer demand for ex-offenders. We use data from a recent survey of employers to analyze not only employer preferences for offenders, but also the extent to which they check criminal backgrounds in the presence of very imperfect information about the job applicants whom they consider. We investigate the firm and job characteristics that correlate with these measures of employer demand. We also consider the extent to which such demand changed during the 1990's, in response to tighter labor market conditions, using data from surveys administered at different points in time. Finally, we consider the quantities of demand for ex-offenders relative to their supply, based on a variety of estimates of total stocks and annual flows of offenders back to the civilian population.

1. Introduction

At current incarceration rates, the Bureau of Justice Statistics (BJS) estimates that approximately 9 percent of all men will serve some time in state or federal prisons. Moreover, for certain sub-groups of the population, the proportion that is likely to serve time is quite large. For example, nearly 30 percent of African-American men and 16 percent of Hispanic men will serve prison sentence at some point in their lives (U.S. Bureau of Justice Statistics 1997). The BJS also estimates that the median time served for prisoners released during the late 1990s was less than two years. In consort, these two pieces of information (high incarceration rates and a relatively low median sentence) suggest that a large minority of non-institutionalized men have served time in state or federal prisons.

While the state and federal prison populations appear to be leveling off,¹ the rapid increase in incarceration rates over the past two decades indicates that the numbers of ex-offenders among the non-institutionalized population are likely to be large into the foreseeable future. The successful reintegration of this growing population depends in part on the employment potential of ex-offenders. There are several reasons to suspect that serving time may adversely affect future earnings and employment prospects. The incarcerated do not accumulate work experience and may experience an erosion of skills while serving time. Furthermore, any ties to legitimate employers are likely to be severed by an initial arrest and by a prison spell. From the viewpoint of employers, a criminal history record may signal an untrustworthy or otherwise problematic employee. Employers may avoid such workers due to a perceived increased propensity to break rules, steal, or harm customers.

Several studies have analyzed the labor market consequences of involvement in the

¹ As of December 31, 2000, there were 1,381,392 inmates in state and federal prisons. This is an increase of 1.3 percent over the previous year, far lower than the average annual growth rate of 6 percent since year-end 1990.

criminal justice system by testing for direct effects on future employment and earnings of being arrested (Grogger 1995) or of serving time (Kling 2000). In this paper, we take an alternative tack. We characterize the demand side of the labor market for ex-offenders by analyzing employer self-reported preferences with respect to applicants with criminal histories.

Specifically, we seek to answer the following questions. To what extent are employers willing to hire workers with criminal backgrounds? Does this willingness to hire vary with different job and firm characteristics and over time with the tightness of the labor market? To what extent do employers act on these preferences by investigating the criminal history records of applicants? Does the propensity to check also vary with specific job and firm characteristics? Finally, how do these measures of employer demand for ex-offenders compare with their potential supply to the labor market, and what do these comparisons imply about employment prospects for ex-offenders in the current environment and near future?

We begin with a discussion of the possible reasons why employers may be unwilling to hire workers with criminal backgrounds, as well as a discussion of the means by which employers may glean such information. Next, we use a representative sample of employers from four large metropolitan areas to examine the extent to which employers would consider hiring ex-offenders and the extent to which employers check for criminal backgrounds during the hiring process. We then analyze the degree to which this willingness to hire and checking of backgrounds varies with firm and job-specific characteristics and with the tightness of labor markets. We also compare these estimates of demand with the numbers of ex-offenders who might at least potentially enter the labor market on the supply side. Finally, we discuss the implications of the findings for the employment prospects of ex-offenders and, more generally, for job-seekers from disadvantaged groups.

2. Employers' Willingness to Hire Ex-Offenders and Their Use of Criminal History Records

Many of the demand-side factors that adversely affect the employment prospects of low-skill workers are also likely to affect the employment prospects of ex-offenders', given the overlap between these two groups.² For example, "hard" and "soft" skill requirements by employers, transit and locational factors, slack urban labor markets, employer discrimination, and weak social networks are all likely to adversely affect the employment and earnings of both low skilled workers in general and the ex-offender population in particular (Freeman and Rodgers 2000; Stoll, et. al. 2000; Moss and Tilly 2000; Holzer 1996). Nonetheless, ex-offender status may create additional barriers to employment above and beyond those experienced by other low-skill workers.

Employers may be unwilling to hire workers with criminal backgrounds (all else held equal) due to several considerations. To start, certain occupations are legally closed to individuals with felony convictions under state and, in some cases, federal law (Hahn 1991). Examples include jobs requiring contact with children, certain health services occupations, and employment with firms providing security services. In addition, employers may place a premium on the trustworthiness of employees, especially when the ability to monitor employee performance is imperfect. Jobs that require significant customer contact or the handling of cash or expensive merchandise will require dependable, honest employees. To the extent that past criminal activity signals something less, employers may take such information into account when making hiring decisions.

Furthermore, in many states employers can be held liable for the criminal actions of their

² The Bureau of Justice Statistics for 1999 indicate that recently released ex-offenders are mostly male, young

employees under the theory of negligent hiring. Legally, negligence is premised on the idea that one who breaches a duty of care to others in an organization or to the public is legally liable for any damages that result (Glynn 1988). Under the theory of negligent hiring, employers may be liable for the risk created by exposing the public and their employees to potentially dangerous individuals. As articulated by Bushway (1996), “..employers who know, or should have known, that an employee has had a history of criminal behavior may be liable for the employee’s criminal or tortuous acts.” Thus, employers may be exposed to punitive damages as well as liability for loss, pain, and suffering as a result of negligent hiring.³ Employers have lost 72 percent of negligent hiring cases with an average settlement of more than \$1.6 million (Connerley, et. al. 2001).⁴ The high probability of losing coupled with the magnitude of settlement awards suggest that fear of litigation may substantially deter employers from hiring applicants with criminal history records.

The ability of employers to effectively act on an aversion to hiring ex-offenders, and the nature of the action in terms of hiring and screening behavior, will depend on the accessibility of criminal history record information to non-criminal justice entities. Information on arrest, conviction, and time served for non-federal offenses are compiled by the state where the offense

(under 35), uneducated, disproportionately minority, and have employment problems.

³Craig (1987) cites several examples where employers were held responsible for the criminal acts of their employees under the theory of negligent hiring, including judgements against the owner of a taxi company and a security services firm for sexual assaults committed by employees. In one cited instance involving a sexual assault committed by an apartment manager, the owner of an apartment complex was found negligent for not taking into account gaps in the manager’s work history in the hiring decision. More recent examples are found in Connerley, et. al., (2001). In one instance, a home health hiring agency was found negligent for not conducting a criminal background check while hiring an aide in a home health care program who murdered a quadriplegic he was caring for and the patient’s mother. The aide had in fact six larceny-related convictions.

⁴Although as of this writing we found no data on the number of negligent hiring suits, anecdotal evidence suggests that the number of such suits is increasing. Furthermore, it is argued that the possible increase in such suits is attributable to several factors including that under negligent hiring theory employers could be held liable for actions taken by employees who are off the job, the amount of compensation awarded in negligent hiring cases may be higher than in other cases, the statute of limitations for negligent hiring claims is longer than for other claims, and that evidence of prior acts of negligence of the employee may be introduced in negligent hiring cases (Extejt and Bockanic, 1991).

occurred. Each state and the District of Columbia maintains a central repository where this information is housed and from which criminal history information is disseminated. All law enforcement agencies within a state are required to report arrest and disposition information to the central repository for all serious offenses (U.S. Department of Justice 1999). The information in the repository is the source used to generate rap sheets for law enforcement officials and the source for criminal history records for non-criminal justice purposes.

In its most recent review of state privacy and security legislation, the U.S. Department of Justice concludes that criminal history record information is increasingly becoming more available to non-criminal justice users, although the degree of openness varies from state to state (U.S. Department of Justice 1999). Nearly all states make a distinction between arrest records and conviction records. In general, states are less likely to freely disseminate information on arrest records, especially arrests for cases that are still open or have occurred within the previous year. States tend to place fewer restrictions on non-criminal justice access to conviction records. Currently, 23 states have some form of public access or freedom of information statutes that pertain to some aspect of criminal history record information.^{5,6}

Given the availability of criminal history records to non-criminal justice users,

⁵ In addition to the greater openness of state repositories, several services have emerged that perform nationwide criminal history record reviews for small fees. An internet search of the term “criminal history record” will turn up several companies who will perform nation-wide criminal background checks (allegedly accounting for offenses in all 50 states) for as little as \$15. In addition, well-known security services firms such as Pinkerton offer basic and extensive background checks for employers as well as other non-criminal justice clients.

⁶ All of this suggests that criminal history records are potentially available to non-criminal justice users, but whether the employer can legally access and consider such information in making hiring decisions is another matter. A 1976 Supreme Court decision ruled that arrest and prior conviction records are public given that the initial source of information was from public records (Bushway 1996). Hence, it is not a privacy right violation for non-criminal justice employees to access criminal history records. Moreover, as noted above, who can access records and the extent of information available (for example, arrests and prior convictions versus prior conviction only) is determined by individual states (U.S. Department of Justice 1999). For most jobs, though, the Equal Employment Opportunities Commission guidelines prohibit “blanket exclusions” of applicants with criminal records. However, employers can consider criminal histories so long as the severity of the offense is related to the applicant’s ability to effectively perform the job and so long as the employer considers the time lapsed since offending in coming to a decision (Bushway 1996).

employers are likely to check the criminal backgrounds of potential employees. Certainly, the extent to which they do so is likely to be in part a function of their aversion to ex-offenders, for all the reasons we discussed. In addition, the propensity to check the backgrounds of applicants is likely to be related to the size of the local ex-offender population as a proportion of the local labor force. This proportion varies from state to state due to inter-state differences in sentencing and other criminal justice policies.

To be sure, employers can act on an aversion to hiring ex-offender in the absence of information on an applicant's criminal history record by screening job applicants on the basis of characteristics that are predictive (either in actuality or in perception) of previous criminal activity. For example, if employers believe that African-Americans, welfare recipients, or workers with unaccounted-for breaks in their employment histories are more likely to have past criminal convictions, employers may statistically discriminate against such individuals. While imperfect information will clearly lead to instances of "false-positive" and "false-negative" assessments of previous criminality, basing employment decisions on such discriminatory rules of thumb may minimize the likelihood of hiring ex-offenders.

3. Description of the Data

To examine employers' willingness to hire ex-offenders and their use of criminal background checks, we use an establishment survey collected through the Multi-City Study of Urban Inequality (MSCUI). The survey includes slightly over 3,000 establishments and was conducted between June 1992 and May 1994 in the Atlanta, Boston, Detroit, and Los Angeles metropolitan areas. The sample of firms is drawn from two sources: from the employers of the respondents to a household survey conducted in conjunction with the survey of establishments

that provided approximately 30 percent of the observations, and from a sample of establishments generated by Survey Sampling Incorporated (SSI). The SSI sample is a random-stratified sample where the initial lists are stratified by establishment size, and firms are sampled according to the proportion of metropolitan area employment accounted for by their respective size categories. Hence, the SSI sample is representative of the set of establishments faced by a job seeker in any of the four metropolitan areas. We use sample weights in all calculations to account for the non-representative portion of the sample from the household survey.

Establishments were screened according to whether they had hired an employee into a position not requiring a college degree within the previous year. The response rate for firms that passed the initial screen is 67 percent. This compares favorably with other establishment surveys (Kling 1995).⁷

Telephone surveys were conducted with individuals in charge of hiring at the firm. The survey includes two questions vital to the current analysis: a question on employer preferences with respect to workers with criminal histories, and a question on whether employers use criminal background checks. The exact wording of the questions is as follows. The question on employer preferences refers to the most recently filled position. The question reads “Would you accept for this position an applicant who had a criminal record? definitely will, probably will, probably not, absolutely not?” For criminal background checks, the question reads “For the last position hired into, how often do you check the applicant’s criminal record? always, sometimes, or never?”

⁷Holzer (1996) provides detailed comparisons of response rates by industry, location, and establishment size and finds no substantial differences in response rates. He also provides evidence that the distribution of firms in the

4. Characterizing the Demand for Ex-Offenders

A. Are employers reluctant to consider ex-offenders?

Figure 1 presents the distribution of employer responses to the question inquiring about the likelihood that the employer would be willing to accept an applicant with a criminal record. Over 60 percent of employers indicate that they would “probably not” or “definitely not” be willing to hire an applicant with a criminal record, with “probably not” being the modal response.⁸ Only 38 percent of employers indicate that they would definitely or probably consider an applicant with a criminal history, with 12.5 percent indicating that they definitely would consider hiring an ex-offender. Hence, the simple distribution of the responses to this question reveals a relatively widespread aversion to applicants with criminal histories.

To put these employer responses into perspective, Figure 2 presents the distributions of employer responses to similarly worded questions concerning the likelihood that employers would accept applications from other groups of low-skilled and possibly stigmatized workers. The figure illustrates employer preferences with respect to the acceptability of welfare recipients, applicants with a GED but no high school diploma, applicants with spotty work histories, and applicants who have been unemployed for a year or more. Approximately 92 percent of employers indicate that they would definitely or probably hire former or current welfare recipients, 96 percent indicate that they would probably or definitely hire workers with a GED in lieu of a high school diploma, 59 percent indicate that they would hire workers with a spotty employment history, while 83 percent indicate that they are likely to consider an application from an individual who has been unemployed for a year or more. In contrast, only 38 percent of

MCSUI sample within areas by industry and firm size is comparable to those found in the *County Business Patterns*.

⁸ Jensen, Jr. and Giegold (1976) show evidence on employers' attitudes towards ex-offenders that suggests employers are not unwilling to hire ex-offenders and are in fact engaged in activities to absorb the flow of partially rehabilitated ex-offenders. However, this study used data that is now over 25 years old, and therefore was

employers indicate that they definitely or probably would accept an application from an ex-offender. Hence, in addition to the fact that the aversion to hiring applicants with criminal histories is widespread, this aversion is considerably stronger than the aversion of employers to hiring applicants from other commonly stigmatized groups of workers.

Do employer attitudes concerning the employability of ex-offenders differ across the metropolitan areas represented in our sample? Figure 3 presents results comparable to those in Figure 1 for each of the four metropolitan areas (Atlanta, Boston, Detroit and Los Angeles). Employer responses are comparable across areas. In all metropolitan areas, approximately 60 percent of employers indicate that they would probably not or definitely not consider applicants with criminal histories. This uniformity is particularly striking considering the inter-area differences in size, demographic composition, and economic conditions that exist.⁹ Given that the data pertain to employers who have recently hired low-skilled workers (employers who are perhaps the most likely to employ ex-offenders), the simple distributions in Figures 1 and 3 imply that the large majority of employers are unwilling to hire ex-offenders and that this unwillingness appears uniform across cities.

An alternative indirect manner of gauging employer aversion to applicants with criminal histories would be to assess whether employers investigate the criminal backgrounds of their potential employees. Figure 4 presents the distribution of employer responses to the question concerning the frequency with which employers check the criminal background of job applicants. Approximately 32 percent of employers in our sample say that they always check, 17 percent indicate that they check sometimes, while 51 percent indicate that they never check criminal backgrounds. While the time period covered in our sample likely precedes the

conducted in a very different time and under very different circumstances.

⁹ See, Holzer (1996), for a discussion of the exact differences in these metropolitan areas.

emergence of internet services providing low-cost criminal background checks, the use of such checks by a sizable minority of employers is evident in the data.

To the extent that the question concerning employer willingness to hire ex-offenders and the question concerning the use of background checks are both measuring employer aversion to hiring applicants with criminal histories, the responses to the two questions should be systematically related. Figure 5 explores this possibility. The figure presents the distribution of the responses to the criminal background checks question by the responses to the question concerning the likelihood that the employer would consider hiring an ex-offender. There is a clear association between the responses to these two questions. While only 19 percent of employers who say they definitely will consider hiring an ex-offender check criminal backgrounds, 56 percent of employers who say that they would definitely not hire an applicant with a criminal history conduct background checks. Conversely, while 32 percent of the least willing to hire employers never check criminal backgrounds, the comparable figure for those employers that are most willing to hire ex-offenders is 61 percent. Hence, employer responses to the two questions are largely consistent with one another and suggest considerable employer reluctance to hire ex-offenders.

Concerning across-metropolitan area patterns, there are some significant differences in the propensity to check criminal backgrounds across areas, in contrast to the uniformity in the responses to the willingness to hire question displayed in Figure 3. Figure 6 presents this comparison for the four metropolitan areas in our sample. The figure shows that the propensity to check criminal backgrounds among firms in Atlanta, Detroit and Los Angeles are generally comparable, but that employers in Boston were the least likely to use criminal background checks as a screening device. Potential explanations for this difference may lie in inter-area

differences in the size of the population of ex-offenders or in differences in the ease with which employers can access criminal justice information for non-criminal justice purposes.

To investigate the first explanation, Table 1 presents estimates of the incarcerated and ex-offender populations for the four states in which the metropolitan areas are located during the time period covered by our sample.¹⁰ As can be seen, the incarceration and probation rates, as well as the proportion of the population that are recently released offenders (all expressed per 100,000 state residents) are considerably lower in Massachusetts than in the other three states. Hence, the lower propensity of Boston firms to investigate the criminal background of employees may be due in part to the relatively small ex-offender population of the host state.

Concerning differences in the stringency of state laws governing non-criminal justice uses of criminal history records, examination of the most recent *Compendium of State Privacy and Security Legislation: 1999 Overview* (U.S. Department of Justice 1999) does not reveal glaring interstate differences in who can legally access to criminal history records. However, in a review of earlier issues of the compendium, Bushway (1996) concludes that criminal history records *were* considerably less available in Massachusetts to non criminal justice entities around the beginning of the 1990s.

To summarize, Figures 1 through 6 and Table 1 indicate clear patterns. Through their stated hiring preferences and as revealed by their actions (i.e., running background checks), employers reveal considerable reluctance to hiring workers with criminal histories. This aversion appears to be stronger than the aversion to hiring workers from other commonly stigmatized groups. Moreover, the correlation between the stated preferences and checking behavior are consistent with one another. We now turn to a description of the correlates of these measures of employer demand for ex-offenders.

B. Which employers are most likely to avoid applicants with criminal history records and which employers check?

To be sure, employer attitudes towards applicants with criminal histories are likely to depend on the nature of the employer's business and on the nature of the position that is being filled. One would expect a priori that employers who cannot perfectly monitor their employees or employers that hire workers into positions that deal frequently with the public would be more averse to hiring ex-offenders. One might also suspect that employers filling jobs that require the handling of expensive merchandise, large amounts of cash, or costly equipment may be differentially averse to applicants with a criminal past.

To explore these possible differences, Table 2 presents averages of establishment characteristics, recruiting and screening methods, required job tasks and qualifications, and desired employee characteristics for the sample of employers stratified by the four possible responses to the question concerning willingness to consider ex-offenders. Establishment characteristics include the number of employees at the establishment, industry, the percent of workers represented by a union, dummy variables indicating that the hiring agent is black and that the firm is located in the central city, a variable measuring the average distance to blacks in the metropolitan area, and a variable measuring the average distance to whites in the metropolitan area.¹¹ Our measures of recruiting and screening methods used are a set of dummy variables equal to one if the employee regularly uses the described methods. Similarly, the daily job tasks are the means of dummy variables describing daily tasks performed on the job, such as interacting with customers, reading, writing or using a computer. Job qualifications referred to

¹⁰ Metropolitan level estimates of these populations are not available.

¹¹The average distances are calculated using linear distances (in miles) between the centroid of the employer's census tract and the centroids of all other census tracts in the area. The variable for each employer is the weighted average of distance to all other census tracts where the weights are the number of person or a particular race residing in the destination tract. Hence, the variable distance black measures the firm's distance to the average black person in the metropolitan area. See Holzer and Ihlanfeldt (1996) and Raphael, Stoll, and Holzer (2000) for a more detailed

applicant qualifications that the employer expresses are either absolutely necessary or strongly preferred while desired employee characteristics refers to employee traits that employers deem important and types of applicant that employers would not consider hiring.

There are several clear patterns in Table 2. First, the establishment size distribution among the least willing employers is skewed towards smaller firms, while large firms are disproportionately represented among employers most willing to hire workers with criminal histories. Among employers willing to hire ex-offenders, manufacturing firms are disproportionately represented while establishments in the finance, insurance, and real estate sector and the service sector are under-represented. The opposite pattern holds among employers that are the least willing. There is little relationship between the remainder of the establishment characteristics and employer aversion to hiring ex-offenders, although employers located in the central city are slightly more likely to be among the firms willing to hire.

Concerning recruiting and screening methods, firms that are averse to hiring ex-offenders are less likely to consider applications from walk-ins, post help wanted signs, are less likely to consider referrals from state and community agencies, and are less likely to use affirmative action in recruiting for the position. There are also positive relationships between employer aversion and several of the screening methods, including the use of aptitude and personality tests, checking criminal backgrounds, and the verification of educational attainment and references.

One of the strongest associations evident in Table 2 is the positive relationship between employer unwillingness to hire ex-offenders and whether the recently filled job involves frequent customer contact. Among employer most willing to hire ex-offenders, 52 percent of the positions required customer contact. Among employers least willing to hire ex-offenders 71 percent of the positions required customer contact. There also are weaker positive correlations

between unwillingness to hire and several of the other job tasks, including phone conversations, reading, and writing. Employers that are the least willing to hire ex-offenders are more likely to require high school degrees, recent and specific work experience, references, and some vocational education. Such employers are also more likely to indicate that physical attractiveness, neatness, politeness, motivation, verbal skills, and the ability to speak English well are very important employee characteristics.

Hence, Table 2 indicates that smaller, non-manufacturing firms whose employees interact with customers are the most averse to hiring ex-offenders. The patterns also indicate that averse employers are less likely to use informal recruiting techniques (walk-ins, for example). These patterns are sensible and support our earlier discussion of the potential reasons why employers may be reluctant to hire ex-offenders.

Table 3 presents average characteristics for the sample of establishments stratified by the response to the question concerning employer use of criminal background checks. The variables presented are exactly the same as those presented in Table 2. There are notable differences in the size and industrial distributions between employers that check and employers that do not. Despite the greater reluctance of small employers to consider applicants with criminal histories, smaller employers are most represented among establishments that never use criminal background checks. Nearly 40 percent of employers that never check have fewer than 20 employees compared to 24 percent for employers that always check. Concerning industry, manufacturing firms are the least likely to use criminal background checks while establishments in FIRE and services are the most likely. There is a negative relationship between a firm's spatial proximity to black neighborhoods and use of criminal background checks. In addition, more unionized establishments screen criminal history records more than less unionized

establishments.

There are several interesting patterns in the difference in the use of the various recruitment methods. Employers that check criminal backgrounds are more likely to use informal recruiting methods (accepting walk-ins and posting help-wanted signs), more likely to accept referrals from state and community agencies, and are more likely to use affirmative action in recruiting. In Table 2 we saw that firms unwilling to hire workers with criminal histories were less likely to use these tools. The combination of these two findings suggests that in the absence of explicit inquiries into an applicant's criminal history, employers use these alternative recruiting and screening methods to avoid applicants from ex-offenders. Concerning screening methods, use of background checks is strongly associated with the use of other forms of tests (such as drug and aptitude tests) and with the likelihood that the employer verifies the stated educational attainment of the applicant and the applicant's references.

Employers that are filling positions that require customer contact are more likely to check criminal backgrounds, a pattern consistent with the patterns in Table 2. In addition, employers who check are more likely to require high school diplomas, though the association is considerably weaker than that with the variable measuring employer unwillingness to hire ex-offenders.

The positive association with firm size, unionization rates, and the use of other screening tests suggests that employers with more formal human resources systems are more likely to run background checks. The positive association between checking and positions with customer contact indicates that the determinants of employer aversion, and possibly state law, are also important determinants of whether one checks. However, there are several patterns in Table 3 where the differences in the averages between employers that check and employers that don't are

opposite of what one might predict a priori from the patterns in Table 2.¹² Hence, a further dissection of the data may better illuminate the relationship between employer aversion, the use of criminal background checks, and recruiting and screening.

Table 4 provides this more detailed cross-tabulation of the data. We first define all employers that indicate that they “definitely will” or “probably will” hire applicants with criminal records as willing to hire ex-offenders and employers who respond “definitely not” or “probably not” as being unwilling. Next, we dichotomize the criminal background checks variable by defining employers who say they check sometimes or always as checking and by defining employers who say they never check as not checking. The table presents means for the variables in Tables 2 and 3 for the four categories defined by these two dichotomized variables. The first two columns present means for firms that are willing to hire ex-offenders while the third and fourth columns present means for employers who are unwilling to hire ex-offenders.

Stratifying the sample in this manner reveals several patterns that are masked in Tables 2 and 3. First, the firm size distributions indicate small firms constitute a very large portion of firms that are unwilling to hire and that do not check criminal background. Fully 45 percent of establishments in this category have fewer than 20 employees.

Concerning the distributions by industry, manufacturing establishments are quite likely to be among firms that are willing to hire ex-offenders and that never review criminal history records, while establishments in the service and FIRE sectors are most likely to be unwilling and to check. Retail and wholesale trade establishments are disproportionately represented among firms who will not hire ex-offenders and who never check (a pattern consistent with the size

¹²Since checking and employer aversion to hiring ex-offenders are positively correlated, one might predict that variables that are positively correlated with employer aversion should be positively correlated with the likelihood that firms check, and the opposite for variables that are negatively correlated with firm aversion. The patterns in Table 3 contrast these predictions for firm size, several of the recruiting methods variables, and the means for the

distributions). Skipping ahead to daily job tasks, customer contact is positively associated with checking among both firms that are willing and firms that are unwilling to hire ex-offenders. In addition, employers that check criminal backgrounds are more likely to demand certain job qualifications of applicants, relative to employers who do not check.

Perhaps the most interesting patterns in Table 4 are found in the differences in the means of the dummy variables indicating types of applicants that the employer avoids. Among firms that are willing to hire ex-offenders, checking is basically unrelated to these variables. Among firms that are unwilling to hire ex-offenders, firms that check are less averse to hiring these types of workers than firms that do not check. For both firms that check and firms that don't check, unwillingness to hire ex-offenders is associated with a greater unwillingness to hire the types of applicants described by the dummy variables. However, this differential aversion is greatest among employers who do not run criminal background checks. Specifically, among employers who do not check criminal history records, the difference between those who are unwilling to hire ex-offenders and those who are willing is 12 percentage points for the unwilling to hire welfare recipients dummy, 6 percentage points for the dummy indicating unwillingness to hire workers with a GED, 24 percentage points for the spotty-work-history dummy, and 14 percentage points for the dummy indicating an applicant who has been unemployed for more than a year. The comparable differences among firms who do check are 7, 2, 13, and 9 percentage points, respectively. These differences among employers who check are uniformly lower (and by considerable magnitudes) than those for employers who do not.

These patterns indicate that employers who do not review criminal history records and who are unwilling to hire ex-offenders are more likely to exclude from consideration applicants

variables indicating the types of applicants that the employer would avoid hiring.

with characteristics that may be indicative of a criminal history. The results in Table 4 indicate that educational attainment, prior participation in public assistance program, and gaps in one's employment history are perceived by employers to signal such information. An alternative signal that may be taken into account by employers is race. Specifically, African-Americans are considerably more likely to have past criminal convictions than are members of other racial and ethnic groups. Moreover, employers may over-estimate the average incidence of prior conviction among blacks, due to prejudice or a general lack of experience with black employees.

To explore this possibility, Table 5 presents average values of a dummy variable indicating that the last worker hired into a non-college position is black. We present averages for the whole sample, the sample stratified by whether the firm checks criminal backgrounds, the sample stratified by whether the employer is willing to hire, and for the four categories defined by the cross of these two variables. The final row of the table presents the differences in means between firms that are unwilling to hire ex-offenders and firms that are willing, while the final column presents differences in means between establishments that check criminal backgrounds and establishments that do not.

For the sample overall, there is no discernable overall difference in the likelihood of hiring a black worker between employers who are willing to hire ex-offenders and employers who are unwilling. There is a large significant difference, however, between employers that check criminal backgrounds and employers that do not. Relative to employers that do not check, employers that check are 8.5 percentage points more likely to have hired an African-American applicant into the most recently filled position. This difference is statistically significant at the one percent level of confidence. Among employers willing to hire ex-offenders this difference is 4.8 percentage points and is marginally significant. Among employers who are unwilling to hire

ex-offenders, this difference is 10.7 percentage points and is highly significant. Moreover, the difference between these two-differences (shown in the last row and last column) is statistically significant at the 8 percent level. This latter finding indicates that the relatively larger positive effect of background checks for firms that are unwilling to hire ex-offenders is larger and statistically distinguishable from the effect for firms that are willing. Hence, the patterns observed for the groups of stigmatized workers in Table 4 are reproduced for the hiring outcomes of African-Americans in Table 5.

The statistical discrimination implied by the results in Tables 4 and 5 raises interesting policy questions with respect to state laws governing non-criminal justice access to criminal history records. To the extent that employer substitute such screening for actual information on criminal histories, there will be some workers who will be unfairly discriminated against. In addition, workers from groups with high rates of previous criminal activity (for example, young men, African-Americans, workers with gaps in their employment history) are likely to be considerably impacted by such discrimination. Hence, while more liberal access policies may adversely impact the employment prospects of applicants with criminal histories, the information infusion may positively impact the employment prospects of workers from groups with high incarceration rates. This is a provocative trade off that needs to be explored in further detail.

C. Does employer demand for ex-offenders vary over time or with the business cycle?

Regardless of whether employers check backgrounds, the data presented above indicate relatively limited demand by employers for ex-offenders. However, given that these data are based on surveys administered during a period of relatively slack labor markets earlier in the decade (1992-94), the figures presented above may substantially understate this component of labor demand. It is widely known that tight labor markets tend to disproportionately increase

demand for less-skilled and disadvantaged workers (Hoynes 2000), and that African Americans benefited particularly from the recent boom (Freeman and Rodgers 2000). It is also quite possible that any improvements in demand that initially result from cyclical factors could generate secular changes in employer behavior. For example, employer attitudes and hiring behavior may adjust with experience in a manner that reduces the stigma attached to a prior conviction.¹³

Thus, the timing of the survey used to generate the results presented above begs the question of whether such demand has improved over time, particularly given the dramatic tightening of U.S. labor markets that occurred over the remainder of the 1990s.¹⁴ To shed some light on this question, we turn to an additional source of data: a more recent set of surveys that were administered to roughly 3000 employers by phone in several metropolitan areas during the period 1998-99. The metro areas in which the latter surveys were administered are Chicago, Cleveland, Los Angeles, and Milwaukee.¹⁵

A certain amount of overlap exists in the questions asked on each survey. Hence, we can make some limited inferences about changes over time in employer demand for ex-offenders and responsiveness of such demand to business cycle conditions. Specifically, the latter survey contains the same questions as the early survey concerning willingness to hire ex-offenders and other stigmatized workers into the last non-college job that was filled.¹⁶ This more recent survey

¹³ For instance, the labor market gains experienced by blacks during World War II and the late 1960s did not dissipate with the passing of those boom periods, and their entry into new sectors of the economy and the labor force was not reversed after those periods.

¹⁴ Unemployment rates nationally averaged about 7 percent during the period in which the survey was administered, and even a bit higher in the four metropolitan areas considered here. In contrast, unemployment rates averaged about 4 percent by the last few years of the decade.

¹⁵ For more information about the latter survey see Holzer and Stoll (2001). The focus of the latter survey was employer demand for welfare recipients. However, a shortened section of the survey focused on the last worker hired in the firm into a non-college job, with comparable questions to those asked in 1992-94.

¹⁶ Unfortunately, the questions on whether or not employers are checking criminal backgrounds were not included for most recently filled jobs on the more recent survey.

also includes some additional questions on current willingness to hire ex-offenders. Specifically, employers were asked whether they would be willing to hire any ex-offenders at the current time, and if so how many they would hire.

Tabulations using these data are presented in Table 6. The upper portion of the table presents the percentages of employers in both surveys who answered that they would “definitely” or “probably” have hired persons with criminal backgrounds into their *last filled* non-college job. The data are presented for the overall sample of establishments and also for sub-samples by metropolitan area (Milwaukee v. other) and by selected industries. The lower portion of the table then presents data from the more recent survey only on *current* willingness to hire ex-offenders. The table presents the percent of employers who indicated they would hire ex-offenders currently as well as the percentages of all jobs in the sample establishments that could potentially be filled with ex-offenders. Tabulations are presented for the total sample of establishments and the same sub-samples that are used in the upper portion of the table.

The comparison of results from the two surveys indicates a small increase between 1992-94 and 1998-99 in the proportion of all employers willing to hire ex-offenders, from 38 to 41 percent. However, all of the increase is accounted for by the relatively greater willingness of employers in Milwaukee to hire ex-offenders (49 percent). By industry, we find some substantial increases in the willingness of retail trade establishments to hire ex-offenders, and much smaller changes within the manufacturing and service sectors, though the relative rankings of industries in terms of willingness to hire ex-offenders does not change.

How should we interpret these numbers? The relatively greater willingness of employers in Milwaukee to hire ex-offenders no doubt at least partly reflects the very tight labor market

conditions of Wisconsin in the late 1990's, though other factors might also be at play here.¹⁷ The tightening of labor markets in other areas should have led to at least some improvements in demand for ex-offenders as well. However, the characteristics of firms and jobs in our samples of employers changed across the two surveys in a manner that is likely to partially offset any increases in demand for ex-offenders caused by the business cycle.¹⁸ Moreover, since labor markets nationwide continued to be very tight at least through the end of the year 2000, it is also possible that our data (which reflect the period only through early 1999) do not fully capture the extent of rising demand for ex-offenders during this time period.¹⁹

Some additional light is shed on this issue by the data on current willingness to hire ex-offenders from the 1998-99 survey. Overall, just under 20 percent of employers expressed a willingness to currently hire ex-offenders, and 1.4 percent of all jobs in their establishments would be available. Once again, those in Milwaukee are more willing to hire ex-offenders than those elsewhere, though the distinction is much clearer among proportions of employers than among proportions of all jobs open. By industry, however, we now find a relatively greater current availability of jobs to ex-offenders in retail trade than in manufacturing or the services. This pattern is consistent with the much higher rates of gross hiring and job vacancies in the former sector.²⁰

¹⁷ Unemployment rates in Wisconsin averaged just about 3 percent over much of the decade, reflecting one of the tightest state labor markets of that period. But the greater willingness to hire ex-offenders in Milwaukee could also reflect other factors, such as a more tolerant political climate or greater efforts by state agencies to place disadvantaged workers into the labor market.

¹⁸ For instance, the proportions of employers in manufacturing and retail trade were roughly 0.22 and 0.17 in 1992-94 but 0.18 and 0.22 in 1998-99. Proportions of jobs requiring direct customer contact rose as well. Some of this may reflect changes in the metropolitan areas sampled between our two surveys as well as secular changes over time in firm and job composition.

¹⁹ If ex-offenders are the last group whom employers are willing to hire, the demand for them might well reflect not only the level of labor market tightness but also the period of time during which such tightness was experienced. Indeed, it appeared as though various employer organizations and those that work with them, such as the Welfare to Work Partnership, began to focus their efforts on the placements of ex-offenders only towards the end of this period.

²⁰ For instance, the mean job vacancy rates in manufacturing, retail trade and services in the 1998-99 data are 0.029, 0.056 and 0.065 respectively.

Indeed, the data on the current willingness of employers to hire ex-offenders suggests a somewhat greater sensitivity to demand conditions than we saw in the earlier measure of employer demand based on the last filled job. This seems to largely reflect differences in the sampling used to generate each. Since each establishment in the sample reports one recently filled non-college job, that measure is based on a sample of employers weighted only by their number of employees.²¹ In contrast, current job availability measures differences across these establishments in hiring and job vacancy rates as well. The latter measure may thus be better suited than the former for evaluating the effects of demand conditions on employer hiring of ex-offenders and other groups. The latter measure also more accurately captures the shift in hiring towards retail trade and services that may impede the demand for ex-offenders (and other less-skilled workers) over time.

Taken together, the data available do suggest that employer willingness to hire ex-offenders is at least partly responsive to business cycle conditions, and did increase somewhat over the course of the 1990's. However, the magnitudes of these increases were modest at best, and employer demand for ex-offenders remained quite limited even in the boom conditions that existed at the end of the decade.

D. Prisoners, Ex-Offenders, and Potential Supply to the Labor Market

The relatively limited employer demand for ex-offenders that exists even in very tight labor markets raises another set of questions. Is such demand sufficient, at least in the short-run, to absorb the numbers of offenders that are being released from prison? Moreover, who among the population of individuals who are either currently or previously incarcerated might contribute (at least potentially) to the supply of ex-offender seeking legitimate employment in the labor

²¹ The stratification of the sample by establishment size and the over-sampling of larger firms (in proportion with the percent of employment at such firms) implicitly weights the sample by establishment size.

market?

Some data on the numbers of currently incarcerated prisoners, ex-prisoners and ex-felons appear in Table 7. The data are for the year 1999, to facilitate comparisons with the demand-side data for 1998-99 in the previous table. The current inmate populations of federal/state prisons as well as the jail population are presented here. For the latter, the table presents figures for both total jail inmates and the subset of jail inmates who have been convicted of felonies.²² The numbers of prisoners currently on parole as well as the number of convicted felons on probation are also presented. The table also presents the flow of prisoners released during 1999 and estimates of the total current stock of ex-prisoners and convicted ex-felons.²³

In addition to the raw numbers in each category, we also present percentages of the civilian labor force in 1999 that each number would constitute. These can then be compared to the percentages of all jobs available to ex-offenders on the demand side of the labor market that appear in the previous table.

The data in Table 7 indicate that there are currently close to 2 million individuals incarcerated in prisons and jails in the U.S., of whom about 1.4 million are convicted felons. Including those on parole and felony probation would add roughly 2.7 million more to those counts. The total stock of ex-prisoners and ex-felons are estimated to be close to 3 million and 9 million respectively. If the numbers of current parolees and felons on probation are added to the latter figures, the result would be nearly 6 million ex-prisoners and nearly 12 million ex-felons at

²² Felons with sentences of a year or longer sometimes serve part or all of their sentences in county jails due to overcrowding in state prisons.

²³ The total numbers of ex-prisoners and ex-felons are drawn from Uggen and Manza (2001). Their measure of prisoners includes those who have been in prison or on parole while their measure of felons includes prisoners plus those on felony probation and those convicted of felonies in jail. However, the ex-prisoner and ex-felon measures do not include those currently on parole or felony probation. They estimate these numbers based on annual flows of prisoners released from jail over time, along with assumptions of recidivism and mortality rates by race among those released. Their estimates are for the years 1998 and 2000, so we interpolate their numbers to obtain estimates for 1999.

least potentially available in the labor market.²⁴ In addition, the data indicate an annual flow of roughly 600,000 from prison each year. Combining annual flows of new parolees and those on felony probation with those of released prisoners generates as many as 2 million individuals added to the potential labor force each year.²⁵

As percentages of the civilian labor force, these numbers are quite striking. For instance, those currently incarcerated represent 1 percent or more of the labor force. The totals currently on parole or felony probation together constitute nearly 2 percent of the labor force, while the total stock of ex-prisoners and ex-felons represent over 2 percent and 6 percent respectively. When those on parole or felony probation are combined with the overall stock of ex-prisoners and ex-felons, the totals constitute about 4 or 8 percent of the civilian labor force respectively. Considering annual flows out of prison rather than stocks, we find that the flow of new prisoners constitutes just 0.4 percent of the labor force each year; but when combined with the flow of new parolees and felons on probation, they generate estimates of well over 1 percent of the labor force being released each year.

How can we compare these estimates to those of jobs that employers would fill with ex-offenders? Combining ex-prisoners or ex-felons with those currently on parole or probation, and remembering that many ex-prisoners and ex-felons are already likely working, we estimate that the total stock of nonemployed ex-felons at any point in time might be 4-6 million, or 3-4 percent of the labor force; while that of ex-prisoners might be 2-3 million, or 1.5-2 percent of the labor force.²⁶ At least the latter figures (i.e., those for ex-prisoners) do not suggest a huge imbalance

²⁴ It is not completely clear whether employers are as adverse to hiring convicted felons who have not been incarcerated as they are to hiring those that have been incarcerated. For some evidence on this matter see Freeman (1992).

²⁵ This last estimate is based on the assumption that at least half of individuals on parole or probation represent new flows within any year. We thank Chris Uggen for providing us with some estimates to this effect.

²⁶ These estimates assume employment rates for ex-offenders of 0.50-0.66. Estimated employment rates based on the National Longitudinal Survey of Youth from the 1980's (see Freeman 1992) are closer to the higher end of this

between the potential labor supply from ex-offenders and the aggregate job availability they might face (at 1.4 percent of all jobs), though the former figures (i.e., those for ex-felons) are somewhat less reassuring.

Alternative approaches might consider annual labor market flows on the two sides of the market. A net new flow of ex-prisoners to the labor market of over 1 percent per year for each of the next several years almost certainly exceeds the average net flow of new jobs available to them, which by our estimates would be about 0.6 percent per year.²⁷ On the other hand, relative to the gross flow of new hiring (which reflects hiring generated by turnover as well as net new job growth), a great deal more employment might be potentially available - along with a good deal more competition from other low-skilled workers in the workforce.

Of course, any such exercise in which quantities on the supply and demand sides of the labor market are compared is suggestive at best and based on many strong assumptions.²⁸ Even in the very short-run, the magnitudes of any potential “mismatches” in the labor market will be sensitive to factors such as the numbers of ex-felons or ex-prisoners who would actually be seeking work; the extent to which employer aversion to hiring them varies with whether they were incarcerated, the number and nature of their offenses, their experiences since conviction or incarceration; etc. Furthermore, new supplies of workers over time will help generate new jobs, as wage rates adjust in response to the growing supplies of workers. Indeed, estimates of the ability of labor markets to absorb an additional 3 million welfare recipients before the fact of their entry were frequently too pessimistic (Burtless 2000), and ignored the dynamic nature of

range, while employment rates of male high school dropouts currently are closer to the lower end. Estimates of pre-incarceration employment rates for inmates of federal prisons presented in Kling (2000) are at the low end of this range.

²⁷ Roughly 1.4 percent annual growth in employment is projected by the Bureau of Labor Statistics for the next decade, and our estimates suggest that employers would fill about 40 percent of these jobs with ex-offenders.

²⁸ For another such exercise in which the hypothetical quantities of less-skilled labor demanded and supplied are matched to each other, see Holzer and Danziger (2000).

that market (as well as the extraordinary labor market tightness that existed during that time).

On the other hand, the data in our surveys indicate a much greater reluctance of employers to hire ex-offenders than welfare recipients (as we noted above). Furthermore, it seems as though the labor market that the former will enter during the next few years will be much less tight than it was during most of the previous decade, while the flow of new ex-offenders will remain quite large. Also, that flow is highly concentrated in poor minority neighborhoods and among minority (especially African-American) men, so that even an aggregate balance of potential supply and demand in the short-run may overstate the true availability of jobs facing these ex-offenders. And, of course, the very limited skills and work readiness of this population means that even jobs that are potentially available may be out of reach for a large part of this population (Travis *et. al.* 2001).

In sum, there may or may not be an aggregate imbalance between the numbers of ex-offenders returning to neighborhoods and jobs potentially available to them. But, given their personal characteristics and their concentration in poor neighborhoods and minority groups, it is likely that job availability facing this group will be quite limited.

5. Conclusion

In this paper, we analyze employer demand for ex-offenders. We use data from a recent survey of employers to analyze not only employer preferences for offenders, but also the extent to which they check criminal backgrounds in the presence of very imperfect information about the job applicants whom they consider. We investigate the firm and job characteristics that correlate with these measures of employer demand. We also consider the extent to which such demand changed during the 1990's, in response to tighter labor market conditions, using data

from surveys administered at different points in time. Finally, we consider the quantities of demand for ex-offenders relative to their supply, based on a variety of estimates of total stocks and annual flows of offenders back to the civilian population.

Our data indicate a number of important findings. Employer willingness to hire ex-offenders is very limited, even relative to other groups of disadvantaged workers (such as welfare recipients). Employer willingness to hire is highly correlated with establishment and job characteristics, and is much lower in financial or service jobs and in those involving a variety of tasks, particularly direct customer contact, than elsewhere. Employer tendencies to check criminal backgrounds also vary greatly with characteristics of the establishment such as its size, which presumably reflects both the resources and expertise available for human resource functions.

The fact that many smaller firms refuse to hire ex-offenders but also do not check criminal backgrounds suggests that they may engage in statistical discrimination against a broader range of applicants, such as less-educated young black men. Paradoxically, efforts to make background checks easier for employers to perform and less costly might therefore improve job prospects for these latter groups, even while they weaken them for those who actually have criminal backgrounds.

Our comparisons of employer data at different points in the 1990's suggest some sensitivity to demand conditions and some very modest improvements in demand for ex-offenders over the decade, though these were to some extent offset by a continuing shift in employment away from manufacturing towards the retail trade and service sectors and towards jobs with direct customer contact. Comparisons between our estimated quantities of labor demand for v. supply of ex-offenders also suggest that there may be some imbalance between the

two, particularly as large numbers of offenders continue to be released over the coming decade and are heavily concentrated in poor minority communities.

A good deal more research is needed to understand more about employer demand for ex-offenders. For instance, to what extent do employers distinguish between those convicted and incarcerated? How important are the nature and quantities of the offenses, as well as when they occurred and offender records since then? Are employers engaging in more criminal background checks over time, and how does this affect demand for offenders as well as other disadvantaged groups more broadly? In the meantime, we can say with some certainty that employer demand limits the job prospects facing ex-offenders in the labor market, in addition to the many other disadvantages and difficulties that they face.

References

- Burtless, Gary. (2000). "Can the Labor Market Absorb Three Million Welfare Recipients?" In Kelleen Kaye and Demetra Smith Nightingale eds. *The Low-Wage Labor Market: Challenges and Opportunities for Economic Self-Sufficiency*. Washington D.C.: Urban Institute Press.
- Bushway, Shawn D. (1996), "Labor Market Effects of Permitting Employer Access to Criminal History Records," Working Paper, University of Maryland.
- Connerley, Mary L., Richard D. Arvey, Charles J. Bernardy (2001), "Criminal Background Checks for Prospective and Current Employees: Current Practices Among Municipal Agencies," *Public Personnel Management*, 20 (2): 173-183.
- Craig, Scott R. (1987). "Negligent Hiring: Guilt by Association," *Personnel Administrator*, October 32-34.
- Extejt, M. M., and W. N. Bockanic (1991), "Issues Surrounding the Theories of Negligent Hiring and Failure to Fire," *Business & Professional Ethnicities Journal*, 8 (4): 21-33.
- Freeman, Richard (1992), "Crime and the Employment of Disadvantaged Youth," in Peterson, George and Wayne Vroman (eds.) *Urban Labor Markets and Job Opportunity*, Urban Institute: Washington D.C., pp. 171-192.
- Freeman, Richard and William M. Rodgers III. 2000. "Area Economic Conditions and the Labor Market Outcomes of Young Men in the 1990's Expansion," in Robert Cherry and William M. Rodgers III (eds.) *Prosperity for All? The Economic Boom and African Americans*, New York: Russell Sage Foundation, pp: 50-87.
- Glynn, T. P. (1988), "The Limited Viability of Negligent Supervision, Retention, Hiring, and Infliction of emotional Distress Claims in Employment Discrimination Cases in Minnesota," 24 *William Mitchell Law Review*, 581.
- Grogger, Jeffrey (1995), "The Effects of Arrest on the Employment and Earnings of Young Men," *Quarterly Journal of Economics*, 110 (1): 51-71.
- Hahn, JM (1991), "Pre-Employment Information Services: Employers Beware," *Employee Relations Law Journal*, 17(1): 45-69.
- Holzer, Harry J. (1996), *What Employers Want: Job Prospects for Less Educated Workers*, Russell Sage Foundation: New York.
- Holzer, Harry J. and Sheldon Danziger. (2000) "Are Jobs Available for Disadvantaged Workers in Urban Areas?" In A. O'Connor, L. Bobo and C. Tilly eds. *Urban Inequality*. New York: Russell Sage Foundation.

- Holzer, Harry J. and Keith R. Ihlanfeldt. (1996) "Spatial Factors and the Employment of Blacks at the Firm Level," *New England Economic Review: Federal Reserve Bank of Boston*, May/June: 65-68.
- Holzer, Harry J. and Michael A. Stoll (2001). *Employers and Welfare Recipients: The Effects of Welfare Reform in the Workplace*. San Francisco: Public Policy Institute of California.
- Hoynes, Hilary (2000). "The Employment, Earnings and Income of Less-Skilled Workers Over the Business Cycle." In D. Card and R. Blank eds. *Finding Jobs: Work and Welfare Reform*. New York: Russell Sage Foundation.
- Ihlanfeldt, Keith R. and Madelyn V. Young (1996), "The Spatial Distribution of Black Employment Between the Central City and the Suburbs," *Economic Inquiry*, 34: 693-707.
- Jensen, Jr., Walter, and William C. Giegold (1976), "Finding Jobs for Ex-Offenders: A Study of Employers' Attitudes," *American Business Law Journal*, 14 (2): 195-225.
- Kling, Jeffrey (1995), "High Performance Workplaces," *Monthly Labor Review*, August.
- Kling, Jeffrey (2000), "The Effect of Prison Sentence Length on the Subsequent Employment and Earnings of Criminal Defendant," Woodrow Wilson School Economics Discussion Paper 208, February.
- Moss, Phillip, and Chris Tilly (2000) *Stories Employers Tell: Race, Skill and Hiring in America*, New York, NY: Russell Sage Foundation.
- Raphael, Steven; Stoll, Michael A. and Harry J. Holzer (2000), "Are Suburban Firms More Likely to Discriminate Against African-Americans?" *Journal of Urban Economics*, 48: 485-508.
- Stoll, Michael A., Harry J. Holzer, and Keith R. Ihlanfeldt (2000), "Within Cities and Suburbs: Racial Residential Concentration and the Spatial Distribution of Employment Opportunities Across Sub-Metropolitan Areas," *Journal of Policy Analysis and Management* 19(2): 207-232.
- Travis, Jeremy; Amy Solomon and Michelle Waul. (2001), *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*. Washington D. C.: Urban Institute Press.
- Uggen, Christopher, and Jeff Manza, (2001), "The Political Consequences of Felon Disenfranchisement Laws in the United States," Paper presented at the 2001 American Sociological Association Meetings, Anaheim, CA.
- U.S. Bureau of Justice Statistics (1997), "Lifetime Likelihood of Going to State or Federal Prison," Bureau of Justice Statistics Special Report, NCJ-160092.

U.S. Department of Justice (1999), *Compendium of State Privacy and Security Legislation: 1999 Overview*, Washington, D.C.

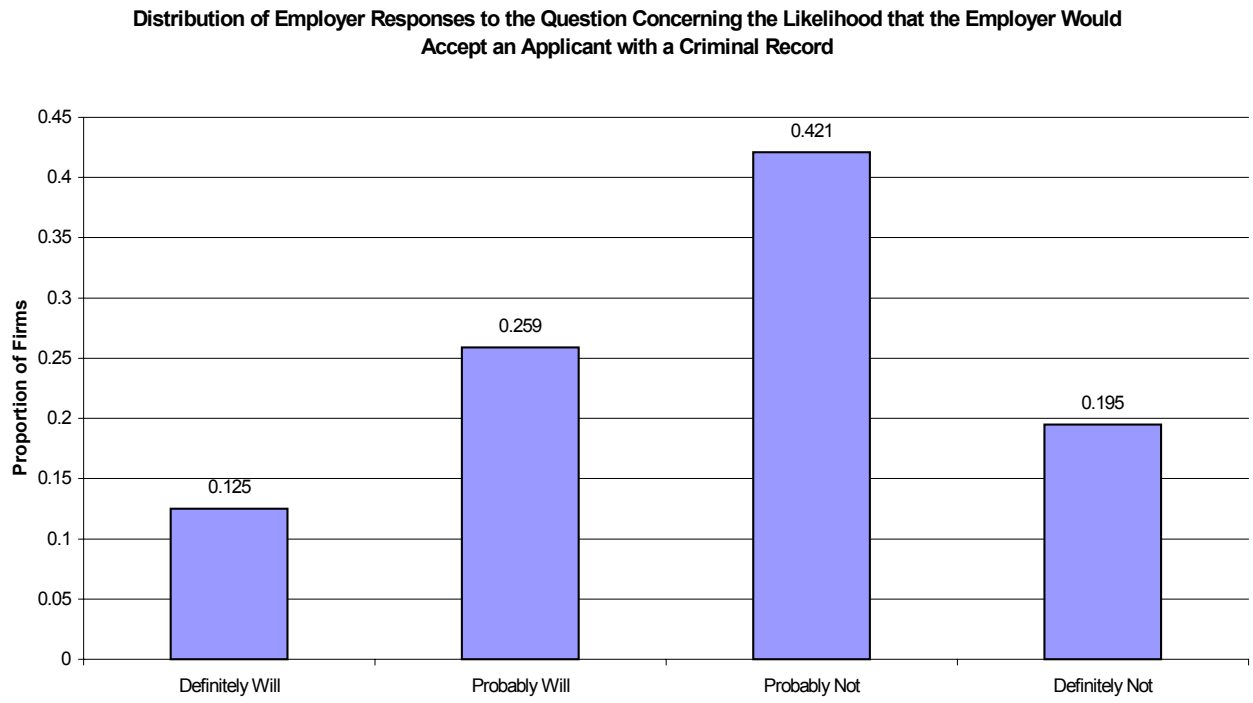
Figure 1

Figure 2

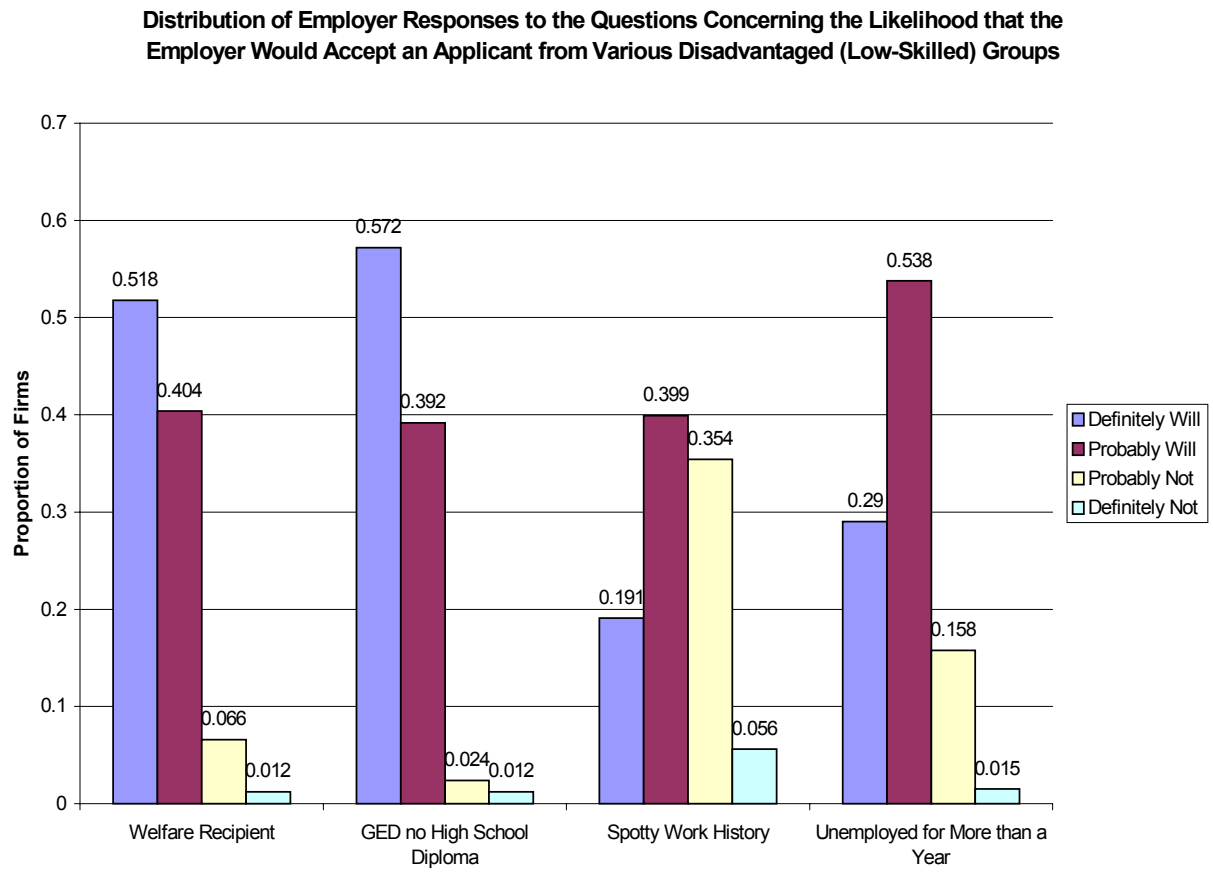


Figure 3

Distribution of Employer Responses to the Question Concerning the Likelihood that the Employer Would Accept an Applicant with a Criminal Record, by Metropolitan Area

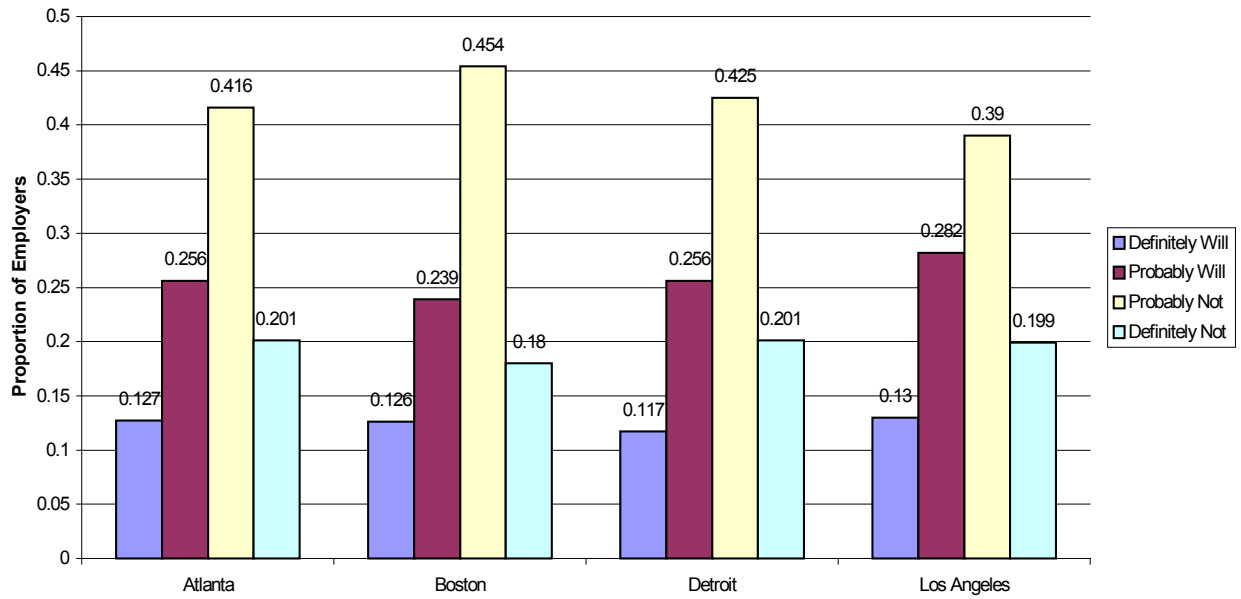


Figure 4

Employer Responses to the Question Concerning the Frequency with Which the Employer Checks the Criminal Backgrounds of Job Applicants

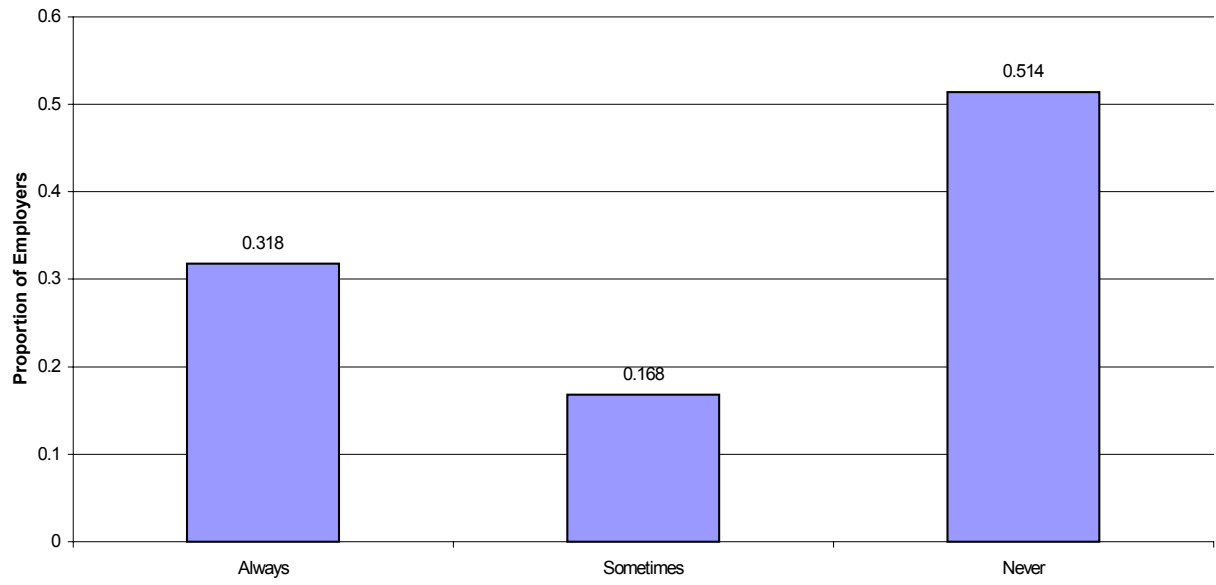


Figure 5

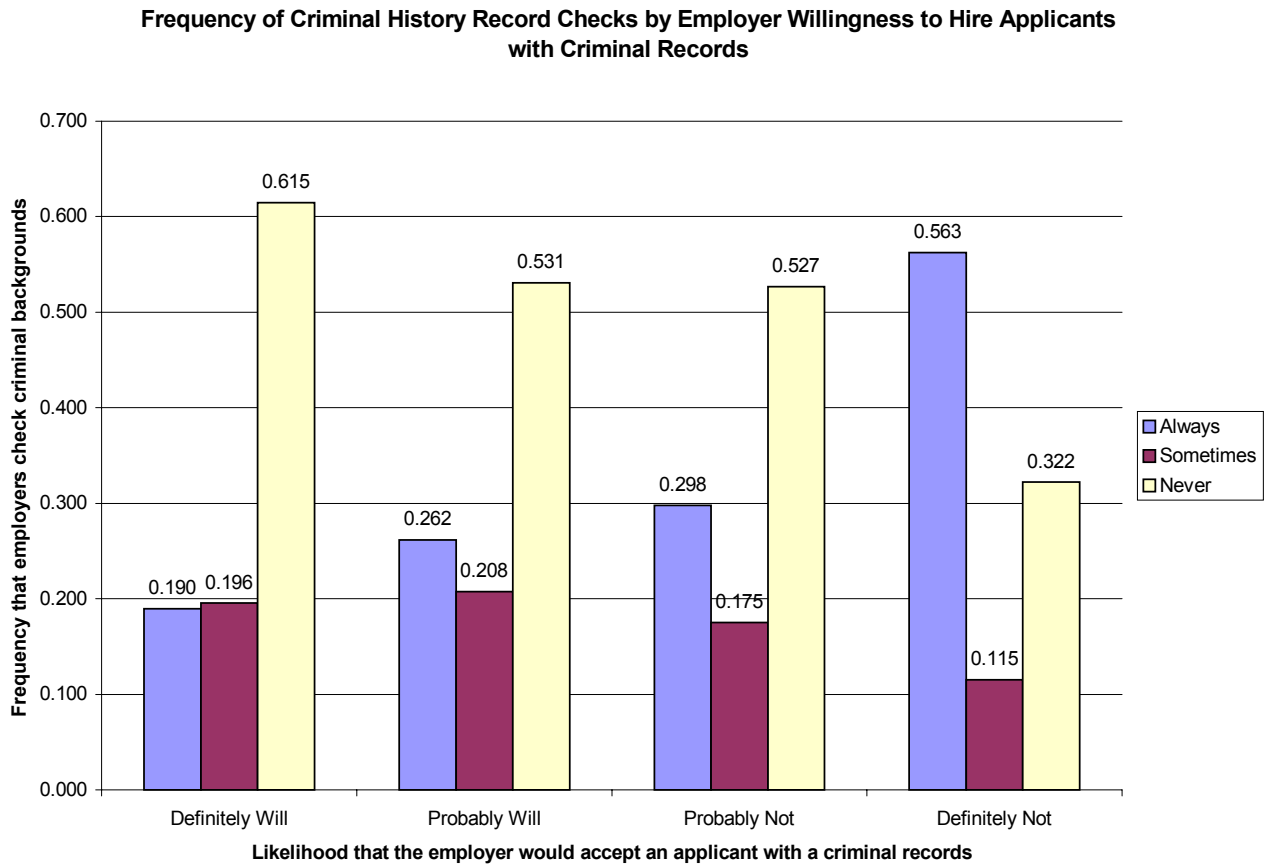


Figure 6

Employer Responses to the Question Concerning the Frequency with Which Checks the Criminal Backgrounds of Applicants, by Metropolitan Area

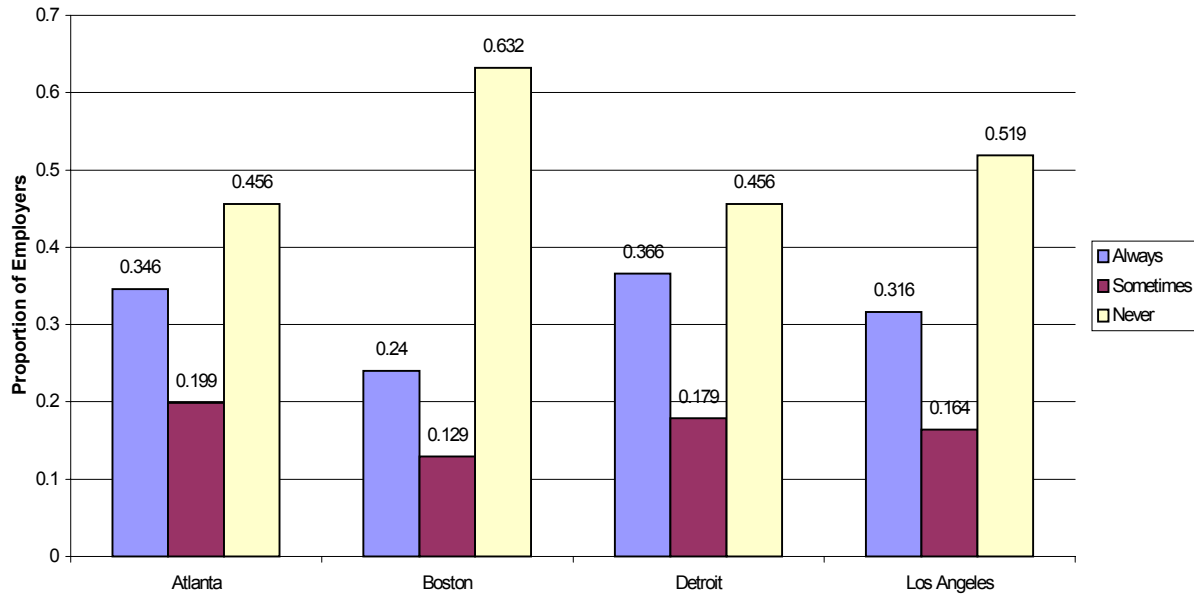


Table 1
Offender and Recent Ex-Offender Populations for Selected States
(1992-94)

| | Georgia | Massachusetts | Michigan | California |
|---|-----------|---------------|-----------|------------|
| Population ^a | 6,759,474 | 5,993,474 | 9,528,015 | 31,113,435 |
| Incarcerated Population ^b (State and Federal) | 28,832 | 10,525 | 39,687 | 118,513 |
| Released Prisoners Annually ^b (State and Federal) | 12,554 | 4,698 | 11,564 | 89,693 |
| On Probation ^b | 146,359 | 47,379 | 139,135 | 293,645 |
| On Parole ^b | 20,438 | 4,590 | 13,432 | 84,550 |
| Recent Ex-Offender Population ^c | 179,351 | 56,667 | 164,071 | 467,888 |
| Incarceration Rate per 100,000 | 427 | 176 | 417 | 381 |
| Recently Released Prisoners per 100,000 | 186 | 78 | 121 | 288 |
| Recent Ex-Offenders per 100,000 | 2,653 | 945 | 1,722 | 1,504 |

Notes: All figures presented here are based on averages using 1992 to 1994 data.

^aU.S. Census, for relevant years.

^bU.S. Bureau of Justice Statistics, for relevant years.

^cThe recent ex-offender population is the addition of the annual released prisoner, probation, and parole populations.

Table 2
Establishment Characteristics by Employer Self-Reported Likelihood of Hiring Applicants with Criminal Backgrounds

| | Definitely Will | Probably Will | Probably Not | Definitely Not |
|---|-----------------|---------------|--------------|----------------|
| Size, Industry, Spatial Location, and Race of hiring Agent | | | | |
| Size | | | | |
| < 20 employees | 0.26 | 0.31 | 0.37 | 0.36 |
| 20-99 employees | 0.29 | 0.33 | 0.32 | 0.33 |
| 100-499 employees | 0.31 | 0.27 | 0.23 | 0.20 |
| 500-999 employees | 0.06 | 0.04 | 0.04 | 0.03 |
| 1000+ employees | 0.08 | 0.05 | 0.04 | 0.07 |
| Industry | | | | |
| Mining | 0.00 | 0.00 | 0.00 | 0.00 |
| Construction | 0.02 | 0.03 | 0.03 | 0.01 |
| Manufacturing | 0.32 | 0.29 | 0.18 | 0.12 |
| TCU | 0.05 | 0.05 | 0.06 | 0.06 |
| Wholesale Trade | 0.05 | 0.10 | 0.09 | 0.04 |
| Retail Trade | 0.20 | 0.15 | 0.19 | 0.17 |
| FIRE | 0.02 | 0.05 | 0.11 | 0.16 |
| Services | 0.30 | 0.31 | 0.32 | 0.36 |
| %Union | 15.94 | 13.17 | 12.48 | 17.67 |
| Central City | 0.33 | 0.27 | 0.27 | 0.28 |
| Black Hiring Agent | 0.05 | 0.07 | 0.06 | 0.06 |
| Distance Black | 17.35 | 17.97 | 17.80 | 17.19 |
| Distance White | 22.57 | 22.63 | 22.58 | 22.26 |
| Recruitment Methods Used | | | | |
| Help Wanted Signs | 0.31 | 0.28 | 0.24 | 0.27 |
| Newspaper Ads | 0.45 | 0.46 | 0.48 | 0.50 |
| Walk-ins | 0.78 | 0.74 | 0.67 | 0.66 |
| Referrals from | | | | |
| Current Employees | 0.84 | 0.84 | 0.83 | 0.81 |
| State Agency | 0.46 | 0.40 | 0.31 | 0.30 |
| Private Agency | 0.23 | 0.21 | 0.21 | 0.17 |
| Community Agency | 0.33 | 0.26 | 0.24 | 0.25 |
| School | 0.40 | 0.34 | 0.34 | 0.38 |
| Union | 0.08 | 0.06 | 0.06 | 0.06 |
| Uses affirmative action to Recruit | 0.61 | 0.55 | 0.50 | 0.56 |

Screening Methods

| | | | | |
|-------------------------|------|------|------|------|
| Drug Test/Physical Exam | 0.20 | 0.15 | 0.15 | 0.19 |
| Aptitude Test | 0.09 | 0.09 | 0.14 | 0.14 |
| Knowledge Test | 0.16 | 0.17 | 0.16 | 0.15 |
| Personality Test | 0.03 | 0.05 | 0.07 | 0.09 |
| Background Checks | | | | |
| Criminal Background | 0.39 | 0.45 | 0.47 | 0.67 |
| Education | 0.66 | 0.69 | 0.68 | 0.70 |
| References | 0.92 | 0.95 | 0.96 | 0.97 |

Daily Job Tasks

| | | | | |
|---------------------|------|------|------|------|
| Customer Contact | 0.52 | 0.49 | 0.60 | 0.71 |
| Phone Conversations | 0.48 | 0.49 | 0.55 | 0.55 |
| Reading | 0.53 | 0.56 | 0.52 | 0.58 |
| Writing | 0.28 | 0.29 | 0.30 | 0.34 |
| Math/computations | 0.63 | 0.66 | 0.67 | 0.64 |
| Computer Work | 0.48 | 0.47 | 0.54 | 0.51 |

Job Qualifications

| | | | | |
|------------------------|------|------|------|------|
| High School Diploma | 0.57 | 0.68 | 0.74 | 0.79 |
| Recent Work Experience | 0.63 | 0.68 | 0.70 | 0.69 |
| Specific Experience | 0.55 | 0.60 | 0.60 | 0.62 |
| References | 0.69 | 0.67 | 0.74 | 0.78 |
| Vocational Education | 0.34 | 0.40 | 0.38 | 0.39 |

Very Important**Requirement of New****Employees**

| | | | | |
|-----------------------|------|------|------|------|
| Physically Attractive | 0.09 | 0.10 | 0.11 | 0.17 |
| Physical Neatness | 0.44 | 0.45 | 0.56 | 0.62 |
| Polite | 0.71 | 0.70 | 0.80 | 0.83 |
| Verbal Skills | 0.54 | 0.54 | 0.64 | 0.72 |
| Motivation | 0.71 | 0.70 | 0.76 | 0.76 |
| Speaks English | 0.44 | 0.47 | 0.59 | 0.65 |

**Type of Applicants that
Would Probably Not Be
Hired**

| | | | | |
|-----------------------|------|------|------|------|
| On Welfare | 0.01 | 0.04 | 0.10 | 0.18 |
| With GED | 0.01 | 0.02 | 0.03 | 0.11 |
| Spotty Work History | 0.21 | 0.36 | 0.51 | 0.46 |
| Unemployed for a Year | 0.06 | 0.13 | 0.21 | 0.26 |

All figures use sample weights.

Table 3
Establishment Characteristics by the Frequency with Which Employers Check the Criminal
Backgrounds of Applicants

| | Always | Sometimes | Never |
|---|--------|-----------|-------|
| Size, Industry, Spatial Location, and Race of hiring Agent | | | |
| Size | | | |
| < 20 employees | 0.24 | 0.28 | 0.38 |
| 20-99 employees | 0.31 | 0.31 | 0.32 |
| 100-499 employees | 0.28 | 0.27 | 0.24 |
| 500-999 employees | 0.08 | 0.06 | 0.03 |
| 1000+ employees | 0.10 | 0.09 | 0.04 |
| Industry | | | |
| Mining | 0.00 | 0.00 | 0.00 |
| Construction | 0.02 | 0.03 | 0.02 |
| Manufacturing | 0.10 | 0.20 | 0.27 |
| TCU | 0.08 | 0.04 | 0.05 |
| Wholesale Trade | 0.04 | 0.10 | 0.09 |
| Retail Trade | 0.15 | 0.19 | 0.17 |
| FIRE | 0.14 | 0.08 | 0.06 |
| Services | 0.40 | 0.34 | 0.33 |
| %Union | 23.65 | 13.23 | 11.23 |
| Central City | 0.28 | 0.31 | 0.26 |
| Black Hiring Agent | 0.09 | 0.07 | 0.04 |
| Distance Black | 17.36 | 17.59 | 17.78 |
| Distance White | 22.42 | 22.55 | 22.42 |
| Recruitment Methods Used | | | |
| Help Wanted Signs | 0.29 | 0.30 | 0.23 |
| Newspaper Ads | 0.51 | 0.50 | 0.46 |
| Walk-ins | 0.72 | 0.73 | 0.66 |
| Referrals from | | | |
| Current Employees | 0.85 | 0.85 | 0.80 |
| State Agency | 0.40 | 0.40 | 0.29 |
| Private Agency | 0.22 | 0.23 | 0.20 |
| Community Agency | 0.32 | 0.30 | 0.22 |
| School | 0.47 | 0.35 | 0.32 |
| Union | 0.10 | 0.08 | 0.04 |
| Uses affirmative action to Recruit | 0.69 | 0.57 | 0.48 |

Screening Methods

| | | | |
|------------------------|------|------|------|
| Drug Test/PhysicalExam | 0.24 | 0.18 | 0.11 |
| Aptitude Test | 0.15 | 0.13 | 0.10 |
| Knowledge Test | 0.18 | 0.18 | 0.15 |
| Personality Test | 0.09 | 0.05 | 0.06 |
| Background Checks | | | |
| Criminal Background | 1.00 | 1.00 | 0.00 |
| Education | 0.83 | 0.83 | 0.58 |
| References | 0.98 | 0.98 | 0.93 |

Daily Job Tasks

| | | | |
|---------------------|------|------|------|
| Customer Contact | 0.69 | 0.62 | 0.52 |
| Phone Conversations | 0.55 | 0.54 | 0.54 |
| Reading | 0.62 | 0.56 | 0.54 |
| Writing | 0.38 | 0.29 | 0.34 |
| Math/computations | 0.65 | 0.62 | 0.68 |
| Computer Work | 0.54 | 0.52 | 0.54 |

Job Qualifications

| | | | |
|------------------------|------|------|------|
| High School Diploma | 0.76 | 0.74 | 0.68 |
| Recent Work Experience | 0.70 | 0.72 | 0.69 |
| Specific Experience | 0.63 | 0.60 | 0.63 |
| References | 0.80 | 0.75 | 0.69 |
| Vocational Education | 0.40 | 0.42 | 0.39 |

**Very Important Requirement of
New Employees**

| | | | |
|-----------------------|------|------|------|
| Physically Attractive | 0.14 | 0.10 | 0.10 |
| Physical Neatness | 0.55 | 0.54 | 0.52 |
| Polite | 0.81 | 0.74 | 0.77 |
| Verbal Skills | 0.70 | 0.56 | 0.63 |
| Motivation | 0.76 | 0.73 | 0.76 |
| Speaks English | 0.60 | 0.53 | 0.56 |

**Type of Applicants that Would
Probably Not Be Hired**

| | | | |
|-----------------------|------|------|------|
| On Welfare | 0.09 | 0.07 | 0.09 |
| With GED | 0.04 | 0.02 | 0.04 |
| Spotty Work History | 0.40 | 0.41 | 0.43 |
| Unemployed for a Year | 0.15 | 0.16 | 0.20 |

All figures use the sample weights.

Table 4
Establishment Characteristics by Employer Self-Reported Likelihood of Hiring Applicants with Criminal Backgrounds Crossed with Whether the Employer Checks the Criminal Backgrounds of Job Applicants

| | Willing to Hire, Doesn't Check | Willing to Hire, Checks | Not Willing to Hire, Doesn't Check | Not Willing to Hire, Checks |
|---|-----------------------------------|----------------------------|--|--------------------------------|
| Size, Industry, Spatial Location, and Race of hiring Agent | | | | |
| Size | | | | |
| < 20 employees | 0.33 | 0.24 | 0.45 | 0.29 |
| 20-99 employees | 0.33 | 0.31 | 0.33 | 0.32 |
| 100-499 employees | 0.29 | 0.27 | 0.18 | 0.27 |
| 500-999 employees | 0.03 | 0.07 | 0.02 | 0.06 |
| 1000+ employees | 0.03 | 0.11 | 0.02 | 0.07 |
| Industry | | | | |
| Mining | 0.00 | 0.00 | 0.00 | 0.00 |
| Construction | 0.03 | 0.03 | 0.02 | 0.02 |
| Manufacturing | 0.38 | 0.19 | 0.22 | 0.11 |
| TCU | 0.04 | 0.07 | 0.05 | 0.07 |
| Wholesale Trade | 0.08 | 0.08 | 0.10 | 0.05 |
| Retail Trade | 0.16 | 0.18 | 0.20 | 0.17 |
| FIRE | 0.04 | 0.04 | 0.09 | 0.16 |
| Services | 0.26 | 0.36 | 0.30 | 0.36 |
| %Union | 11.99 | 17.28 | 8.22 | 19.59 |
| Central City | 0.26 | 0.32 | 0.28 | 0.27 |
| Black Hiring Agent | 0.05 | 0.08 | 0.03 | 0.07 |
| Distance Black | 18.21 | 17.22 | 17.82 | 17.45 |
| Distance White | 22.89 | 22.26 | 22.35 | 22.60 |
| Recruitment Methods Used | | | | |
| Help Wanted Signs | 0.24 | 0.34 | 0.21 | 0.28 |
| Newspaper Ads | 0.43 | 0.50 | 0.45 | 0.53 |
| Walk-ins | 0.72 | 0.80 | 0.64 | 0.70 |
| Referrals from | | | | |
| Current Employees | 0.82 | 0.86 | 0.80 | 0.85 |
| State Agency | 0.36 | 0.50 | 0.24 | 0.36 |
| Private Agency | 0.20 | 0.25 | 0.19 | 0.20 |
| Community Agency | 0.23 | 0.35 | 0.20 | 0.28 |
| School | 0.31 | 0.42 | 0.29 | 0.41 |
| Union | 0.05 | 0.10 | 0.03 | 0.09 |
| Uses affirmative action to Recruit | 0.52 | 0.64 | 0.43 | 0.60 |

Screening Methods

| | | | | |
|------------------------|------|------|------|------|
| Drug Test/PhysicalExam | 0.11 | 0.24 | 0.11 | 0.21 |
| Aptitude Test | 0.07 | 0.13 | 0.13 | 0.15 |
| Knowledge Test | 0.15 | 0.20 | 0.15 | 0.17 |
| Personality Test | 0.04 | 0.06 | 0.07 | 0.08 |
| Background Checks | | | | |
| Criminal Background | 0.00 | 1.00 | 0.00 | 1.00 |
| Education | 0.57 | 0.82 | 0.55 | 0.81 |
| References | 0.91 | 0.98 | 0.94 | 0.98 |

Daily Job Tasks

| | | | | |
|---------------------|------|------|------|------|
| Customer Contact | 0.43 | 0.59 | 0.57 | 0.70 |
| Phone Conversations | 0.47 | 0.50 | 0.58 | 0.53 |
| Reading | 0.55 | 0.55 | 0.50 | 0.58 |
| Writing | 0.28 | 0.28 | 0.31 | 0.31 |
| Math/computations | 0.65 | 0.64 | 0.69 | 0.63 |
| Computer Work | 0.46 | 0.48 | 0.55 | 0.51 |

Job Qualifications

| | | | | |
|------------------------|------|------|------|------|
| High School Diploma | 0.60 | 0.69 | 0.73 | 0.77 |
| Recent Work Experience | 0.67 | 0.66 | 0.68 | 0.71 |
| Specific Experience | 0.60 | 0.58 | 0.61 | 0.61 |
| References | 0.62 | 0.75 | 0.71 | 0.78 |
| Vocational Education | 0.39 | 0.39 | 0.38 | 0.39 |

Very Important**Requirement of New****Employees**

| | | | | |
|-----------------------|------|------|------|------|
| Physically Attractive | 0.08 | 0.12 | 0.12 | 0.14 |
| Physical Neatness | 0.42 | 0.49 | 0.59 | 0.56 |
| Polite | 0.70 | 0.72 | 0.82 | 0.81 |
| Verbal Skills | 0.53 | 0.55 | 0.65 | 0.66 |
| Motivation | 0.59 | 0.73 | 0.78 | 0.74 |
| Speaks English | 0.46 | 0.47 | 0.62 | 0.60 |

**Type of Applicants that
Would Probably Not Be
Hired**

| | | | | |
|-----------------------|------|------|------|------|
| On Welfare | 0.03 | 0.04 | 0.15 | 0.11 |
| With GED | 0.01 | 0.02 | 0.07 | 0.04 |
| Spotty Work History | 0.30 | 0.32 | 0.54 | 0.45 |
| Unemployed for a Year | 0.12 | 0.10 | 0.26 | 0.19 |

All figures use the sample weights. Employers who answer that they “definitely will” or “probably will” hire applicants with criminal histories are coded as willing. Employer who check criminal background “always” or “sometimes” are coded as checking.

Table 5
Averages of the Dummy Variable Indicating that the Last Worker Hired is Black by Whether the Firm Checks the Criminal Background of Applicants and by the Willingness of the Employer to Hire Applicants with Criminal Backgrounds

| | All firms | Willing to hire | Not willing to hire | (Not willing - willing) |
|--------------------|------------------|-----------------|---------------------|-------------------------|
| All Firms | 0.199 (0.008) | 0.193 (0.013) | 0.203 (0.010) | 0.010 (0.017) |
| Checks | 0.244 (0.012) | 0.223 (0.021) | 0.254 (0.015) | 0.031 (0.026) |
| Does not check | 0.159 (0.010) | 0.175 (0.016) | 0.148 (0.013) | -0.027 (0.021) |
| (Checks - Doesn't) | 0.084 (0.016)*** | 0.048 (0.026)* | 0.107 (0.021)*** | 0.058 (0.033)* |

Standard errors are in parentheses. Firms that always check or sometimes check criminal backgrounds are coded as checking. Firms that state that they “definitely will” or “probably will” hire a worker with a criminal background are coded as willing to hire, while firms stating “probably not” or “absolutely not” are coded as unwilling to hire.

* Difference significant at the ten percent level of confidence.

** Difference significant at the five percent level of confidence.

*** Difference significant at the one percent level of confidence.

| Table 6 | | |
|---|---------------------------|----------------------|
| Measures of Employer Demand for Ex-Offenders: Over Time and By Industry/Metro Area | | |
| Employers Willingness to Hire Ex-Offenders Into Most Recently Filled Jobs | 1992-94 | 1998-99 |
| Total | 0.38 | 0.41 |
| Metro Area | | |
| Milwaukee | - | 0.49 |
| Other | 0.38 | 0.38 |
| Major Industry | | |
| Manufacturing | 0.54 | 0.56 |
| Retail Trade | 0.38 | 0.45 |
| Services | 0.36 | 0.33 |
| Current Willingness to Hire Ex-Offenders | 1998-99: Employers | 1998-99: Jobs |
| Total | 0.19 | 0.014 |
| Metro Area | | |
| Milwaukee | 0.24 | 0.015 |
| Other | 0.17 | 0.014 |
| Major Industry | | |
| Manufacturing | 0.22 | 0.008 |
| Retail Trade | 0.25 | 0.021 |
| Services | 0.16 | 0.015 |

Table 7
Potential Supply of Prisoners and Ex-Offenders to the Labor Market, 1999

| | Numbers (Thousands) | Percent of Civilian Labor Force |
|-----------------------------------|------------------------|------------------------------------|
| Civilian Labor Force ^a | 139,368 | 100.00 |
| Current Prisoners: ^b | | |
| Federal/State Prison | 1,299 | 0.93 |
| Local Jail | 606 | 0.43 |
| Felons in Local Jail | 61 | 0.04 |
| Total Prisoners | 1,905 | 1.36 |
| Total Felons Incarcerated | 1,360 | 0.97 |
| Currently On: ^b | | |
| Parole | 696 | 0.50 |
| Felony Probation | 1,966 | 1.41 |
| Total | 2,662 | 1.91 |
| Ex-Offenders: ^b | | |
| Total Ex-Prisoners | 2,932 | 2.10 |
| Total Ex-Felons | 8,961 | 6.43 |
| Annual Releases | 561 | 0.40 |

Notes: All figures are for 1999

^aBureau of Labor Statistics, U.S. Department of Labor.

^bU.S. Bureau of Justice Statistics; Uggen and Manza, 2001.