

RESEARCH REPORT

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EMPLOYER ATTITUDES TOWARD

Hiring Justice- involved Workers



San Diego
Workforce
Partnership

Employer Attitudes toward Hiring Justice-Involved Workers

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The San Diego Workforce Partnership produced this report to inform our strategic plan for serving the employment needs of justice-involved individuals in California’s Southern Border Region. Our research was funded by the California Workforce Development Board’s Prison-to-Employment Initiative. We hope the information below will be of use to employers and to workforce professionals serving our reentry community. You can find out more about our work with justice-involved individuals at workforce.org/reentry-resources.

If you are in need of our services please email reentryworks@workforce.org or go to workforce.org/reentry-resources for more information.

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1. First, the facts.

Most employers do hire applicants with criminal histories. In surveys of employers, the majority have experience hiring individuals with criminal records (HHS, 2011; Swanson et al., 2012).

A criminal history does not predict a prospective employee's likelihood of committing crime at work. Criminologists have concluded that "there is no research that demonstrates that an organization, coworker, or client is any more likely to be victimized by exposure to an employee with a criminal history than to one without" (Harris & Keller, 2005; see also Liu, 2012 and Lundquist et al., 2018).

Employees with criminal histories make significant contributions to their organizations—comparable and sometimes even greater contributions than those made by individuals without a criminal record. There is a tremendous amount of quantitative and qualitative data supporting the fact that justice-involved individuals can make great employees. Below is just a small sample of that evidence.

- San Diego's Sheffield Platers Inc has hired over three dozen justice-involved graduates of Second Chance, which runs career centers funded by San Diego Workforce Partnership in county jails. Sheffield president Dale Watkins says these hires aren't charitable. He benefits from up to \$9,600 in tax credits for each hire, and "everyone from Second Chance comes in full of energy, and they're excited to be productive."
- At Johns Hopkins Medicine, 20% of entry-level hires have criminal records. A five-year study of 500 employees with criminal records found a lower than average turnover rate and zero "problematic" terminations (Paulk 2012 and 2015). Like Sheffield Platers, Johns Hopkins views the hiring of these employees as "not a charitable endeavor, but a strategic part of the way we conduct our business."
- Gretchen Peterson, Chief HR Officer of Dave's Killer Bread in Oregon, says her justice-involved employees "aren't just 'nonproblems.' They're role models in terms of performance, attendance and teamwork. They have an especially strong incentive to deliver value because they've seen the alternative" (SHRM 2019).
- In the military, service members with felony convictions are no more likely to be discharged for negative reasons or fail to complete their contracted term of service. Moreover they are promoted faster and to higher ranks than their peers, and are more likely to sacrifice their lives in the line of duty (Lundquist et al. 2018).

Having a criminal history is not unusual among American workers. By the FBI's definition, 74 million Americans had a criminal record in 2017—about 30% of adults (Clark, 2017).¹ About as many have a criminal record as have a bachelor's degree (Friedman, 2015). In 2010, about 10% of Californians had a felony conviction (Shannon et al., 2017).

Criminal records are biased reports of criminal behavior. Actual crimes committed are much less likely to result in criminal records for white than for black Americans. For example, while whites and blacks are equally likely to use marijuana, blacks are almost four times more likely to be arrested for possession (ACLU, 2013).

Though widely used, criminal background checks are unreliable. They mismatch identities, reveal sealed and expunged records, and are misinterpreted by employers (National Consumer Law Center, 2012). Half of the FBI's records don't include the case's final disposition—information that could help applicants. For example, the FBI records all felony arrests, but a third of such arrests do not lead to conviction, and those that do often turn out to be for misdemeanor offenses (Neighly & Emsellem, 2013). Sentences can be misrepresented; for example, in a stay of adjudication the judge offers to dismiss charges after two years of law-abiding, but this gets recorded as a guilty plea in records sold to private background check companies (Lageson, 2015).

Many uses of criminal background checks constitute illegal discrimination. Arrests are not themselves evidence of criminal activity, so their use in hiring decisions is illegal. Blanket policies excluding all individuals with criminal records from all positions (as opposed to policies identifying convictions that are disqualifying for particular roles) are also illegal because of their discriminatory effects (EEOC, 2012).

¹ The FBI's definition is quite strange; it excludes most misdemeanor cases but includes felony arrests with no conviction. But it is an important definition because the FBI is a leading source of data for the commercial criminal-background services used by employers.

2. Why do employer attitudes matter, and how are they measured?

Employer attitudes toward justice-involved applicants play a strikingly important role not just for those applicants but for society. Employment is a key driver of desistance from crime, but many justice-involved individuals struggle to find stable employment, partly because they are discriminated against in the job market. Improving employer attitudes toward justice-involved applicants would cause them to hire more such applicants facilitating desistance from crime, reducing incarceration spending, and improving public safety.

The vast majority of employers use criminal background checks in the hiring process. In 2018, however, California “banned the box,” prohibiting most employers with five or more employees from asking about applicants’ criminal histories before making a conditional job offer. One might think this means that employer attitudes toward criminal history are no longer important, since employers are presumably making hiring decisions before any background check could reveal such a history. But this is not the case for several reasons. First, not all employers and not all positions are covered by ban-the-box. Second, not all employers follow the law (Savidge, 2019). And third, even those who are covered and do follow the law almost always perform background checks after extending conditional offers, and when checks reveal justice involvement (even without a conviction, or even in error), employers who view justice-involved applicants as unqualified can rescind their offers.

So employer attitudes are important, but they are difficult to measure. In this report, we’re trying to get an accurate understanding of the variety of employer attitudes toward justice-involved job applicants, and we’re going to do that by examining a large collection of evidence—about 50 studies, plus our own qualitative research. Because much of the available evidence has methodological shortcomings, we have to learn as much as we can from imperfect material, while addressing its limitations. The most common approach to measuring employer attitudes is to survey hiring managers, and ask them how they feel about justice-involved applicants. While this may seem like a straight-forward approach, we have to be careful about how we interpret the results of these surveys, in light of the following methodological challenges:

1. It is nearly impossible to recruit a representative sample of employers, and it is not clear what conclusions we can draw from the survey responses of an unrepresentative sample. For this reason, we look at a wide variety of studies with different populations to understand the range of attitudes that exist.
2. We’re dealing with a moving target. Even if a researcher were to obtain a representative sample of US employers in 2014; it’s hard to tell whether the attitudes of those employers would match the attitudes of San Diego employers in 2020.
3. Employer responses are likely influenced by social desirability bias—the impulse to give an answer that will be received favorably by others. Typically this bias causes individuals to underreport discriminatory views and behaviors—and therefore overreport willingness to hire justice-involved applicants.
4. The most common survey methods for measuring willingness to hire are (A) asking employers outright if they would hire someone with some trait and (B) describing a hypothetical candidate with some trait and then asking the employer to evaluate that candidate. Both of these approaches remove one of the essential elements of the hiring decision: competition among candidates. Employers who say they are willing to hire a justice-involved applicant may mean that if such an applicant were the *only candidate* they would hire her. But in reality, if she is up against a candidate with a clean record, she may not get the job.
5. Employers’ survey responses do not match their actual behavior. For example, Pager & Quillian (2005) sent out “testers” to apply for real, entry-level jobs with fictitious resumes designed to be equivalent except for criminal history. The testers “visited employers, filled out applications, and proceeded as far as they could during the course of one visit.” Months later, interviewers from an academic research center called the same employers, described a candidate with the same resume as the justice-involved tester, and asked “How likely would you be to hire [this person] for an entry-level opening in your company?” While 62% of respondents said they were likely to hire this person, only 17% called back testers with criminal records when the tester was white, and only 5% called back when the tester was black.

- As we will discuss in Section 4, employers' reactions to criminal records are highly contextual—dependent on the conviction, the nature of the job, other characteristics of the applicant, etc.—so there may be no such thing as a single, coherent attitude that employers have toward all justice-involved applicants.

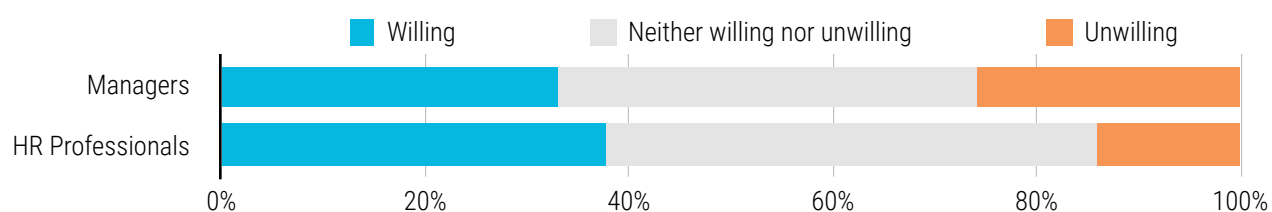
In light of these limitations, it might be tempting to throw up our hands and give up. But by looking at the full range of available evidence, we can get a sense of the range of ways employers think about candidates, draw basic conclusions about the challenges faced by those candidates, and find ways that advocates can best support that population given the various attitudes employers bring to the hiring process.

3. Many but by no means all employers say they're open to hiring.

In a 2012 survey conducted by employment specialists in nine US states, 80 of 128 employers (63%) said they had hired at least one applicant with a felony conviction, (Swanson et al., 2012) and very few said they have policies preventing them from hiring applicants with felony convictions. (This is not surprising, given that such a blanket policy would likely constitute illegal discrimination [EEOC, 2012]).

Employers vary greatly in their responses. In a recent survey, the Society for Human Resource Management asked managers and HR professionals if they would be willing to hire applicants with criminal convictions (SHRM, 2019). As Figure 1 shows, nearly half of respondents chose the noncommittal “neither willing nor unwilling” answer, while only a third or so chose “willing” (SHRM, 2019).

Figure 1. Portion of managers willing to hire applicants with criminal records (SHRM, 2019)



In a more sophisticated survey experiment, hiring managers were presented with a brief vignette describing an applicant named Joe, who was randomly assigned to have either mental illness, a criminal record, both, or neither, and then they were asked to report on a seven-point scale the likelihood that they would “seriously consider” hiring Joe (Batastini et al., 2017). Half of respondents were randomly assigned to receive an “education” treatment—a two-paragraph explanation of the business and societal benefits of hiring applicants like the one described.²

Figure 2 shows that, when Joe had a criminal record, the average response of employers is 4.2 out of 7—somewhere between neutral and “somewhat likely.” Responses for this version of Joe had the highest variability; about two-thirds of responses were somewhere between 2.6 and 5.9—a very wide range. For comparison, the average response for the clean-record version of Joe was 5.0.

² Below are the paragraphs Batastini et al. randomly assign some respondents to read (the “education treatment” in Figure 2):

There are several advantages to employers for hiring ex-offenders. First, most...have completed vocational and occupational training programs...designed to help them develop the necessary skills for succeeding in the world of work. They may have special qualifications to perform jobs that are difficult to fill. Second, the government offers incentives to companies who hire ex-offenders (e.g., through [Federal Bonding and the] Work Opportunity Tax Credit). Additionally, because ex-offenders often know their options for employment are limited, they may be more likely to work harder to prove themselves...

An ex-offender's ability to obtain and maintain employment is also...very important to successful community reintegration and prevention of reoffending. Benefits associated with employment include increased self-esteem and confidence, less crime, better public safety, reduced government costs related to corrections, and improved attitudes toward community-released offenders.

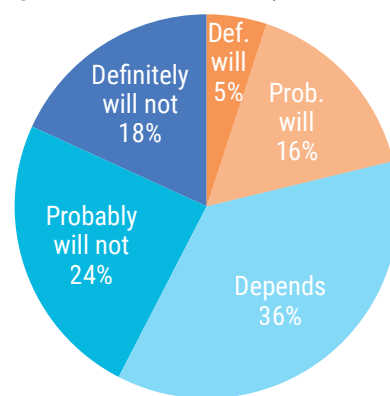
Experience and education may increase employers' openness to hiring applicants with criminal records. In this experiment, respondents with experience employing justice-involved workers tended to be more open to hiring prospective applicants with records. This suggests that positive experiences employing these workers can help employers see their value.³ Education may help as well; employers assigned to read the two-paragraph explanation of the benefits of employing applicants with records expressed greater willingness to hire such individuals.⁴

Figure 2. Average reported likelihood that a hiring manager would “seriously consider” hiring a candidate with the following characteristics (Batastini et al., 2017)



There is some evidence that employer attitudes toward applicants with criminal records may be improving, as early surveys find more negative attitudes than do recent ones. For example, a 2001 survey found that over 40% of employers surveyed probably or definitely would not be willing to hire an applicant with a criminal record (Holzer et al., 2004).⁵ (By comparison 90% of these employers were willing to hire current or former welfare recipients or individuals with a GED by no high school diploma.)

Figure 3. 2001 survey: “For the last position you filled...would you be willing to hire ex-offenders?” (Holzer et al., 2004)



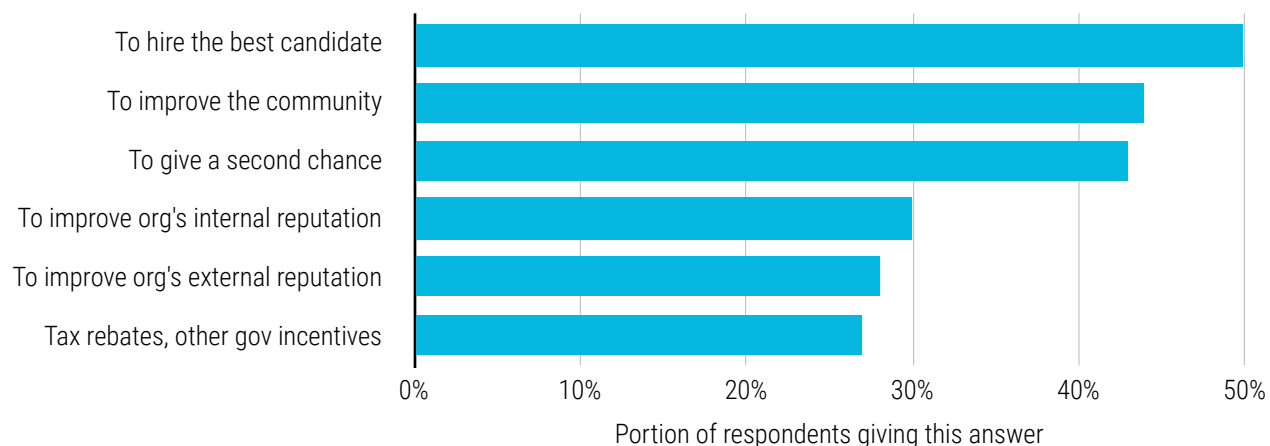
³ Given the limitations of the research design, it is possible that some individuals are simply more willing to hire applicants with criminal histories. However, the same design yielded no relationship between previous experience hiring individuals with mental illness and willingness to hire a prospective applicant with mental illness, so this suggests the correlation is evidence of positive experiences increasing employers' openness to hiring justice-involved applicants.

⁴ Effects of the “education” treatment may have been partially driven by what social scientists call “experimenter demand”—the tendency of participants to be influenced by their perceptions of the experimenter’s expectations of them. Presenting a two-paragraph description of the benefits of hiring applicants with criminal records, without any mention of risks, may have telegraphed a desire on the researchers’ part that respondents report being willing to consider hiring such applicants.

⁵ The low willingness to hire applicants with criminal records is partly influenced by the September 11, 2001 terrorist attacks, which happened halfway through the survey period. The authors note that the rate of openness dropped dramatically after September 11. It is unclear whether this effect was a temporary reaction or a lasting change in attitudes.

Only 5% of managers and 3% of human resources professionals report that their organizations actively recruit individuals with criminal records, and for those who do hire justice-involved individuals, the most common reason given is simply that they “want to hire the best candidate for the job” (SHRM, 2019). (See Figure 4 for more responses.)

Figure 4. Reasons managers give for hiring applicants with criminal records (SHRM, 2019)



Employers are not experts in criminal justice, or in the risks and rewards of employing the justice-involved

Employers are experts in their areas of businesses, but they cannot be expected to know the arcane details of the criminal-justice system. The difference between theft and burglary, between probation and parole, or even between a felony arrest and a felony conviction, are not universally understood, and employers have to make hiring decisions without knowing much beyond “this person has some sort of record.” This causes them to misinterpret the results of criminal background checks and deny qualified applicants jobs (National Consumer Law Center, 2012).

Employers may also turn down applicants because they don’t know about all the local, state, and federal programs that support the employment of justice-involved workers. Fahey et al. (2006) found that “most employers are unaware of the tax incentives, bonding programs, and intermediary organizations currently in place to facilitate employment of returning offenders.”

The solution to both of these problems is a combination of education and relationship building between workforce-development professionals and employers. Many of the employer success stories—like Sheffield Platers Inc, which employs dozens of graduates of the Second Chance program in San Diego—are the result of a single manager learning about the benefits of and supports available for the justice-involved.

Discrimination against justice-involved individuals is intertwined with racism

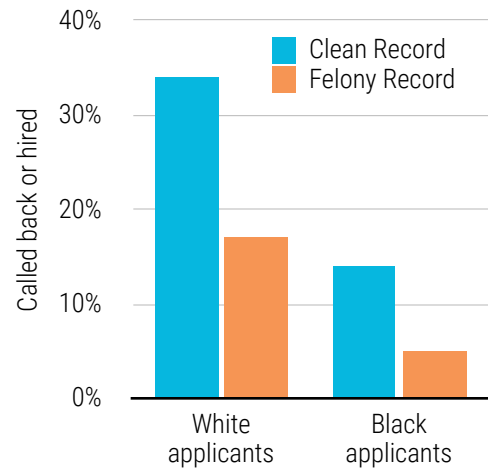
Experiments show that black applicants are penalized more for a felony conviction than are white applicants (Goldman et al., 2019). In fact, in a field experiment in which participants applied for real-world jobs, white applicants whose (experimentally constructed) biographies included felony drug convictions got more callbacks and hires than equivalent black and Latino candidates with clean records (Pager 2003; Pager et al., 2009). (See Figure 4.) The use of criminal background checks likely exacerbates race discrimination in hiring, because “discrimination against Blacks [is] more likely when [individuals can] rationalize decisions not to help with reasons having nothing to do with race” (Saucier et al., 2005). In Pager’s (2003) experiment several times black applicants were asked whether they had criminal histories, whereas white applicants were never asked.

It is important to remember that racism still plays a large role in the hiring behavior of American employers. In fact, field experiments show that discrimination against black applicants has remained steady in the last 25 years, though discrimination against Hispanic candidates has declined slightly (Quillian et al., 2017). Bertrand & Mullainathan's (2004) famous field experiment showed that when identical resumes were sent out with randomly assigned names that would sound either either stereotypically white (e.g. Emily Walsh) or black (Lakisha Washington), the resumes with white-sounding names elicited 50% more call-backs than those with black-sounding names.

There is some concern that ban-the-box policies like California's promote "statistical discrimination." In this form of racist discrimination, an employer may reject applications from young men of color simply because he perceives them to be more likely to have criminal histories—denying a whole class of individuals equal opportunity without any regard to those individuals' actual histories (Doleac & Hansen, 2016; Agan & Starr, 2017; Vuolo et al., 2017).⁶

Even when racial bias is unintentional, it is still discriminatory and likely illegal. Title VII of the Civil Rights Act includes a disparate impacts provision that prohibits any hiring practice that disproportionately affects a protected group unless the practice is "job related for the position in question and consistent with business necessity." The US Equal Employment Opportunity Commission has determined that using arrest records constitutes discrimination (because arrests are not proof of criminal activity), as does any blanket policy excluding all individuals with criminal records from all positions (EEOC, 2012).

Figure 5. Responses to applicants of equivalent quality (Pager 2003)



4. Attitudes are contextual and vary across sectors, firms, and individuals.

While many employers claim to be open to hiring felons, most justice-involved individuals have personal experiences of rejection that call these claims into question. We believe the reason for this mismatch between employer claims and applicant experience is that most employers are open to hiring some ex-felons under some conditions, but when faced with real-life choices between applicants, many employers will prefer applicants without a criminal history much of the time. In other words, employer attitudes are contextual.

Variation by nature and recency of crime

Swanson et al. (2012) relate feedback provided by an employment specialist working with individuals who had been convicted of felonies:

My feeling is there are some places that may consider [employing someone with] a felony. It just depends on what felony. In retail, theft or forgery can be a problem. I think they'd prefer someone who had a battery charge rather than someone who had a theft charge. On the other hand, probably the easiest one to explain away is a drug offense. You can explain away a drug offense pretty easily.

Unsurprisingly, employment specialists universally describe clients with sex offenses as the most difficult to find employment for. Many people hold highly negative feelings toward anyone convicted of a sex offense, and even view such individuals as subhuman (Viki et al., 2012) regardless of the details of the crime or how long ago it occurred. There are also significant collateral consequences that interfere with the ability of applicants to find jobs. (For example, an individual who is not allowed to live or work near a school has a severely limited

⁶ For opposing viewpoints, see Emsellem & Avery (2016) and Craigie (2020).

range of employment opportunities.) Moreover, many public policies and programs designed to help justice-involved individuals reengage in society explicitly exclude those convicted of sex offenses. Often government and philanthropic funding limits organizations' abilities to serve this population. For example, Department of Labor funding for the Workforce Partnership's Reentry Works program forbade us from serving sex offenders.

In many cases, employers' attitudes are influenced by the reactions they anticipate from consumers and employees. Three quarters of Americans say they'd feel comfortable purchasing from businesses that employ customer-facing employees with nonviolent criminal records. But only half say they'd feel comfortable with employees who've spent five years in prison, and less than a third say they'd feel comfortable with employees who have violent criminal records. The numbers are similar when Americans are asked about working with justice-involved individuals. Three quarters feel comfortable if a few of their coworkers have nonviolent criminal records, but only a third feel comfortable if coworkers have violent criminal records (SHRM, 2019).⁷ Whereas about 40% of respondents in Holzer et al.'s survey were unwilling to hire applicants with criminal records, that number increased to 90% when employers were asked about applicants convicted of violent offenses.

A recent survey experiment suggests the difference in job prospects between individuals with different convictions may be driven by employers' moral judgments. Respondents rated applicants with a felony conviction as less moral, and this made them less likely to consider hiring such applicants (Mikkelsen & Schweitzer, 2019).

Many studies mention that employers are less concerned about convictions the longer ago they occurred. Holzer (2004) found that "the greater proportion of the firms hiring ex-offenders noted that those they hired were not fresh from prison, but had work experience after they were released." Fahey et al. (2006) conclude on the basis of employer focus groups that "many employers did not want to be the first to employ a recently released offender; rather they were more comfortable considering someone who had already established a positive track record after release." To some degree this is logical; six to seven years after conviction, the risk of new offenses is about the same for someone with a felony conviction as for someone with no criminal history (Kurlychek et al., 2006).⁸ Unfortunately, it creates a Catch-22; stable employment is one of the most significant factors in reducing the likelihood that an individual will be convicted of a new crime (Mulmat et al., 2012), but employers avoid giving jobs because they are concerned about the risk that the employee will commit a new crime.

Variation by applicant characteristics

As previously discussed, the effect of a criminal record on employer attitudes interacts with race. Pager (2003) found that a felony conviction reduced by half the number of callbacks and hires of white applicants, but reduced by two thirds the number of callbacks and hires of black applicants, despite the fact that as Figure 4 shows, black applications with *clean* records already received fewer positive responses than white applications with *felony* records (a finding replicated by Decker et al., 2015).

Many justice-involved individuals have mental health and/or substance abuse disorders, which can be more stigmatizing than criminal history (Tschopp et al, 2007). In Batastini et al.'s (2017) survey experiment, 31% of hiring managers considered a typical applicant unacceptable when they were revealed to have both a criminal history and mental illness, whereas only 19% considered the same candidate unacceptable if they were revealed to have only a criminal history.

⁷ These numbers are based on 1,006 responses from the AmeriSpeak omnibus survey, conducted online and by phone in March 2019.

⁸ A Dutch cohort study supports these findings but suggests that time to "redemption" is longer (10 years) for younger individuals and much longer (20 years) for those with extensive criminal histories (Bushway et al., 2011).

Variation by hiring organization characteristics

Some industries and sectors seem to be more open to hiring justice-involved applicants. A US Department of Health and Human Services report found that in a random sample of Medicare-certified nursing facilities, 92% employed at least one individual with a criminal record, and nearly half employed five or more (HHS, 2011).

Though the data are nearly 20 years old, Holzer et al.'s (2004) survey of LA employers found the greatest openness to hiring justice-involved applicants in manufacturing, construction, and transportation services—all sectors that employ entry-level workers not requiring customer contact. Service industries were the least open.

In a study of Australian employers, Lukies et al. (2011) found a modest correlation between company size and employer-rated applicant employability, but this factor explained only a very small amount of variance.

Variation by employment decision-maker characteristics

One source of variability is the individual hiring manager (and even front-line supervisor). Individuals that influence workers' hiring and firing may vary in their attitudes toward the justice-involved. Workforce-development professionals serving justice-involved individuals in the Southern Border Region told us there's no such thing as a "felon-friendly" company—that it all boils down to which individual is making the decision and what biases she may hold based on past experiences or simple prejudice. Given the possibility that a single individual's prejudices may prevent clients from obtaining and maintaining a stable job, employer education is an important part of placing justice-involved individuals in competitive employment.

Evidence from surveys of the public suggest that a variety of traits and experiences are associated with attitudes toward justice-involved individuals (Hirschfield & Piquero, 2010). In decreasing order of magnitude, predictors of negative attitudes are political conservatism, personal or family experience being the victim of a crime, confidence in the courts, and living in the South. Predictors of positive attitudes (again in decreasing order) are being older, living in an urban area, political liberalism, living in the North, being black, personal or professional relationships with justice-involved individuals, and being Hispanic.

Variation by method of application

There is some evidence that discrimination against justice-involved applicants (and against applicants of color) is reduced when candidates apply online rather than in person—to the point that the success rates of candidates with felony records and clean records can't be distinguished statistically (Galgano, 2009; Decker et al., 2015). There is no clear theory explaining this surprising result; Decker et al. guess it "may be because the lack of a face-to-face interaction between employers and job applicants limits the effects of race/ethnicity and prison record"—that race and criminal records "are less salient on a computer screen than they are in person." But it is unclear *why* these traits should be less salient in online applications.

Since successful online applications will still lead to in-person interviews, and since the research literature shows that employers discriminate against justice-involved individuals (and people of color) in that stage of the interview process, it is unclear whether applicants with criminal records will do better applying online than in person. More research is needed to determine whether applicants who apply online are more likely to make it all the way through the hiring process to a final job offer.

5. Employer attitudes are shaped by the legal landscape.

Employer liability

Employers considering applicants with criminal records may be concerned about negligent-hiring liability. (Negligent hiring is a claim that arises if a person is injured by an employee in that employee's workplace and sues the employer, arguing the employer knew or should have known the employee might be violent or untrustworthy.) But SHRM (2019) reports that "relatively few negligent-hiring cases are filed, and many

experienced corporate employment lawyers have never handled a negligent-hiring case. Most employers have never been sued on this ground.” There are rare circumstances where hiring an applicant with a particular previous criminal conviction for a role with particularly relevant employment responsibilities could open employers to liability, but this is very rare, and in most cases simply conducting a background check and weighing the risks is enough to protect an employer.

Justice-involved individuals who have resided in California for five years and been rehabilitated for two to five additional years following release from incarceration or supervision are applicable for a [Certificate of Rehabilitation](#) (COR). If an applicant has a COR, this should reduce or even eliminate any risk of negligent hiring liability associated with the applicant’s criminal history.

On the flip side of negligent hiring liability is the legal liability employers may face by categorically rejecting justice-involved individuals. As discussed in Section 3, the use of arrest records in the hiring process constitutes illegal discrimination (because arrests are not proof of criminal activity), as does any blanket policy excluding all individuals with criminal records from all positions (EEOC, 2012).

Ban the box

Since 2018 California employers with more than four employees cannot ask on employment applications for an applicant’s conviction history. (Exceptions exist for farm laborers and positions for which the government requires background checks.) They also cannot inquire into or consider criminal history before making a conditional employment offer, and they cannot consider or distribute information on arrests without conviction, convictions that have been officially removed from a record, or participation in diversion programs.

Employers may inquire about criminal history after making a conditional offer, and may revoke an offer based on that history, after providing written notice and a copy of the conviction report. Applicants have five days to respond before employers provide a second written notice of their final decision. If employers revoke offers based on faulty information or in ways that violate the law, applicants can file complaints with the Department of Fair Employment and Housing.

Unfortunately, many employers do not follow the law. Over 300 complaints were filed with the Department of Fair Employment and Housing in the law’s first 18 months, a number that department director Kevin Kish believes under-represents the number of violations because the state has “not done as good a job as we need to in outreach” (Savidge, 2019).

Employer incentives

The federal Work Opportunity Tax Credit (WOTC) provides employers a tax credit of 40% of a worker’s first year of wages (if they work at least 400 hours, or about 8 hours a week). Employers are eligible for the WOTC for any employee with a felony conviction, but also for employees with a number of characteristics common among justice-involved individuals without a felony conviction, including veterans, vocational rehabilitation referrals, and recipients of TANF, SNAP, SSI, etc.

California also provides a “new employment” state tax credit for wages paid to employees with a felony conviction, and like the federal credit, it also covers individuals with characteristics common among justice involved individuals who may not have been convicted of a felony, for example those unemployed for six months or more, and recipients of CalWORKS, county general assistance, and the Earned Income Tax Credit.

The Federal Bonding Program (FBP) provides \$5,000 of free fidelity bonding (insurance for employers against worker fraud) with no deductible for the first six months of any justice-involved citizen’s employment. This program covers any losses caused by fraudulent or dishonest actions of bonded employees.

The [San Diego Workforce Partnership](#), the [Imperial County Workforce Development Board](#), and other workforce boards can provide a variety of incentives to employers who hire justice-involved individuals. The last section of this report provides an overview of how workforce boards can help connect employers with

high-quality applicants who have past justice involvement—in some circumstances even helping to pay their wages.

Occupational licensing

Even if employers are personally willing to hire workers with criminal records, the state creates obstacles to those workers performing certain occupations. There are 1,632 laws limiting the rights of Californians with past criminal convictions, and 484 apply directly to employment or volunteering opportunities (Council of State Governments 2019). Moreover, California requires many workers—even in low-wage jobs—to obtain state licenses to work in their occupations (Kleiner & Vortnikov, 2018), and many of these licenses either exclude individuals with criminal records or have vague “character” criteria that licensing boards use to exclude such individuals (Little Hoover Commission, 2016). This means that even if an employer is open to hiring justice-involved individuals, state boards may prevent them from obtaining work.

The inequitable burden imposed by occupational licensing is not just a social-justice issue; it is an economic and public-safety problem. Kleiner & Vortnikov estimate that occupational licensing costs California nearly 200,000 jobs and \$840 million in lost economic output. And there is evidence that states like California with heavy occupational licensing burdens have about 10% higher new-crime recidivism rates (Slivinski, 2016).

6. Employer attitudes can inform employment specialists’ strategies.

One of the key takeaways from our research on and experience with employing justice-involved individuals is that employers can benefit tremendously from hiring members of this community—especially those vetted and vouched for by workforce-development professionals.

Informed, motivated employers often end up hiring multiple justice-involved applicants. Section 1 gave the example of [Sheffield Platers Inc](#), who as of 2017 had hired 35 justice-involved graduates of [Second Chance](#) (our partner in the Prison-to-Employment program). So the first step in facilitating the employment of justice-involved individuals is to share information with employers about available legal protections and incentives, and about the training, vetting, and supportive services provided by organizations like the Workforce Partnership and Second Chance.

A second key takeaway is that employer attitudes are contextual, and employers are required by law to think about criminal records on a case-by-case, job-by-job basis (EEOC 2012). There is some evidence that the roles for which employers are most open to hiring applicants are entry-level positions not requiring customer contact, which are abundant in manufacturing, construction, and transportation services (Holzer et al., 2004). A study that tracked for four years Indiana state prisoners released in 2005 determined that the primary [NAICS sectors](#) of employment were administrative support, waste management, and remediation services (especially temporary help services); accommodation and food services; manufacturing; construction; retail trade; and health care and social assistance (Nally et al., 2014). Our own focus groups have also found that restaurants are often willing to hire applicants with justice involvement for “back of the house” (i.e. kitchen) jobs.

Section 4 described a Catch-22 in which employers don’t want to hire formerly incarcerated applicants until they have work experience, but these applicants can’t get work experience until employers hire them. Because so many researchers find that employers don’t want workers fresh from prison, transitional employment is an important part of workforce-development. In fact, Fahey et al. (2006) found that employers identified transitional employment programs as the single most impactful support services or incentive to facilitate the hiring formerly incarcerated individuals (followed by work-readiness training and specific job-skills training). Hunt et al. (2018) found that offering a post-conviction certificate verifying work performance history was the single most impactful intervention for increasing employer willingness to hire justice-involved applicants.

Ultimately, most employers are going to view a conviction as detracting from applicant’s employability. Thus, employment specialists should encourage eligible clients who have completed incarceration and supervision to petition for expungement. For workers who have been “clean” for several years, it may be worthwhile to apply for a Certificate of Rehabilitation.

In the remainder of this section, we will provide an overview of recommendations provided in two peer-reviewed studies attempting to connect work on employer attitudes to best practices for case management.

Bond (2013) recommends using an adaptation of the Individual Placement and Support (IPS) model of supported employment for justice-involved clients. Below are the principles of IPS (1-8) and three recommended additions (9-11):

	Strategy	Description
1	Competitive employment	Place clients in jobs anyone can apply for, at normal wages
2	Systematic job development	Specialists meet with businesses to learn needs and hiring preferences
3	Rapid job search	Face-to-face contact with employers within 30 days of enrollment
4	Integrated services	Specialists coordinate with mental health teams
5	Benefits planning	Help clients understand social security, medicaid, and other benefits
6	Zero exclusion	Clients not turned away based on readiness, criminal history, etc.
7	Time-unlimited support	Specialists have contact at least monthly for as long as client wants
8	Worker preferences	Services driven by client choices rather than specialist judgments
9	Specialty teams	Certain specialists focus on serving justice-involved individuals and receive training to deal with collateral consequences, legal and correctional systems, etc.
10	Integrated dual-diagnosis treatment	A combination of (4) and (9); because substance use is common among the justice-involved, train specialists to support dual-disorders treatment
11	Follow employer advice for justice-involved	Train specialists to help clients talk about their past in ways that employers will be receptive to—taking responsibility, expressing remorse, demonstrating change, etc.

Tschopp et al. (2007) recommend a variety of strategies that service providers and their clients can employ in finding work when an applicant has a criminal history and/or psychiatric disabilities. Below is a condensed list of these strategies:

How workforce professionals can help justice-involved clients find jobs

- Encourage clients to see themselves as workers; model optimism and persistence in the job search
- Project a nonjudgmental attitude; normalize the employment challenges clients face
- Provide referrals and support to ensure client meets prerequisite self-sufficiency needs (such as housing, transportation, education, and identification)
- Encourage clients to address any anxiety around the job search with a professional therapist
- Understand client’s approach to daily structure and current priorities; where possible integrate employment objectives into existing structure and priorities, and where necessary work on adjusting structure and/or priorities
- Develop an understanding of the world of work and realistic career goals
- Foster essential workplace behaviors—being on time, following through on appointments and tasks, dressing and speaking appropriately

How justice-involved individuals can help employers see their value

- Explain gaps in job history (in a cover letter or interview)
- Obtain a police check so you know what employers will see
- If employers are going to find out about a criminal record, meet with them face-to-face as early as possible so you can make your case rather than being dismissed out of hand
- Directly and assertively handle disclosure of information (most employers will check your record).
- In conversations with employers, take accountability and express remorse for past criminal behavior
- Highlight changes and improvements you have undergone, and focus on future goals.
- Develop a portfolio that portrays you as productive and responsible—including references from landlords and employers, evidence of volunteer work, certificates from training programs, or a letter from the facility where you served time identifying you as a model prisoner
- If discussing mental illness, many case managers believe clients should not use specific medical terminology, but describe only the relevant limitations or accommodations needed
- Using an employment agency rather than a social-services agency may be more effective, as it avoids associating you with a stigmatized group. Some social-services agencies purposely use names designed to sound like for-profit employment agencies.

7. Further resources for employers and workforce professionals

If you are an employer or a workforce professional in San Diego or Imperial County, reach out to the San Diego Workforce Partnership (reentryworks@workforce.org) or Second Chance (info@secondchanceprogram.org). When employers hire our clients, in many cases we can subsidize up to 50% of wages. More importantly, we train clients in job readiness, support credential attainment, and can vet and vouch for clients and make sure they are matched with job roles where they can be successful employees.

If you want general information about the benefits of and incentives available for employing justice-involved individuals, here are a few useful resources:

- The Society for Human Resource Management's website gettingtalentbacktowork.org helps business and HR leaders learn about the benefits and mitigate any risks associated with hiring applicants with criminal records.
- The American Civil Liberties Union has produced a report on how and why to hire formerly incarcerated job seekers, available at <https://www.aclu.org/report/back-business-how-hiring-formerly-incarcerated-job-seekers-benefits-your-company>
- The US Department of Health and Human Services has produced a guide to hiring applicants with criminal records in the healthcare industry: <https://aspe.hhs.gov/system/files/pdf/259686/MeetingtheDemand.pdf>.
- The National Employment Law Center has a similar guide to hiring applicants with arrest and conviction records: <https://www.nelp.org/wp-content/uploads/NELP-Safer-Toolkit-Healthcare-Employer-Guide-Hiring-People-with-Arrest-Conviction-Records.pdf>
- Johns Hopkins Hospital has an overview of their successful program hiring justice-involved individuals for 20% of entry-level openings, along with practical recommendations: <https://www.diversityincbestpractices.com/medialib/uploads/2016/09/Paulk-Presentation-Hiring-Ex-Offenders-09142016.pdf>

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ON THE COVER

Charla Walls is a graduate of Kitchens for Good's [Project Launch](#), a culinary apprenticeship program that trains individuals who experience high unemployment rates—including formerly incarcerated adults, transitioning foster youth, survivors of domestic violence, individuals experiencing mental illness and individuals with histories of substance abuse—to launch careers in the culinary and hospitality industries.

Here's how Charla describes her experience: "When I got out of prison, my mindset was that I would get me a job and go to college. Life was going to be amazing because all that was behind me. Little did I know it wasn't going to be that easy. So many doors were shut in my face, denial after denial. All I wanted was another chance but my past was like a plague that just followed me. I just wanted to prove to myself that I was no longer that person. I had changed. Through Kitchens for Good, my past eventually became irrelevant, and it became all about my future. Of course I learned how to cook in this program, but what really set me on the right path was the soft skills.

"At first, I sat through those classes hating every minute of it. I thought 'I came here to cook—why do we have to talk about our feelings?' But I quickly learned that I was standing in my own way. These labels and message of 'you can't' were holding me back. I realized I had to deal with these deep insecurities, my attitude, and my behavior, in order to not just get a job, but keep a job. This class taught me so much about responsibility and ownership. I finished this class now as a woman who was responsible, confident and loving of myself.

"After completing a 12-week course at Kitchens for Good, I was given an opportunity to do my internship at Guahan Grill where I worked with a former graduate, Becky. Becky taught me a lot. More importantly she reminded me how to remain humble and not be too proud to start at the bottom. The greatest part is hearing my daughters ask me, 'Momma, you going to work?' and seeing them all walk me to the door with hugs and kisses. All their lives I wanted them to see mommy productive, to be a role model they could look up to. I am happy to say I now am."

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