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THE MARK OF A CRIMINAL RECORD

by

Devah Pager

A dissertation submitted in partial fulfillment of
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FINAL REPORT

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ABSTRACT:

THE MARK OF A CRIMINAL RECORD

by Devah Pager

Over the past three decades, the number of prison inmates has increased by more than 500 percent, leaving the United States the country with the highest incarceration rate in the world. With over two million individuals currently incarcerated, and over half a million prisoners released each year, the large and growing numbers of men being processed through the criminal justice system raises important questions about the consequences of this massive institutional intervention. This paper focuses on the consequences of incarceration for the employment outcomes of black and white job seekers.

The manuscript is comprised of two studies: the first, a large-scale experimental audit of employers in Milwaukee, used matched pairs of young men to apply for real entry-level jobs to measure the extent to which employers use information about criminal histories and race to screen out otherwise qualified applicants. Indeed, the results of the audit study provide clear evidence for the dramatic impact of both a criminal record and race on employment opportunities: Ex-offenders are one-half to one-third as likely to receive initial consideration from employers relative to equivalent applicants without criminal records. Perhaps most striking, the results show that even blacks *without* a criminal record fare no better—and perhaps worse—than do whites with criminal records.

The second study, a telephone survey of these same employers, gathered self-reported information about the considerations and concerns of employers in hiring entry-level workers, with a specific focus on employers' reactions to applicants with criminal backgrounds. By linking results from the audit study to those of the employer survey, I find that employers' self-reports vastly understate the barriers faced by both blacks and ex-offenders seeking entry-level employment. Though employer surveys can tell us a great deal of useful information about the relative preferences of employers, extreme caution should be used in generalizing these results to estimates of actual behavior.

The findings of this project reveal an important, and much under-recognized, mechanism of stratification. A criminal record presents a major barrier to employment, with important implications for racial disparities.

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They say it takes a village to raise a child; in my case, it has taken a department and a community to raise me through graduate school. The number of people who have offered support, insight, and compassion through these years has been extraordinary.

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I thank Erik Olin Wright for sharing with me his charismatic, endearing, and always brilliant sensibilities. Erik has the uncanny ability to bring a deep understanding to topics well outside the realm of his own work, to pinpoint the critical axis of intellectual debate, and to express the central ideas with more precision and flare than the author herself could have ever done. Erik's commitment to community, intellectual and otherwise, has been a model for me, and in his appreciation for the quirky and quixotic, I have found a kindred spirit.

I thank David Grusky for his mentorship from the very beginning of my career in sociology. David was patient with me as I struggled with the existential dilemmas of a

first-year graduate student, and offered what seemed to be limitless generosity with his time and feedback in the years to follow. Throughout the years, David has been an inspiring mentor, pushing me to think more clearly and to execute my research with greater precision. Following David to Wisconsin after my first year was the best decision I could have made; I thank him for making that opportunity available to me.

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Initial inspiration for this project came while volunteering at the Transitional Housing Authority of Madison, and I thank Lisa for facilitating my time there, and the many clients (especially Greg) for sharing their experiences with me. The design and implementation of the audit study benefited greatly from the extensive advice and guidance of scholars with an expertise in this methodology. I thank Marc Bendick, Jr. from Bendick & Egan Consultants for generous advice and feedback during the development of this project; Margery Turner, Wendy Zimmerman, and Doug Wissoker from the Urban Institute; Carla Wirthum at the Milwaukee Fair Housing Project; and Linda Garcia at 9to5.

The audit study would not have been possible without the generous support of those in the Milwaukee community. I thank the Benedict Center for donating office space during the course of my project; in particular, I thank Kit McNally, Sura Faraj, Emily Durway, and Lenard Wells. Members of the Sociology department at the University of Wisconsin-Milwaukee also provided space and logistical support for this project; I thank Stacey Oliker, Don Noel, and Deb Kolberg. Finally, I thank the testers participating in this project, whose hours of driving, applying for jobs, and filling out paperwork represented the backbone of this research. Without their dedication and conscientiousness, this project would not have been possible.

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I have been lucky to have the continuing friendship and support of a number of close friends from many parts of my life. These special individuals have comforted me in times of sorrow and celebrated with me in times of success. In particular, I thank Kristen Carey, Anne Escaron, Nisha Ganatra, Emilio Castilla, Peter Condon, Rodger Roundy, Jolanda Sallman, Chad Kautzer, Mike Spittel, Mary Beth Spittel, David Silver, Aaron Sachs, Christine Evans, Tim Johnson, Ellen Pechman, and Audrey Smolkin.

I thank Tom Leith for his love and companionship over the past two years. Tom has endured some of the lowest lows and the highest highs of my graduate school career, each of which brought its own anxieties and excitement. Tom's gentle and perceptive insights have comforted me in times of strain; his openness, curiosity, and broad intellectual interests have made him a challenging partner and a loving friend.

Finally, I thank my family who have been a continual source of stability and support from the very (very) beginning. My parents, Sylvia and David, are unique individuals with a passion for exploration and adventure. Their *joie de vivre* has spread throughout our family, and it is the inspiration behind so many of my own greatest

adventures. Sean and his new wife Sheryl are themselves intellectual and geographic explorers, and their recent travels are a model for the balance of career and personal fulfillment. And Chet has brought his wit and incisive intellect to our every communication; his limitless energy and infinite charm leave him endearing even after 28 hours on highway 94. This dissertation is dedicated to my family.

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**Chapter 1. The Consequences of Incarceration
for Labor Market Inequalities**

INTRODUCTION

While stratification researchers typically focus on schools, labor markets, and the family as primary institutions affecting inequality, a new institution has emerged as central to the sorting and stratifying of young and disadvantaged men: the criminal justice system.

With over two million individuals currently incarcerated, and over half a million prisoners released each year, the large and growing numbers of men being processed through the criminal justice system raises important questions about the consequences of this massive institutional intervention. This dissertation represents one attempt to come to terms with the consequences of incarceration for labor market inequalities.

Over the past three decades, the number of prison inmates has increased by more than 500 percent, leaving the United States the country with the highest incarceration rate in the world (Mauer, 2001). During this time, incarceration has changed from a punishment reserved primarily for the most heinous offenders to one extended to a much greater range of crimes and a much larger segment of the population. Recent trends in crime policy have led to the imposition of harsher sentences for a wider range of offenses, thus casting an ever widening net of penal intervention.

While the recent 'get tough on crime' policies may be effective in getting criminals off the streets, little provision has been made for when they get back out. Of the nearly two million individuals currently incarcerated, roughly 95 percent will be released, with more than half a million inmates returning this year alone (Slevin, 2000). According to one estimate, there are currently over 12 million ex-felons in the United States, representing roughly 8 percent of the working-age population (Uggen et al., 2000). Of those recently released, nearly two-thirds will be charged with new crimes and

over 40 percent will return to prison within three years (Bureau of Justice Statistics, 2002c). Certainly some of these outcomes are the result of desolate opportunities and deeply ingrained dispositions, grown out of broken families, poor neighborhoods, and little social control (Sampson & Laub, 1993; Wilson, 1997). But net of these contributing factors, there is evidence that experience with the criminal justice system in itself has adverse consequences for subsequent opportunities. In particular, incarceration is associated with limited future employment opportunities and earnings potential (Freeman, 1987; Western, 2000), which themselves are among the strongest predictors of recidivism (Shover, 1996; Sampson & Laub, 1993; Uggen, 2000).

The expansion of the prison population has been particularly consequential for blacks. The incarceration rate for young black men aged 25 to 29 in the year 2000 was nearly 10 percent, compared to just over one percent for white men in the same age group (Bureau of Justice Statistics, 2001a). Young black men today have a 28 percent likelihood of incarceration during their lifetime (Bureau of Justice Statistics, 1997), a figure which rises above 50 percent among young black high school dropouts (Pettit & Western, 2001). These vast numbers of inmates translate into a large and increasing population of black ex-offenders, returning to communities and searching for work. The barriers these men face in reaching economic self-sufficiency are compounded by the stigma of minority status and criminal record. The consequences of such trends for widening racial disparities are potentially profound (see Western & Pettit, 1999; Freeman & Holzer, 1986).

Not surprisingly, the massive rise in the prison population has caught the attention of social scientists. A majority of the existing research in this area, however, has focused

on the *causes* of expanding criminal justice system rather than on the consequences (e.g., Garland, 2001; Tonry, 1999). Only recently have researchers within and beyond the subfield of criminology begun to consider the implications of the expanding penal system for social and economic inequality. Asking how the experience of incarceration affects subsequent individual and aggregate opportunities, researchers are beginning to consider the role of the prison as an emerging institution of stratification.

Despite promising directions in the substantive focus of this research, the empirical study of the effects of incarceration have been plagued by questions of causal inference. Because inmates represent such an extreme segment of society, it is easy to imagine that their employment outcomes would be poor irrespective of their incarceration experience. Studies which find aggregate associations between incarceration and employment, therefore, may be merely reflecting pre-existing differences between those who do and do not go to prison.

In an attempt to resolve the substantive and methodological questions surrounding the consequences of incarceration, this dissertation provides both an experimental and observational approach to studying the barriers to employment for individuals with criminal records. Focusing on the stigma of incarceration—as opposed to any transformative effects which may occur within the prison—this work allows me to isolate the “credentialing” aspect of incarceration, by which those convicted of crimes become branded as a distinct class of individuals, with an associated channeling toward the lower tiers of the social hierarchy. This manuscript examines the changes in employment prospects for individuals with criminal records, exploring the ways in which incarceration shapes and constrains subsequent opportunities.

I begin in Chapter 2 with an historical overview of the rise of mass incarceration in the United States. The U.S. has emerged as a major international outlier in its use of imprisonment, despite relatively average levels of crime. I discuss the major changes in public policy which facilitated massive prison growth over the past three decades, and its disproportionate effect on racial minorities. The available evidence suggests that the rate of incarceration is far from a simple function of the level of crime. Rather, specific social and political influences have led to incarceration becoming the accepted if not preferred means of managing social disorder. By contrast, very little consideration has been given to the possible implications of these policy decisions.

The consequences of incarceration become abundantly clear in Chapter 3. Here I present the research design and primary results from an experimental audit study of employers in Milwaukee. In this study, matched pairs of young black and white men applied to real entry-level jobs using fictitious resumes and assumed criminal records. The vast differences in outcomes experienced by these groups—on the basis of both race and criminal record—is testament to the extreme impact these characteristics have on employment opportunities. Equally qualified applicants are excluded from half or more of all job opportunities purely on the basis of their race or criminal background. Given the massive number of men—young black men, in particular—with criminal records, the possible implications of these results for labor market inequalities are profound.

Based on additional analyses from the audit study, Chapter 4 focuses on the effects of race and criminal record across three domains, illustrating the ways in which employers respond differently to applicant types on the basis of personal contact, location, and occupation. In each of these comparisons, black ex-offenders appear to face

heightened disadvantage, beyond the simple additive effects of race or criminal record alone. These findings suggest that the combination of characteristics results in an intensification of stigma, with employers reacting more strongly to the overlapping signals of minority and criminal status.

Chapter 5 shifts the focus from the experiences of job seekers to a consideration of employers' perspectives on hiring applicants with criminal records. Based on a telephone survey of the same sample of employers, this chapter discusses the ways in which employers express their hiring preferences and policies, particularly as they relate to ex-offenders. The findings of this chapter point to differences in employer attitudes towards applicants with criminal records relative to other groups of marginalized workers; differences in employer attitudes across cities (using comparable data collected elsewhere); and differences in reactions to applicants with criminal records depending on the type of crime or the context of the sanction. This investigation complements the results of the audit study by providing additional information about the reasons employers make the hiring decisions they do.

Chapter 6 compares the responses of employers based on the survey data to the behavioral measures obtained in the audit study. These comparisons demonstrate that employers report a far higher likelihood of hiring applicants with criminal records, particularly in the case of black applicants, than what is revealed through direct study of employers' behaviors. The view of the barriers to employment for ex-offenders based on employers' self-reports is relatively benign; the audit study results, by contrast, show a very different picture. The analyses in this chapter demonstrate the extreme caution required by researchers in generalizing the results of surveys to actual behavior.

Reflecting on the empirical results presented in earlier chapters, Chapter 7 considers the mechanisms by which race and criminal record exert their influence. This chapter provides a theoretical account of social stigma, and proposes several mechanisms by which stigma may affect employment interactions and constrain opportunities. Affecting both the immediate and long-term outcomes of individuals and groups, the markings of stigma can have devastating effects.

In Chapter 8, I conclude with a discussion of the main findings of this manuscript. In addition, I highlight the broader consequences of incarceration not covered by the present analyses, pointing to the potential implications for political participation, family welfare, housing, and neighborhood stability. Finally, I consider recent trends in public opinion and crime policy, suggestive of growing support for investing in alternatives to incarceration.

Overall this manuscript grapples with the implications of incarceration for rising inequality. As prison increasingly serves as a temporary home to young disadvantaged men, it becomes critical to assess the impact of these trends for subsequent outcomes. While in the short run, incarceration may detain criminals and reduce crime, in the long-run, we are producing a growing population of men, marked by a criminal record, who are left with few opportunities for legitimate work. In studying the consequences of incarceration, we can assess the extent to which our crime policies may themselves contribute to the increasing social and economic stratification of young men.

Chapter 2. Mass Incarceration: An Historical Overview

Mass Incarceration: An Historical Overview

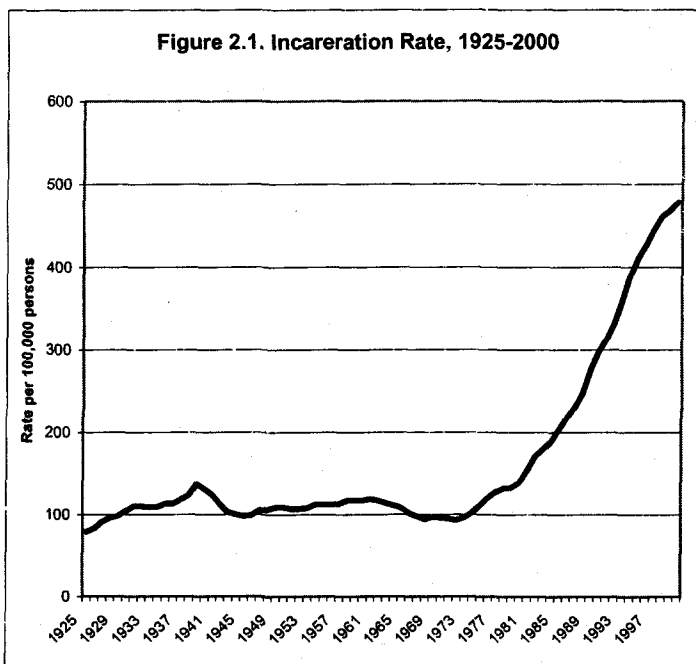
The remarkable expansion of the U.S. criminal justice system over the past three decades has become a central concern of academics and policy makers. Incarceration rates doubled in the period between 1972 and 1984, and then doubled again in the following decade (Bureau of Justice Statistics, 2000a). The U.S. has achieved the dubious distinction of becoming the world leader in incarceration, surpassing Russia, China, and South Africa in its proportion of citizens behind bars. With over 2 million individuals currently incarcerated and over 4 million currently on probation or parole, the American criminal justice system has changed from a peripheral intervention to a major state institution, with important consequences for stratification.

In this chapter, I trace the emergence of recent trends in incarceration in the United States, linking these trends with the major shifts in crime policy which gave rise to them. Placing recent trends in historical and comparative perspective, it becomes clear that levels of incarceration are far from the simple response to corresponding levels of crime. In fact, while there is some evidence that incarceration rates are affected by crime rates (Taggart & Winn, 1993; Jacobs & Helms, 1996), this relationship accounts for at most a small proportion of the overall variation in incarceration (Blumstein & Beck, 1999; Zimring & Hawkins, 1997). Rather, it is the broader political orientation toward crime and punishment which most influences state policies on crime control. In the following discussion, I seek to account for the major policy shifts implicated in the rise of the U.S. penal population over the past three decades, and their implications for deepening racial disparities.

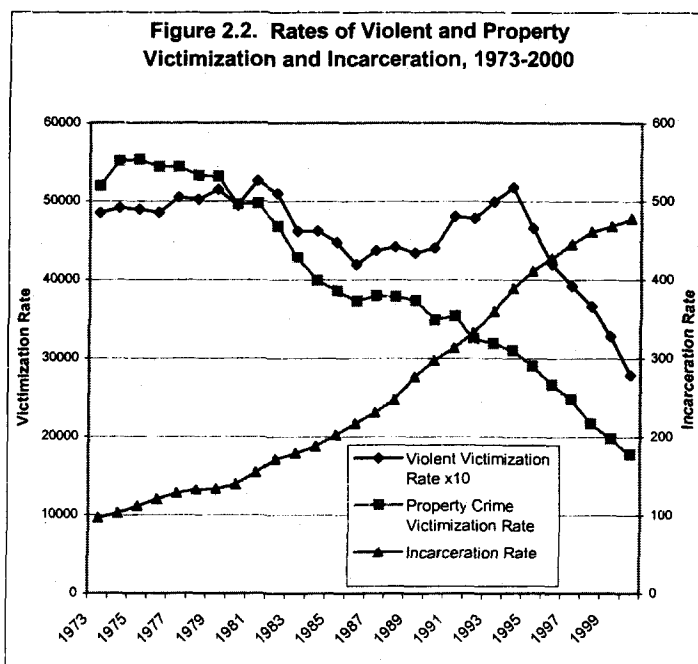
A Brief History of Incarceration in the United States

The massive expansion of the inmate population in the United States is a relatively recent phenomenon. For most of the 20th century, the size of the state and federal prison population remained fairly constant, hovering around 110 inmates per 100,000 residents (Bureau of Justice Statistics, 2000a). In the early 1970s, however, these trends changed dramatically (Figure 2.1). Between 1972 and 1984, the incarceration rate doubled from 93 to 188 inmates per 100,000 residents (Bureau of Justice Statistics, 2000a). This rapid increase persisted in the following decade, with the incarceration rate once again doubling to 389 in 1994 (Bureau of Justice Statistics, 2000a). The rate of increase slowed somewhat after 1994, but continued to climb steadily to a rate of 478 in the year 2000 (Bureau of Justice Statistics, 2001a). Overall, the past three decades have shown a 650 percent increase in the size of the inmate population. By the end of 2000, the number of inmates had reached an unprecedented level of more than two million individuals (Bureau of Justice Statistics, 2001a).¹

¹ This figure includes inmates in county jails and local detention centers, whereas the incarceration rates cited earlier include only those inmates in state and federal prisons (The reporting of historical trends in incarceration rates includes only inmates in state and federal prisons). In the year 2001, the incarceration rate including jail inmates was 690 per 100,000 residents (Bureau of Justice Statistics, 2002a). Of all inmates in the year 2001, 61 percent were in state prison facilities, seven percent were in federal prisons, and 32 percent were in local jails (Bureau of Justice Statistics, 2002a).



Source: Sourcebook of Criminal Justice Statistics, 2000.



Source: National Crime Victimization Survey, Uniform Crime Reports, Sourcebook on Criminal Justice Statistics, and Prisoners in 2000, BJS. Violent crimes per 100,000 persons age 12 or older (x10); property crimes per 100,000 households; incarceration rates per 100,000 persons.

During this time, media accounts and public opinion surveys seemed to suggest that a menacing surge in crime was the source of rising incarceration (Beckett, 1997). And yet, over much of this period, official crime and victimization rates remained stable or declined even as the number of inmates continued to rise (Figure 2.2).² As a result of these disparate trends, the number of prison inmates per reported crime over the past three decades has increased substantially. In 1973, there were 23 state and federal prisoners in custody for every 1000 index crimes reported; by 1998, this number had increased by over 400 percent (Bureau of Justice Statistics, 2002a). The growth in incarceration therefore far outpaced any corresponding growth in crime. If we were to include the numbers of inmates in county jails and local detention centers, also rapidly increasing during this period, these ratios would be larger still (Bureau of Justice Statistics, 2002a).

The disparate trends in crime and incarceration are indeed provocative, and they have been the source of heated debate among academics and policy makers. To some, the trends provide clear evidence for the effectiveness of incarceration: As dangerous criminals are removed from the streets, the level of crime falls proportionally.³

² The two major sources of crime statistics in the United States are the FBI's Uniform Crime Report (UCR) and the National Crime Victimization Survey (NCVS). The UCR uses seven "index crimes" to proxy overall crime rates. These include: murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor-vehicle theft. Figure 2.2 reports victimization rates from the NCVS which include data on burglary, motor vehicle theft, theft, rape, sexual assault, robbery, and aggravated and simple assault, but do not include homicide rates (Bureau of Justice Statistics, 2001b). Neither crime measure includes data on drug offenses. Victimization rates are thought to provide more complete information on lower-level crimes that may not be reported to the police. It is important to remember, however, that trends can differ depending on the crime measure used. Differences across crime measures can result from crimes not reported to the police, differences in the types of crime included in each measure, and changes in the official definitions of criminal acts. See Cohen and Cork (2002) for a lucid discussion of how to account for and accommodate differences among crime indicators.

³ Though analyses at the state level demonstrate that the rate of growth in incarceration is virtually uncorrelated with state-level changes in crime rates (Gainsborough & Mauer, 2000).

According to DiIulio and Piehl (1991), for example, each newly imprisoned offender results in the reduction of an average of 141 crimes per year (see also Piehl & DiIulio, 1995; Zedlewski, 1987). Others, by contrast, argue that increases in incarceration since 1975 can account for only a small proportion of crime reduction over this period (Cohen & Canelo-Cacho, 1994), and that increasing incarceration has diminishing returns (Zedlewski, 1987). Recent estimates by two separate researchers, for example, indicate that the increases in incarceration over the past three decades can account for approximately 25 percent of the reduction in crime (Spelman, 2000; Roselfeld, 2000). Thus, while incarceration certainly may be effective in detaining individuals who would have otherwise continued committing crimes, it is not at all clear that incarceration is the main source of crime reduction. Particularly beyond a certain threshold, it seems that increases in incarceration can have only marginal benefits for the overall level of reported crime. Rather, decreases in crime, particularly decreases over the past decade, can be more immediately tied to a complex set of changing economic and social conditions, including job growth, age composition, handgun access, drug use, and the availability of services for abused women (related to a sharp decline in intimate-partner homicide) (Blumstein & Rosenfeld, 1998; Blumstein & Wallman, 2000; Fagan et al., 1998). According to Spelman (2000), incarceration did facilitate crime reduction, but the crime rate would have fallen anyway.

Just as the causal influence of incarceration on crime rates is moderate to low, there is likewise evidence that the effect of crime rates on incarceration is also minimal. In fact, a recent study by Blumstein & Beck (1999) indicates that, between 1980 and

1996, only 12 percent of the increase in incarceration can be accounted for by increases in crime. The remaining 88 percent can be attributed rather to changes in crime control policies, including a 51 percent increase in the likelihood of incarceration following conviction and a 37 percent increase in the average length of sentences.⁴ More recently, rising imprisonment rates have also been influenced by the increasing number of individuals sent back to prison for minor parole violations (Caplow & Simon, 1999). Between 1990 and 1998, the number of new court commitments to prison increased by only seven percent while the number of return parole violators increased by 54 percent⁵ (Bureau of Justice Statistics, 2002a). These trends offer strong indication that crime control strategies result as much if not more from social and political influences as from actual levels of crime. According to David Garland, “[I]t is clear enough that criminal conduct does not determine the kind of penal action that a society adopts... [I]t is not ‘crime’ or even criminological knowledge about crime which most affects policy decisions, but rather the ways in which ‘the crime problem’ is officially perceived and the political positions to which these perceptions give rise” (Garland, 1990:20). What Americans consider appropriate responses to dealing with crime has changed substantially since the 1960s. Whereas once prison was seen as a last resort for offenders, it now represents one of the dominant strategies for dealing with social disorder among largely marginalized populations (Wacquant, 2001).

⁴ Of the increases in incarceration due to rising crime, a huge proportion can be accounted for by the growth in drug offenses, measured by drug arrests rather than by reported crimes (as is the case for other crime types). Excluding drug offenses from this decomposition, the growth in incarceration due to increases in crime is negligible, with over 99 percent of the upward trend associated with changes in crime policy, including the increasing likelihood of incarceration (42 percent) and increases in the length of time served (58 percent) (Blumstein & Beck, 1999).

Very recently, there has been a small drop in the rate of incarceration (Bureau of Justice Statistics, 2001a). The number of inmates in state prisons fell by half a percent (roughly 6000 prisoners) during the second half of the year 2000, representing the first decline since 1972.⁶ It remains to be seen whether this represents part of a larger trend toward decarceration or whether it is merely a small fluctuation in an otherwise steady upward trajectory.

Crime and Punishment in International Perspective

When placed in international perspective, recent levels of incarceration in the United States appear all the more astonishing. Figure 2.3 presents the incarceration rate for the U.S. relative to seventeen other industrialized countries. Here we see that the U.S. is a major international outlier, with rates of incarceration between five and 15 times those of other countries. How can we explain these vast differences in the pervasiveness of incarceration between the U.S. and other countries?

Again, our first instinct may be to look for the “smoking gun” in differences in the levels of crime and violence found among these countries. Many people associate American society with extreme and pervasive forms of violent crime. Indeed, comparative statistics show that, in terms of homicide, the United States far surpasses its international counterparts. In 1999, the homicide rate in the United States was 5.7 per

⁵ Of parole violators sent back to prison, roughly 60 percent had been convicted of a new crime while 40 percent had merely committed a technical violation of their parole (Gainsborough & Mauer, 2000).

⁶ Trends show that state prison growth is typically smaller in the second half of the year relative to the first (Bureau of Justice Statistics, 2002a). The figures for the full year 2000, including state and federal inmates, demonstrate an overall increase by 1.2 percent. Nevertheless, this figure represents the smallest annual increase since 1972 (Bureau of Justice Statistics, 2001).

100,000 individuals, relative to rates only a fraction of this size in Europe (Bureau of Justice Statistics, 2001b; U.K. Home Office, 2001).⁷

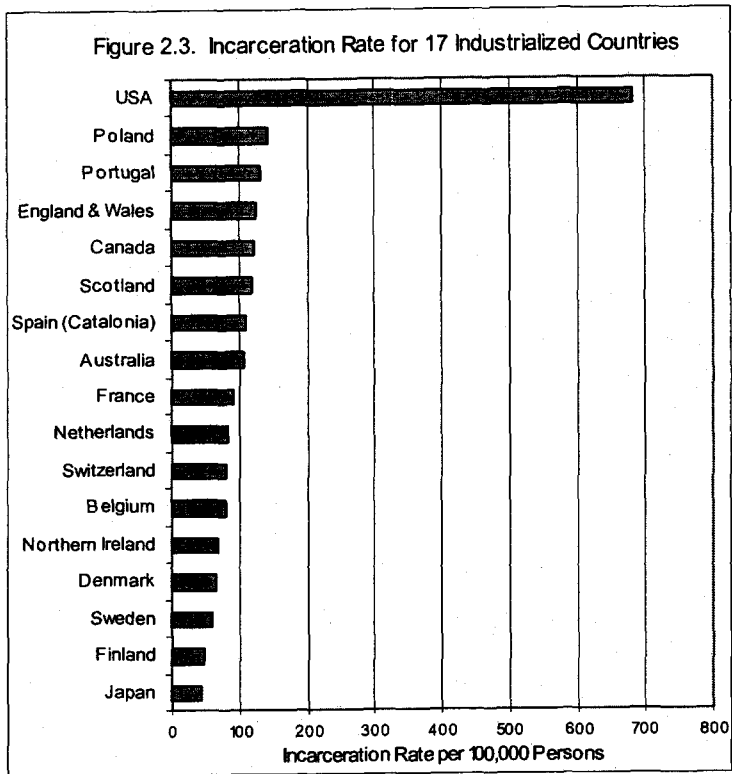
It is important to recognize, however, that homicide represents a very small proportion of crime in any society. Among state prison admissions in the U.S. in 1999, only 3.2 percent were for homicide (Bureau of Justice Statistics, 1999a). The vast majority of prison admissions are for less serious crimes, with more than 70 percent of recent prison admits convicted of entirely nonviolent offenses (Bureau of Justice Statistics, 1999a). How, then, does the U.S. compare to other industrialized countries in terms of more general indicators of crime and safety? Figure 2.4 presents victimization rates for the same seventeen industrialized countries. As is clear from this picture, the U.S. is below average in its overall level of victimization.^{8,9} Analyses of specific crimes rates across countries (not shown here), such as burglary, theft, and even overall levels of

⁷ The disproportionate number of murders in the U.S. can largely be traced to the availability of firearms. Guns are much more prevalent in American households than in other Western countries (Tonry, 2001), and they are responsible for over half of all homicides in the U.S. (Bureau of Justice Statistics, 2002). While it is not clear what the homicide rate would be if guns were less accessible in this country, there is fairly strong evidence suggesting that a substantial number of assaults, robberies, and other violent crimes would prove less fatal in the absence of firearms (Zimring, 1972; Blumstein & Rosenfeld, 1998).

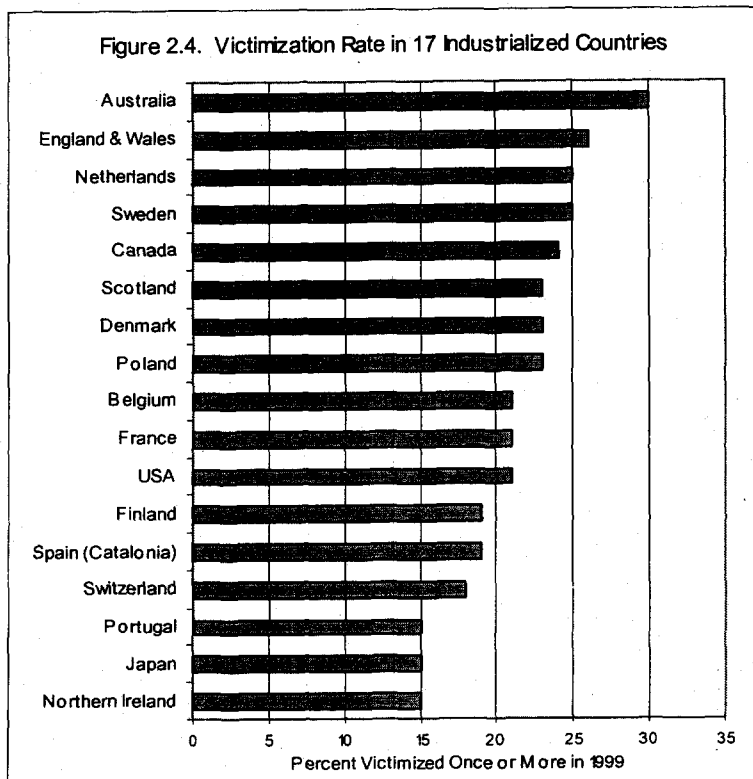
⁸ Data come from the International Crime Victimization Survey. As in the victimization trends reported in Figure 2.2, these data include trends in personal and property victimization across a wide range of offenses (excluding homicide).

violent crime (excluding homicide), also demonstrate the U.S. to be at or below average in international comparisons (U.K. Home Office, 2001; see also Zimring & Hawkins, 1997; Kurki, 1997). The “American exceptionalism” in incarceration rates, then, can scarcely be explained by relative levels of crime. The U.S. has taken a qualitatively different approach to crime control, resulting in unprecedented levels of imprisonment.

⁹ Trends in incidence of victimization (number of incidents), as opposed to prevalence of victimization (percent victimized once or more), shows the U.S. as somewhat higher in this international ranking. Nevertheless, the U.S. is far from the leader in victimization rates, however defined.



Source: UK Home Office for Statistical Research. 2001. "International Comparisons of Criminal Justice Statistics, 1999." By Barclay, Gordon, Cynthia Tavares, and Arsalaan Siddique.



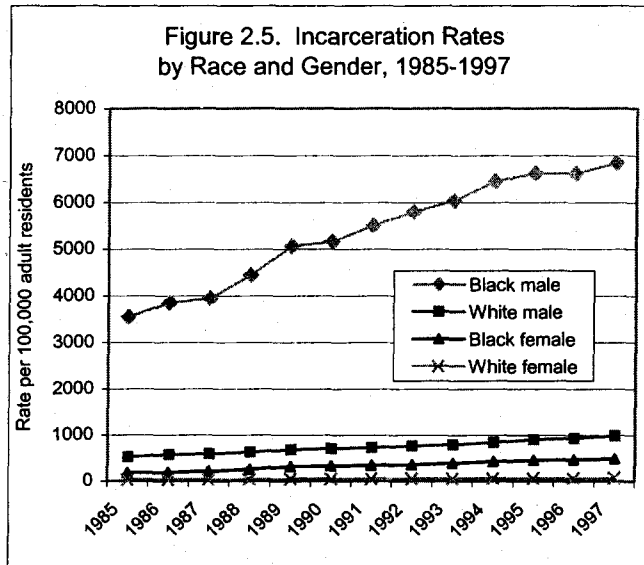
Source: Dutch Ministry of Justice. 2000. "Criminal Victimization in 17 Industrialized Countries, 1999." By John van Kesteren, Pat Mayhew, Paul Nieuwbeerta.

Racial Disparities in Incarceration

While the enormous growth of incarceration over the past three decades has been a national trend, no group has been more affected than have African-Americans. In 1997, blacks comprised 13 percent of the nation's population, 28 percent of those arrested, 43 percent of those in jail, and 48 percent of those in prison (Bureau of Justice Statistics, 2000a).¹⁰ At each stage of the criminal justice system, blacks become more heavily overrepresented.

Black men, in particular, have been the most seriously affected population. As shown in Figure 2.5, the rate of incarceration among black men was already six times higher than that of white men in 1985, and has grown steadily over time. Today black men are incarcerated at nearly eight times the rate of white men across all age groups (Bureau of Justice Statistics, 2001a). Among young men ages 25 to 29, nearly 10 percent of blacks are incarcerated at any given time, compared to just over one percent of white men in the same age group (Bureau of Justice Statistics, 2001a).

¹⁰ Jail is generally reserved for inmates awaiting trial or serving sentences of less than a year; prison is usually for inmates serving sentences of one year or more.



Source: Bureau of Justice Statistics, 2000a. Note: Incarceration rate includes inmates in state and federal prisons and local jails.

These cross-sectional comparisons demonstrate the vast racial disparities that pervade the criminal justice system. But it is the lifetime projections which more fully demonstrate the extent to which prisons have become a dominant institution in the lives of African-American men: Young black men today have a 28 percent likelihood of incarceration during their lifetime (Bureau of Justice Statistics, 1997), a figure which rises above 50 percent among young black high school dropouts (Pettit & Western, 2001). According to these estimates, young black high school dropouts are more likely to go to prison than to graduate from college, serve in the military, or to be in the labor market (Pettit & Western, 2001). Incarceration is thus becoming an increasingly normative experience in the lives of young disadvantaged men. The implications of these trends for new forms of racial stratification have yet to be fully appreciated.

It is more difficult to assess the extent to which these racial disparities reflect differences in the level of criminal activity between groups versus differential

enforcement. Certainly there is evidence of a substantial zero-order correlation between race and criminal activity (Blumstein, 1982, 1993).¹¹ And yet no measure of criminal involvement matches the levels of disparities found in the criminal justice system (Blumstein, 1993; Miller, 1996). In fact, among drug crimes (discussed below), which have been a major source of growing racial disparities in imprisonment, there is evidence to suggest that whites outnumber blacks in both consumption and distribution (U.S. Department of Health and Human Services, 1998). Once again, therefore, it is difficult to neatly link criminal enforcement with criminal activity. While certainly there are legitimate reasons for targeting criminal surveillance and enforcement in minority communities, which are more likely to be areas with high concentrations of drug trafficking and/or violence, it would be difficult to argue that these are the only factors that determine who ends up behind bars.

The Mission of the Prison: From Rehabilitation to Retribution

Trends in U.S. incarceration over time, cross-nationally, and by race demonstrate the extraordinary character of the American criminal justice system. Though it is beyond the scope of this study to explain the underlying causes of crime policy, a subject well-covered by other authors (e.g., Tonry, 1999; Garland, 2001; Beckett, 1997), I do want to explicitly discuss the primary policy shifts which gave rise to the current state of American imprisonment.

¹¹ A zero-order correlation implies a gross association, without controlling for other related characteristics such as family income, neighborhood poverty, family structure, etc. Controls for these characteristics account for much if not all observed racial disparities in criminal activity (e.g., Sampson, 1987).

In the middle part of the 20th century, prison was viewed as an institution of rehabilitation and reform. Individuals who committed crimes were seen as needing supervision, resocialization, and assistance in acquiring the necessary psychological foundation for re-entering society. It was believed that counseling, education, and job-training were central to criminal desistance and that active intervention could have lasting effects. Finding empirical support for these intended effects, however, proved to be a difficult task. A series of studies conducted in the late 1960s and the early 1970s found the effects of prison programs to be variable at best, nonexistent at worst.¹² A landmark study by Martinson (1974) became widely known for its message that “nothing works” in the rehabilitation of offenders (see Allen, 1981).

As policy makers and the public grew increasingly dissatisfied with seemingly ineffective attempts at rehabilitation, an alternative orientation took hold. Building on public reactions to rising crime rates and increasing perceptions of disorder following the Civil Rights Movement and protests of the Vietnam war, Nixon’s 1968 presidential campaign was the first to feature the theme of “law and order” as a centerpiece of his platform. This marked the beginning of an era of widening criminal justice intervention and more punitive approaches to crime control.

Since 1970, crime policy has represented a central focus of every administration, irrespective of political orientation. Efforts to appear “tough on crime” have resulted in the passage of numerous state and federal acts to escalate the policing, prosecution, and imprisonment of offenders. Across this landscape of penal reform, two major changes in

¹² Subsequent studies of program effectiveness have questioned whether this early pessimism was warranted. Several well-designed studies have shown significant rehabilitation effects for certain groups of

crime policy stand out as central to understanding the rapid expansion of the criminal justice system: changes in sentencing policy and the War on Drugs. In the remainder of this chapter, I provide a brief overview of each of these policy changes, and discuss the ways in which they directly resulted in the rapid growth in incarceration.

Changes in Sentencing Policy

Though prison reform took on many dimensions, one of the most influential changes to the system concerned sentencing policies. Throughout the 20th century, virtually all states had followed a system of indeterminate sentencing, whereby judges were given substantial leeway in determining the strength of sanction, depending on a range of factors pertaining to the individual and the offense. Rather than assigning a fixed amount of time, judges would provide a minimum and maximum sentence, with the actual amount of time served depending on the evaluation of periodic reviews by parole boards. The indeterminacy of sentences was meant to provide incentives for inmates to follow rules and to demonstrate a commitment to reform. The possibility of early parole was intended as the 'carrot' to accompany the 'stick' of incarceration (Mauer, 2001). With increasing scrutiny of the criminal justice system from politicians and the public, however, indeterminate sentencing came under sharp attack.

Ironically, vocal criticism of indeterminate sentencing came from both liberals and conservatives (Allen, 1981; Garland, 2001). Liberals argued that the large degree of discretion involved in sentencing decisions left the system wide open to the influence of discriminatory and arbitrary judgments. These critics called for the adoption of

offenders (Palmer, 1975; McGuire, 1995). Unfortunately, few government programs are designed with

determinate sentencing as a means of making the criminal justice system more fair and more transparent. Likewise, the rhetoric of rehabilitation was rejected as representing a legitimating ideology of social control, rather than a genuine service to offenders. The involuntary imposition of treatment was seen as a coercive means of subduing inmates, requiring that they submit not only to physical containment but to psychological containment as well (Wright, 1973; Allen, 1981). According to this perspective, the process of deigning individuals as "fit" or "unfit" to re-enter society was morally bankrupt; instead, liberal critics called for the removal of these inherently subjective discretionary judgments and the instatement of fixed terms for specific offenses.

At the same time, conservatives believed that the discretion afforded to judges and parole boards afforded too much leniency: offenders convicted of homicide could be sentenced to anything from one year to life in prison; and once in prison, they could be released long before the completion of their sentence for "good behavior." Criticizing the current system as being "soft on crime," these groups lobbied for mandatory sentencing policies which would impose fixed terms for specified crimes and stricter limits on early release.

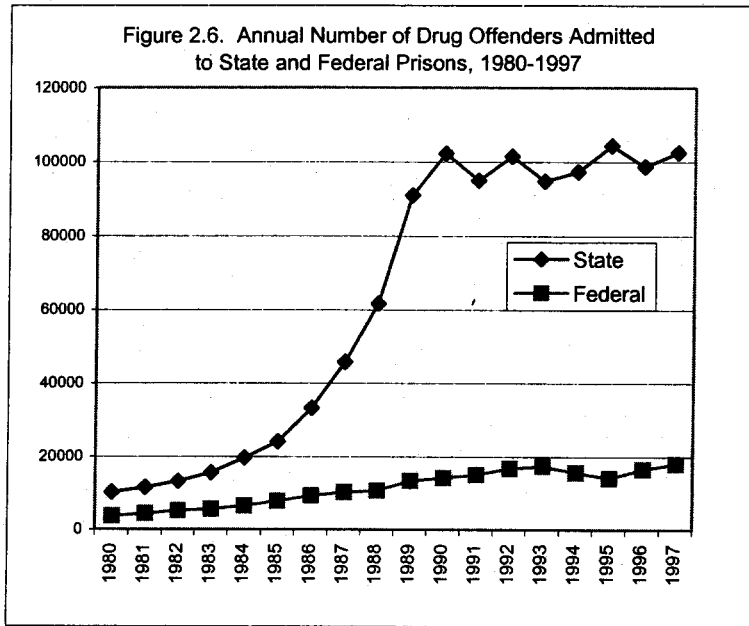
The combined voices of liberals and conservatives led to the rapid adoption of determinate sentencing structures over the next two decades. By 1996, all states had some form of mandatory sentencing guidelines ensuring fixed sentences for specified crimes (Bureau of Justice Assistance, 1996) and half of the states had some form of "truth-in-sentencing," mandating that inmates would not be released before a majority of their sentence had been served (Clark et al., 1997).

evaluation in mind, leading to great difficulty in obtaining accurate estimates of treatment effects.

The consequences of these policies were devastating for the millions of individuals processed under this new regime. Whereas in the past, first-time or low-level offenders may have been placed on probation instead of in prison, new sentencing laws imposed stricter punishments for a broad range of offenses. The chances of receiving a prison sentence following conviction increased by more than 50 percent as a result of mandatory sentencing laws. Likewise, the amount of prison time served increased substantially under new guidelines, with the average length of sentences served increasing by nearly 40 percent over the past 15 years (Blumstein & Beck, 1999). Crime did not become more serious over this period; but punishment surely did.

The War on Drugs

The second major shift in crime policy drew attention to a new public enemy: illicit drugs. Launched under the Reagan administration, the War on Drugs focused national attention and federal resources on the problem of drug use and distribution, mobilizing vast public resources to combat this emerging social problem. While drug crimes had historically been a very small proportion of all convictions, the number of drug offenders admitted to prison skyrocketed during this period. Between 1980 and 1998, the annual number of drug offenders admitted to state prison increased tenfold (see Figure 2.6). In 1999, the most recent date for which I have data, a higher proportion of state prison admissions were for drug crimes than for violent crimes (32.4 percent versus 27.8 percent) (Bureau of Justice Statistics, 2002b).



Source: Human Rights Watch, 2000

Though the rise in drug offenders admitted to federal prisons was not as steep, as a proportion of all inmates it was far more dramatic: While drug offenders in state prisons today represent only 21 percent of all inmates, those in federal prisons rose from 16.3 percent in 1970 to more than 60 percent in 1999 (Bureau of Justice Statistics, 2001a). Owing to the legacy of Reagan's domestic war, drug offenders have taken center stage in the federal prison system.¹³

According to media accounts and political campaigns throughout this period, illicit drug sales and drug abuse had reached epidemic proportions (Beckett, 1997). Indeed, the use of heroin and cocaine had increased in the early to mid-1980s, and the

¹³ Though small-time users and dealers have borne the brunt of the growing enforcement of drug laws, it is important to acknowledge that the "war on drugs" was aimed not only at offenses of drug use and sales but also at the rise in violent crime associated with the drug trade. The homicide rate increased nearly 25 percent between 1985 and 1991, falling sharply through the remainder of the 90s (Blumstein & Rosenfeld, 1998). A majority of the increase in homicide during this time has been linked to warring among rival drug markets and the increasing use of handguns for protection and retribution (Blumstein & Wallman, 2000). It

introduction of crack cocaine was of serious concern. And yet, the patterns of incarceration of drug offenders were largely out of step with patterns of drug use. National surveys of drug use indicate that cocaine use rose markedly between 1983 and 1985, and then began a steep decline, leveling off in 1992. Likewise, the number of crack users has remained steady since 1988 (U.S. Dept of Health and Human Services, 1999). As we can see above, however, the number of prison admissions for drug offenders rose sharply just as drug use was starting to decline.¹⁴ Despite the fact that both cocaine and crack consumption decreased substantially in the 1990s, incarceration rates for drug offenders remained at peak levels.

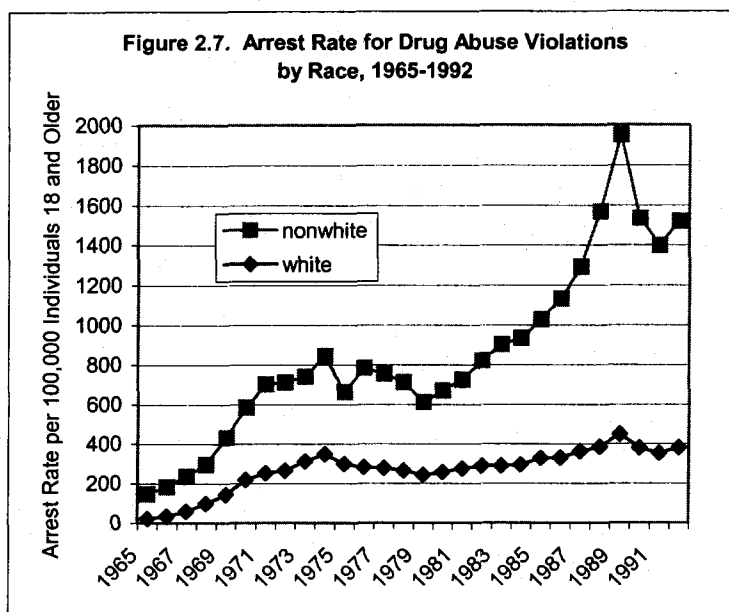
Policies developed to fight the War on Drugs have been intimately tied with changes in sentencing policies described above. Epitomized by the introduction the Rockefeller drug laws in New York in the early 1970s, which imposed harsh mandatory prison sentences for drug offenders, drug convictions have been a major focus of determinate sentencing legislation. As a result, individuals convicted of drug crimes have been more substantially affected by the new sentencing guidelines than those convicted of any other type of crime: The chances of incarceration following a drug conviction increased by more than 500 percent between 1980 and 1992, and the average length of sentences has nearly doubled (Tonry & Hatlestad, 1997; Blumstein & Beck, 1999). In some cases, prison sentences for drug trafficking can be longer than those for homicide

is thus important to note that the rise in incarceration among drug offenders was influenced by the wider set of illicit activities associated with the drug trade.

¹⁴ Though rising prosecution of drug offenses may have had some deterrent effects on drug use, most researchers believe that the direct effect of incarceration on drug markets is minimal. Lead drug king pins are rarely arrested and small-time dealers are easily replaced. Even among those researchers who argue that incarceration substantially reduces crime overall, drug crimes remain a notable exception (see Dilulio & Piehl, 1991; Piehl & Dilulio, 1995).

(Caplow & Simon, 1999). Though recently there has been some movement towards the diversion of drug offenders from criminal courts to drug courts and treatment programs (Nolan, 2001; Berman & Feinblatt, 2001), the number of drug offenders being processed through the criminal justice system remains immense.

Finally, it is impossible to discuss the War on Drugs without acknowledging the massively disproportionate impact it has had on African-Americans. No single offense type has more directly contributed to racial disparities in imprisonment than drug crimes. The arrest rate for nonwhites convicted of drug offenses has grown steadily since the mid 1960s, with the 1980s marking the decade of sharpest increase (see Figure 2.7). Between 1979 and 1989, the arrest rate for nonwhite drug offenders grew by more than 300 percent, representing a rate of increase nearly twice that of whites. Despite the fact that an overwhelming number of drug users are white (82 percent), and that, even with respect to crack cocaine, more users are white than black (National Household Survey on Drug Use, 1988), the brunt of drug prosecutions have fallen on African-Americans. Much of the racial disparity in enforcement can be accounted for by the concentration of blacks in central cities where police surveillance is likely to be more pervasive, as well as the harsher penalties for individuals who sell drugs within a specified distance of a school or public housing building (Gould, 2002). Whatever the cause, blacks have paid the price for our decision to manage 'the drug problem' through courts, jails, and prisons.



Source: U.S. Department of Justice. "Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses, 1965-1992."

Causes and Consequences of Mass Incarceration

From this brief overview of incarceration in the United States, several facts have become clear: First, the rate of incarceration in the United States is unprecedented, both historically and internationally; second, levels of incarceration are only loosely related to actual crime rates (including drug use); and third, specific policy decisions, namely mandatory sentencing and the War on Drugs, have had profound effects on the resulting growth of the prison population. Together, these facts demonstrate the degree to which incarceration is largely a political process, emerging as much from public representations of crime as from the actual incidence or prevalence of criminal activity. The level of incarceration in the United States, therefore, is not an inevitable outcome of a society plagued by corruption, but a highly unusual and extreme response to the ordinary problems of crime control.

America's approach to incarceration has been one of history's greatest social experiments. And yet, despite the enormous scale at which this experiment was carried out, we know very little about the consequences of this massive institutional intervention. The prison has become a dominant institution in the United States, particularly in the lives of young disadvantaged men; the extent to which the rapid expansion of the criminal justice system has and will have an impact on broader processes of social stratification remains largely unknown. In the following chapters, I seek to document some of the consequences of incarceration for labor market outcomes. This work represents one step toward the larger project of assessing the impact of our fastest growing American institution.

Chapter 3. The Mark of a Criminal Record

The Mark of a Criminal Record

Incarceration is intended to serve as punishment for individuals who have broken the law. And yet, there is reason to believe that the punishing effects of prison do not end upon an inmate's release. Rather, information about an individual's experience with the criminal justice system can be widely accessed by prospective employers, landlords, and creditors, implicating them within a class of corruption. To the extent that this information results in the exclusion of ex-offenders from valuable social and economic opportunities, individuals face what is akin to the legal concept of "double-jeopardy": being punished more than once for the same crime.

This chapter focuses on the consequences of incarceration for the employment outcomes of black and white men. As the more than half a million individuals being released each year attempt to make the transition from prison to work, the barriers to employment for ex-offenders have become painfully clear. Less than 21 percent of California parolees, for example, were employed full-time in the early 1990s; only a fraction of ex-offenders are able to find jobs paying a living wage (Irwin & Austin, 1994; Travis, 2001). Examining the role of incarceration in shaping these poor employment outcomes has become of critical importance.

The fundamental question one needs to ask in assessing the relationship between incarceration and employment is a question of causality. To what extent can the poor employment outcomes of ex-offenders be explained by their own predispositions toward unstable work patterns, relative to the direct influence of an incarceration experience.

The previous research in this area, relying largely on survey data, has not been able to

provide a definitive answer to this question, leaving open the possibility that incarceration itself does little to contribute to the already bleak employment prospects of those who wind up in prison.

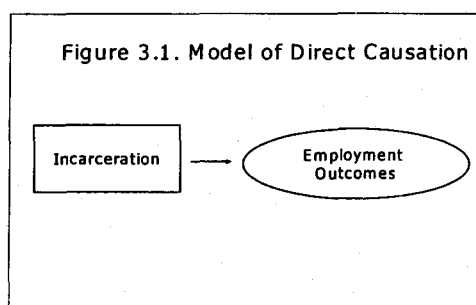
In the present study, I adopt an experimental design which allows me to effectively isolate the causal influence of a criminal record. By using matched pairs of individuals to apply for real entry-level jobs, it becomes possible to directly measure the extent to which a criminal record—in the absence of other disqualifying characteristics—serves as a barrier to employment among equally qualified applicants. Further, by varying the race of the tester pairs, we can assess the ways in which the effects of race and a criminal record interact to produce new forms of labor market inequalities. This approach offers conclusive evidence for the role of incarceration in shaping labor market outcomes, with the mark of a criminal record resulting in closed doors and lost opportunities.

Prior Research

While little research has focused on the consequences of criminal sanctions, a growing body of evidence suggests that contact with the criminal justice system can lead to a substantial reduction in economic opportunities. Using longitudinal survey data, researchers have studied the employment probabilities and income of individuals after release from prison, finding a strong and consistent negative effect of incarceration (Western & Beckett, 1999; Freeman, 1987; Nagin & Waldfogel, 1993).

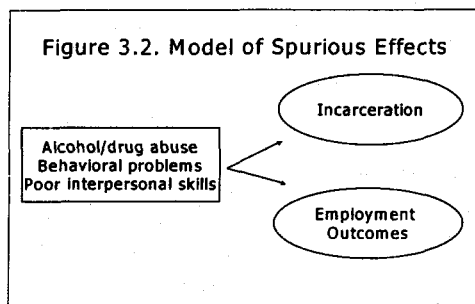
This existing research has been instrumental in demonstrating the possible aggregate effects of incarceration on labor market outcomes. Unfortunately, however,

there are several fundamental limitations of survey data which leave the conclusions of this research vulnerable to harsh criticism. First, it is difficult, using survey data, to rule out the possibility that unmeasured differences between those who are and are not convicted of crimes may drive the observed results. Figure 3.1 presents one possible model of the relationship between incarceration and employment outcomes, with a direct causal link between the two. In this model, an individual acquires a criminal record which then severely limits his later employment opportunities.



Providing conclusive empirical support for this theoretical model, however, proves much more complicated than it seems. We know, for example, that the population of inmates is not a random sample of the overall population. What if, then, the poor outcomes of ex-offenders are merely the result of pre-existing traits which make them bad employees in the first place? Figure 3.2 presents a model of spurious association in which there is no direct link between incarceration and employment outcomes. Instead, there are direct links between various pre-existing individual characteristics (e.g., drug/alcohol abuse, behavioral problems, poor interpersonal skills) which increase the likelihood of both

incarceration and poor employment outcomes.¹⁵ In this model, the association between incarceration and employment is entirely artificial, the result of individual predispositions toward deviance.



Consistent with Figure 3.2, Kling (1999), Grogger (1995), and Needels (1996) have each argued that the effect of incarceration on employment is negligible at an estimated 0 to 4 percent. Using administrative data from Unemployment Insurance files matched with records from the Department of Corrections, these authors contend that the observed association is instead largely determined by unmeasured individual characteristics which predispose those in prison to poor employment prospects.¹⁶ The findings of these authors stand in stark contrast to the majority of literature asserting a strong link between incarceration and employment (Western & Beckett, 1999; Bushway, 1998; Sampson & Laub, 1993; Freeman, 1987; Grogger, 1992). While it remains an open question as to whether and to what extent incarceration causes employment difficulties, survey research is poorly equipped to offer a definitive answer. The achilles heel of the survey

¹⁵ The variables listed here are just a few of the many potential sources of spuriousness that are virtually untestable using survey data.

¹⁶ Kling used data from federal inmates in California; Grogger used data from state inmates in California; Needels used data from state inmates in Georgia.

methodology is its inability to escape from the glaring problems of selection which plague research in this field (see Winship & Morgan, 1999; Rubin, 1990; Heckman et al., 1998).¹⁷

A second, related limitation of survey research is its inability to formally identify mechanisms. From aggregate effects we can infer plausible causal processes, but these are only indirectly supported by the data. Because numerous mechanisms could lead to the same set of outcomes, we are left unable to assess the substantive contribution of any given causal process. Survey researchers have offered numerous hypotheses regarding the mechanisms which may produce the relationship between incarceration and employment. These include: the labeling effects of criminal stigma (Schwartz & Skolnick, 1962); the disruption of social and familial ties (Sampson & Laub, 1993); the influence on social networks (Hagan, 1993); the loss of human capital (Becker, 1975); institutional trauma (Parenti, 1999); legal barriers to employment (Dale, 1976); and, of course, the possibility that all incarceration effects may be entirely spurious (Kling, 1999; Grogger, 1995; Needels, 1996). Without direct measures of these variables, it is difficult using survey data to discern which, if any, of these causal explanations may be at work.

The uncertainty surrounding these mechanisms motivates the current project. Before addressing some of the larger consequences of incarceration, it is essential to first establish conclusively the mechanism— or at least one of the mechanisms— driving these results. In the present study, I focus on the effect of a criminal record on employment

¹⁷ Researchers have employed creative techniques for addressing these issues, such as looking at pre- and post-incarceration outcomes for the same individuals (e.g., Grogger 1992; Freeman 1992); comparing ex-offenders to future offenders (e.g., Waldfogel 1994; Grogger 1995); estimating fixed- and random-effects models (Western 2001); and using instrumental variables approaches to correct for unmeasured

opportunities. This emphasis directs our attention to the stigma associated with criminal justice intervention, and the ways in which employers respond to this stigma in considering applicants. While certainly there are additional ways in which incarceration may affect subsequent employment, this focus allows us to separate the institutional effect from the individual (or from the interaction of the two), and to directly assess one of the most widely discussed—but rarely measured—mechanisms of carceral channeling (Wacquant, 2000). While incarceration may in fact additionally serve to transform individuals (and/or their social ties) in ways that make them less suited to work, my interest here is in the “credentialing” aspect of the criminal justice system. Those sent to prison are institutionally branded as a particular class of individuals—as are college graduates or welfare recipients—with implications for their perceived place in the stratification order.

In order to investigate this question, I have chosen an experimental approach to the problem, a methodology best suited to isolating causal mechanisms. There have, in the past, been a limited number of studies which have adopted an experimental approach to the study of criminal stigma. These studies have relied on a “correspondence test” approach, whereby applications are submitted by mail with no in-person contact. The most notable in this line of research is a classic study by Schwartz and Skolnick (1962) in which the researchers prepared four sets of resumes to be sent to prospective employers, varying the criminal record of applicants. In each condition, employers were less likely

heterogeneity (e.g., Freeman 1992). There remains little consensus, however, over the degree to which these techniques effectively account for the problems of selection endemic to this type of research.

to consider applicants who had had any prior contact with the criminal justice system.¹⁸ Several later studies have verified these findings, varying the types of crimes committed by the hypothetical applicant (Finn & Fontaine, 1985; Cohen & Nisbett, 1997) or the national context (Boshier & Johnson, 1974; Buikhuisen & Dijksterhuis, 1971). Each of these studies reports the similar finding that, all else equal, contact with the criminal justice system leads to worse employment opportunities.

Unfortunately, the research design of Schwartz & Skolnick and others using this approach has several limitations. First, Schwartz and Skolnick's study, while clearly demonstrating the substantial effect of criminal stigma, is limited to one job type only (an unskilled hotel job). It remains uncertain how these effects generalize to the overall population of entry-level jobs. Ex-offenders face a diverse set of job openings, some of which may be more or less restricted to applicants with criminal records.

Second, correspondence tests are poorly equipped to address the issue of race. While it is possible to designate national origin using ethnic names (see, for example, Riach & Rich, 1991), it is much more difficult to clearly distinguish black and white applicants on paper. Given the high rates of incarceration among blacks and the pervasive media images of black criminals, there is good reason to suspect that employers may respond differently to applicants with criminal records depending on their race (see discussion below). Prior research using correspondence tests to study the effect of criminal records, however, has not attempted to include race as a variable.

¹⁸ The four conditions included: (1) an applicant who had been convicted and sentenced for assault; (2) an applicant who had been tried for assault but acquitted; (3) an applicant who had been tried for assault, acquitted, *and* had a letter from the judge certifying the applicant's acquittal and emphasizing the presumption of innocence; and (4) an applicant who had no criminal record. In all 3 criminal conditions—

The present study extends the work of Schwartz and Skolnick to include a more comprehensive assessment of the hiring process of ex-offenders across a full range of entry-level employment. By using an experimental audit design, this study effectively isolates the effect of a criminal record, while observing employer behavior in real life employment settings. Further, by using in-person application procedures, it becomes possible to assess the extent to which a criminal record differentially affects the outcomes of black and white applicants.

Research Questions

There are three primary questions I seek to address with the present study. First, in discussing the main effect of a criminal record, we need to ask whether and to what extent employers use information about criminal histories to make hiring decisions. Implicit in the criticism of survey research in this area is the assumption that the signal of a criminal record is not a determining factor. Rather, employers use information about the interactional styles of applicants, or other observed characteristics— which may be correlated with criminal records— and this explains the differential outcomes we observe. In this view, a criminal record does not represent a meaningful signal to employers on its own. This study formally tests the degree to which employers use information about criminal histories in the absence of corroborating evidence. It is essential that we conclusively document this effect before making larger claims about the aggregate consequences of incarceration.

even with a letter from the judge—applicants were less likely to be considered by employers relative to the non-criminal control.

Second, this study investigates the extent to which race continues to serve as a major barrier to employment. While race has undoubtedly played a central role in shaping the employment opportunities of African-Americans over the past century, recent arguments have questioned the continuing significance of race, arguing instead that other factors—such as spatial location, soft skills, social capital, or cognitive ability—can explain most or all of the contemporary racial differentials we observe (Wilson, 1987; Moss & Tilly, 1996; Loury, 1977; Neal & Johnson, 1996). This study provides a comparison of the experiences of equally qualified black and white applicants, allowing us to assess the extent to which direct racial discrimination persists in employment interactions.

The third objective of this study is to assess whether the effect of a criminal record differs for black and white applicants. Most research investigating the differential impact of incarceration on blacks has focused on the differential *rates* of incarceration and how those rates translate into widening racial disparities. In addition to disparities in the rate of incarceration, however, it is also important to consider possible racial differences in the *effects* of incarceration. Almost none of the existing literature to date has explored this issue, and the theoretical arguments remain divided as to what we might expect.

On one hand, there is reason to believe that the signal of a criminal record should be less consequential for blacks. Research on racial stereotypes tells us that Americans hold strong and persistent negative stereotypes about blacks, with one of the most readily invoked contemporary stereotypes relating to perceptions of violent and criminal dispositions (Smith, 1991; Sneiderman & Piazza, 1993; Devine & Elliott, 1995). If it is

the case that employers view all blacks as potential criminals, they are likely to differentiate less among those with official criminal records and those without. Actual confirmation of criminal involvement then will provide only redundant information, while evidence against it will be discounted. In this case, the outcomes for all blacks should be worse, with less differentiation between those with criminal records and those without.

On the other hand, the effect of a criminal record may be worse for blacks if employers, already wary of black applicants, are more "gun-shy" when it comes to taking risks on blacks applicants with proven criminal tendencies. The literature on racial stereotypes also tells us that stereotypes are most likely to be activated and reinforced when a target matches on more than one dimension of the stereotype (Quillian & Pager, 2001; Darley & Gross, 1983; also see Fiske & Neuberg, 1990, pp. 25-26 for a summary). While employers may have learned to keep their racial attributions in check through years of heightened sensitivity around employment discrimination, when combined with knowledge of a criminal history, negative attributions are likely to intensify.

A third possibility, of course, is that a criminal record affects black and white applicants equally. The results of this audit study will help to adjudicate between these competing predictions.

The Audit Methodology

The method of audit studies was pioneered in the 1970s with a series of housing audits conducted by the Department of Housing and Urban Development (Wienk et al., 1979; Hakken, 1979). Nearly 20 years later, this initial model was modified and applied to the

employment context by researchers at the Urban Institute (Cross et al., 1990; Turner et al., 1991). The basic design of an employment audit involves sending matched pairs of individuals (called testers) to apply for real job openings in order to see whether employers respond differently to applicants on the basis of selected characteristics.

The appeal of the audit methodology lies in its ability to combine experimental methods with real-life contexts. This combination allows for greater generalizability than a lab experiment, and a better grasp of the causal mechanisms than what we can normally obtain from observational data. The audit methodology is particularly valuable for those with an interest in discrimination. Typically researchers are forced to infer discrimination indirectly, often attributing the residual from a statistical model— which is essentially all that is not directly explained— to discrimination. This convention is rather unsatisfying to researchers who seek empirical documentation for important social processes. The audit methodology therefore provides a valuable tool for this research.¹⁹

Audit studies have primarily been used to study those characteristics protected under Title VII of the Civil Rights Act, such as race, gender, and age (Ayles & Siegelman, 1995; Cross et al., 1990; Turner et al., 1991; Bendick et al., 1999; Bendick, 1999; Bendick et al., 1994; Neumark, 1996). The employment of ex-offenders, of course, has not traditionally been thought of as a civil rights issue, but with the rapid expansion of the criminal justice system over the past three decades, there has been heightened

¹⁹ While the findings from audit studies have produced some of the most convincing evidence of discrimination available from social science research, there are criticisms of this approach which warrant consideration. Heckman and Siegelman (1993) identify five major threats to the validity of results from audit studies: (1) problems in effective matching; (2) the use of “overqualified” testers; (3) limited sampling frame for the selection of firms and jobs to be audited; (4) experimenter effects; and (5) the ethics of audit research. For a useful discussion of these concerns, see the series of essays published in Fix,

concern over the growing population of men with criminal records. Recognizing the increasing importance of this issue, several states (including Wisconsin) have passed legislation expanding the Fair Employment regulations to protect individuals with criminal records from discrimination by employers. Employers are cautioned that crimes may only be considered if they closely relate to the specific duties required of the job, however “shocking” the crime may have been (see Appendix 3C). If anything, then, this study represents a strong test of the effect of a criminal record. We might expect the effect to be larger in states where no such legal protection is in place.²⁰

Study Design

The basic design of this study involves the use of four male auditors (also called testers), two blacks and two whites. The testers were paired by race; that is, unlike in the original Urban Institute audit studies, the two black testers formed one team, and the two white testers formed the second team (see Figure 3.3).²¹ The testers were college students from Milwaukee who were matched on the basis of age, race, physical appearance, and general style of self-presentation. Objective characteristics which were not already identical between pairs—such as educational attainment and work experience—were made similar for the purpose of the applications. Within each team, one auditor was randomly assigned a “criminal record” for the first week; the pair then rotated which member

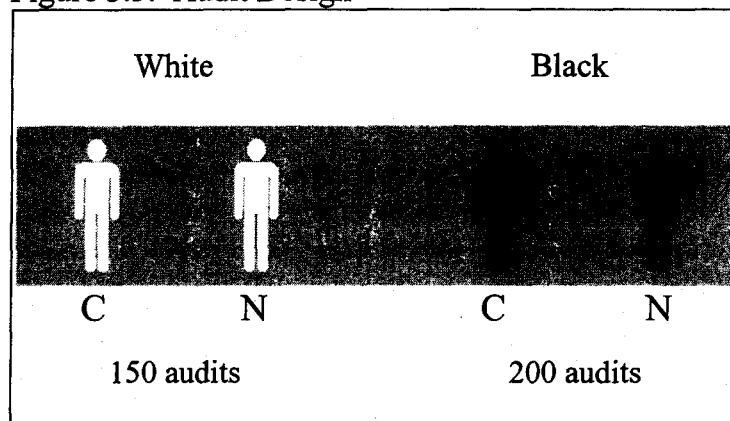
Michael and Raymond J. Struyk (eds.). 1993. *Clear and Convincing Evidence: Measurement of Discrimination in America*. Washington, DC: Urban Institute Press.

²⁰ Indeed, in a survey of employer attitudes, Holzer and Stoll (2001) find that Milwaukee employers were more likely to consider hiring ex-offenders than were employers in Los Angeles, Chicago, or Cleveland. Whether employers' hiring decisions are consistent with their self-reported attitudes remains an open question.

²¹ The primary goal of this study was to measure the effect of a criminal record, and thus it was important for this characteristic to be measured as a within-pair effect. While it would have been ideal for all four

presented himself as the ex-offender for each successive week of employment searches, such that each tester served in the criminal record condition for an equal number of cases. By varying which member of the pair presented himself as having a criminal record, unobserved differences within the pairs of applicants were effectively controlled. No significant differences were found for the outcomes of individual testers or by month of testing.

Figure 3.3. Audit Design



Note: "C" refers to Criminal Record; "N" refers to No Record

Job openings for entry-level positions (defined as jobs requiring no previous experience and no education greater than high school) were identified from the Sunday classified advertisement section of the *Milwaukee Journal Sentinel*. In addition, a supplemental sample was drawn from *Jobnet*, a state-sponsored website for employment listings which was developed in connection with the W-2 Welfare-to-Work initiatives.^{22,23}

testers to visit the same employers, this would have likely aroused suspicion. The testers were thus divided into separate teams by race.

²² Employment services like Jobnet have become a much more common method of finding employment in recent years, particularly for difficult-to-employ populations such as welfare recipients and ex-offenders.

The audit pairs were randomly assigned 15 job openings each week. The white pair and the black pair were assigned separate sets of jobs, with the same-race testers applying to the same jobs. One member of the pair applied first, with the second applying one day later (randomly varying whether the ex-offender was first or second). A total of 350 employers were audited during the course of this study: 150 by the white pair and 200 by the black pair. Additional tests were performed by the black pair because black testers received fewer call-backs on average, and there were thus fewer data points with which to draw comparisons. A larger sample size enables the calculation of more precise estimates of the effects under investigation.

Immediately following the completion of each job application, testers filled out a 6-page response form which coded relevant information from the test. Important variables included type of occupation, metropolitan status, wage, size of establishment, and race and sex of employer. Additionally, testers wrote narratives describing the overall interaction, and any comments made by employers (or included on applications) specifically related to race or criminal records.

One key feature of this audit study is that it focuses only on the first stage of the employment process. Testers visited employers, filled out applications, and proceeded as far as they could during the course of one visit. If testers were asked to interview on the spot, they did so, but they did not return to the employer for a second visit. The primary

Likewise, a recent survey by Holzer & Stoll (2001) found that nearly half of Milwaukee employers (46 percent) use *Jobnet* to advertise job vacancies in their companies.

²³ Occupations with legal restrictions on ex-offenders were excluded from the sample. These include jobs in the health care industry, work with children and the elderly, jobs requiring the handling of firearms (i.e., security guards), and jobs in the public sector. An estimate of the collateral consequences of incarceration would also need to take account of the wide range of employment fully off-limits to individuals with prior felony convictions.

dependent variable, then, is the proportion of applications which elicited call-backs from employers. Individual voice mail boxes were set up for each tester to record employer responses. If a tester was offered the job on the spot, this was also coded as a positive response.²⁴ I focus only on this initial stage of the employment process is because this is the stage likely to be most affected by the barrier of a criminal record. In an audit study of age discrimination, for example, Bendick et al. (1999) find that 76 percent of the measured differential treatment occurred at this first stage of the employment process. Given that a criminal record, like age, is a highly salient characteristic, it is likely that as much, if not more, of the treatment effect will be detected at this stage.

Tester profiles

In developing the tester profiles, emphasis was placed on adopting characteristics that were both numerically representative and substantively important. In the present study, the criminal record consisted of a felony drug conviction (possession with intent to distribute, cocaine) and 18 months of (served) prison time. A drug crime (as opposed to a violent or property crime) was chosen because of its prevalence, its policy salience, and its connection to racial disparities in incarceration.²⁵ It is important to acknowledge that the effects reported here may differ depending on the type of offense.²⁶

²⁴ In cases where testers were offered jobs on the spot, they were instructed to tell the employer that they were still waiting to hear back from another job they had interviewed for earlier. The tester then called the employer back at the end of the same day to let him/her know that the other job had come through and he was therefore no longer available.

²⁵ Over the past two decades, drug crimes have been the fastest growing class of offenses. In 1980, roughly one out of every 16 inmates was incarcerated for a drug crime; by 1999, this figure had jumped to one out of every five (Bureau of Justice Statistics 2000). In federal prisons, nearly three out of every five inmates is incarcerated for a drug crime (Bureau of Justice Statistics 2001). A significant portion of this increase can be attributed to changing policies concerning drug enforcement. By 2000, every state in the country had adopted some form of truth in sentencing laws which impose mandatory sentencing minimums for a range of offenses. These laws have been applied most frequently to drug crimes, leading to more than

In assigning the educational and work history of testers, I sought a compromise between representing the modal group of offenders while also providing some room for variation in the outcome of the audits. Most audit studies of employment have created tester profiles which include some college experience, so that testers will be highly competitive applicants for entry-level jobs and so that the contrast between treatment and control group is made clear (see Appendix B in Cross et al., 1989). In the present study, however, post-secondary schooling experience would detract from the representativeness of the results. More than 70 percent of federal and nearly 90 percent of state prisoners have no more than a high school degree (or equivalent). The education level of testers in this study, therefore, was chosen to represent the modal category of offenders (high school diploma).²⁷

There is little systematic evidence concerning the work histories of inmates prior to incarceration. Overall, 77.4 percent of federal and 67.4 percent of state inmates were employed prior to incarceration (Bureau of Justice Statistics, 1994); there is, however, a substantial degree of heterogeneity in the quality and consistency of work experience during this time (Pager, 2001). In the present study, testers were assigned favorable work histories in that they report steady work experience in entry-level jobs and nearly continual employment (until incarceration). In the job prior to incarceration (and, for the

a four-fold rise in the number of drug arrests which result in incarceration (Mauer 1999). While the steep rise in drug enforcement has been felt across the population, this "war on drugs" has had a disproportionate impact on African-Americans. Between 1990 and 1997, the number of black inmates serving time for drug offenses increased by 60 percent compared to a 46 percent increase in the number of whites (Bureau of Justice Statistics 1995). In 1999, 26 percent of all black state inmates were incarcerated for drug offenses, relative to less than half that proportion of whites (Bureau of Justice Statistics 2001).

²⁶ Survey results indicate that employers are substantially more averse to applicants convicted of violent crimes or property crimes relative to those convicted of drug crimes (Holzer et al. 2002; Pager, 2002, Ch.6).

control group, prior to the last short-term job), testers report having worked their way from an entry-level position to a supervisory role.²⁸

*Design Issues*²⁹

There are a number of complexities involved in the design and implementation of an audit study. Apart from the standard complications of carrying out a field experiment, there were several specific dilemmas posed in the development of the current study that required substantial deliberation. First, in standard audit studies of race or gender, it is possible to construct work histories for test partners in such a way that the amount of work experience reported by each tester is identical. By contrast, the present study compares the outcome of one applicant who has spent 18 months in prison. It was therefore necessary to manipulate the work histories of both applicants so that this labor market absence did not bias the results.³⁰ The solution opted for here was for the ex-offender to report 6 months of work experience gained while in prison (preceded by 12 months out of the labor force, representing the remainder of the total prison time). The non-offender, on the other hand, reported graduating from high school one-year later (thereby accounting for 12 months) and, concurrent to his partner's 6 months of prison

²⁷ Forty-nine percent of federal and 46.5 percent of state inmates had a high school degree (or equivalent) in 1991 (Bureau of Justice Statistics 1994).

²⁸ Testers reported working either as an assistant manager at a national restaurant chain or as a supervisor at a national home retail store. While it is unlikely that the modal occupational attainment for high school graduates (with or without criminal records) would be a supervisory position, this feature was added to the tester profiles in order to make them more competitive applicants. The solid job histories of these applicants should affect the results in a conservative direction, offering cues about the tester's reliability and competence which may offset some of the negative associations with a criminal background.

²⁹ See Appendix A for a discussion of additional methodological concerns.

³⁰ Though time out of the labor market is in fact one component of the total impact of incarceration, this study sought to isolate the effect of criminal stigma from other potential consequences of incarceration. Again, an estimate of the full effect of incarceration would also need to take account of employment difficulties resulting from a prolonged labor market absence.

work time, worked for a temporary agency doing a similar kind of low-skill work. Thus, the actual amount of work experience was equivalent for both testers. The effect of having the non-criminal graduate from high school one year later should impose a conservative bias, as graduating from high school late may indicate less motivation or ability.

A second major difference between the audit studies of race or gender and the present study is that criminal status is not something that can be immediately discerned by the employer. The information had to be explicitly conveyed, therefore, in order for the interaction to become a "test." In most cases, the tester was given the opportunity to communicate the necessary information on the application form provided, in answer to the question "Have you ever been convicted of a crime?"³¹ However, in the 26 percent of cases where the application form did not include a question about criminal history, it was necessary to provide an alternate means of conveying this information. In the present study, testers provided two indirect sources of information about their prior criminal involvement. First, as mentioned above, the tester in the criminal record condition reported work experience obtained while in the correctional facility. Second, the tester listed his parole officer as a reference (calls to whom were recorded by a voice mail box).³² These two pieces of evidence provided explicit clues to employers that the applicant had spent time in prison; and both of these strategies are used by real ex-offenders who seek to account for empty time by reporting work experience in prison

³¹ To the extent that real ex-offenders lie about their criminal record on application forms, this approach may lead to an overestimate of the effect of a criminal record. See Appendix A for a lengthy discussion of this issue.

³² This approach was developed in discussion with several Milwaukee employment counselors and parole officers, and is based on a composite profile of resumes belonging to real ex-offenders.

and/or who wish to have their parole officer vouch for their successful rehabilitation.

Pilot tests with employers in a neighboring city suggested that this strategy was an effective means of conveying the criminal record condition without arousing suspicion.

Contextual Information

This project took place in Milwaukee between June and December of 2001. During this time, the economic condition of the metropolitan area remained moderately strong, with unemployment rates ranging from a high of 5.2 percent in June to a low of 4 percent in September.³³ It is important to note that the results of this study are specific to the economic conditions of this period. It has been well-documented in previous research that the level of employment discrimination corresponds closely with the tightness of the labor market (Freeman & Rodgers, 1999). Certainly the economic climate was a salient factor in the minds of these employers. During a pilot interview, for example, an employer mentioned that a year ago she would have had three applications for an entry-level opening; today she gets 150.³⁴ Another employer for a janitorial service mentioned that previously their company had been so short of staff that they had to interview virtually everyone who applied. The current conditions, by contrast, allowed them to be far more selective. Since the completion of this study the unemployment rate has continued to rise. It is likely, therefore, that the effects reported here may understate the impact of race and a criminal record in the context of an economic recession.

³³ Monthly unemployment rates followed a U-shaped pattern, with higher levels of unemployment in the first and last months of the study. Specifically: June (5.4%), July (5.2%), August (4.8%), September (4.4%), October (4.7%), November (4.9%), December (4.5%). National unemployment rates were nearly a point lower in June (4.6%), but rose above Milwaukee's unemployment rate to a high of 5.8% in December (Bureau of Labor Statistics 2002).

As mentioned earlier, the job openings for this study were selected from the Sunday classified section of the *Milwaukee Journal Sentinel* and from *Jobnet*, a state-sponsored internet job service. All job openings within a 25 mile radius of downtown Milwaukee were included, with 61 percent of the resulting sample located in the suburbs or surrounding counties relative to only 39 percent in the city of Milwaukee. Because a limited boundary was covered by this project, the distribution of jobs does not accurately represent the extent to which job growth has been concentrated in wider suburban areas. According to a recent study of job growth in Milwaukee, nearly 90 percent of entry-level job openings were located in the outlying counties and the Milwaukee county suburbs, with only 4 percent of full-time openings located in the central city (Pawasarat & Quinn, 2000).

The average distance from downtown in the present sample was 12 miles, with a substantial number of job openings located far from reach by public transportation. Again, testers in this study represented a best-case scenario: all testers had their own reliable transportation, allowing them access to a wide range of employment opportunities. For the average entry-level job-seeker, by contrast, the suburbanization of low wage work can in itself represent a major barrier to employment (Wilson, 1996).

Like other metropolitan labor markets, the service industry has been the fastest growing sector in Milwaukee, followed by retail and wholesale trade, and manufacturing (Pawasarat & Quinn, 2000). Likewise, the sample of jobs in this study reflect similar concentrations, though quite a range of job titles were included overall (Table 3.1).

³⁴ The unemployment rate in Milwaukee had been as low as 2.7 percent in September of 1999 (Bureau of Labor Statistics 2002).

Table 3.1. Occupational Distribution

Job Title	%	Job Title	%
Waitstaff	18	Delivery Driver	9
Laborer/Warehouse	17	Cashier	7
Production/operators	12	Cook/kitchen staff	5
Service	11	Clerical	5
Sales	11	Managerial	2

Note: An excluded "other" category combines the remaining 3 percent of job titles.

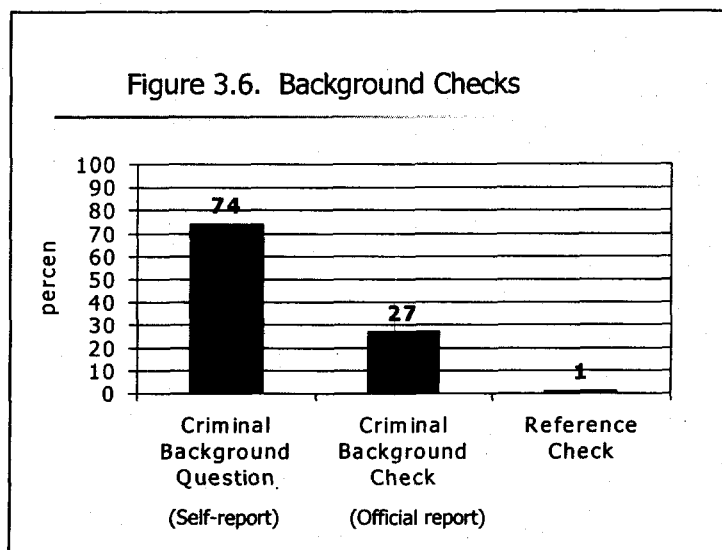
The most common job types were for restaurant workers (18%), laborers or warehouse workers (17%), and production workers or operators (12%). Though white collar positions were less common among the entry-level listings, a fair number of customer service (11%), sales (11%), clerical (5%), and even a handful of managerial positions (2%) were included.³⁵

Figure 3.6 presents some information on the ways employers obtain background information on applicants.³⁶ In this sample, roughly 75 percent of employers asked explicit questions on their application forms about the applicant's criminal history. Generally this was a standard question, "Have you ever been convicted of a crime? If yes, please explain."³⁷ Even though in most cases employers are not allowed to use criminal background information to make hiring decisions, a vast majority of employers nevertheless request the information.

³⁵ As noted above, this sample excludes health care workers—which represented the largest category of entry-level employment—and other occupations with legal restrictions on ex-felons.

³⁶ These are non-exclusive categories and are thus not meant to sum to 100.

³⁷ An overwhelming proportion of employers used generic questions about criminal backgrounds (with the only major source of variation stemming from an emphasis on all prior convictions versus felonies only). A handful of large national companies, however, used questions which reflected a more nuanced understanding of the law. One company, for example, instructed applicants *not* to answer the question if they were a resident of certain specified states; another asked only about prior convictions for theft and burglary, ignoring all other possible offenses.



A much smaller proportion of employers actually perform an official background check. In my sample, 27 percent of employers indicated that they would perform a background check on all applicants.³⁸ This figure likely represents a lower-bound estimate, given that employers are not required to disclose their intentions to do background checks. According to a national survey by Holzer (1996), 30 to 40 percent of employers perform official background checks on applicants for non-college jobs. The point remains, however, that fewer than half of all employers check criminal background information.³⁹

Finally, reference checks were included as an outcome in this study with the belief that, for applicants with criminal records, having former employers or a parole officer willing to vouch for the reliability and competence of the individual would be

³⁸ The issue of official background checks raises some concern as to the validity of the experimental condition, given that the information provided by testers can be (dis)confirmed on the basis of other sources of information available to employers. In cases where employers in this study did perform background checks on testers, the check would come back clean (none of the testers in this study actually had criminal records). It is my expectation that because employers would not expect someone to lie about *having* a criminal record, and because employers know that criminal history databases are fraught with errors, they would be inclined to believe the worst case scenario— in this case, the self-report.

critical. Additional voice mail boxes were set up for references, such that each application could provide numbers for two functioning references. As it turns out, however, employers seemed to pay virtually no attention to references whatsoever. Over the course of the 350 audits completed, only 4 separate employers checked references.⁴⁰ Employers would frequently tell testers, "I'll just check your references and then give you a call...." or leave messages saying, "I'm going to call your references, and then I'd like you to come in for a training..." and yet no calls were registered.⁴¹

This finding emphasizes the point that employers do not go out of their way to solicit nuanced information about applicants for entry-level jobs. Rather, it is up to the applicant to convey the important information on the written application or during a brief interview. It is possible that a larger number of employers do check references at a later stage of the employment process (see Chapter 6). By this point, however, the ex-offender has already likely been weeded out of the pool under consideration.

The question now becomes, to what extent are applicants with criminal records weeded out of the process at this initial stage? To answer this question, I turn to the results of the audit study.

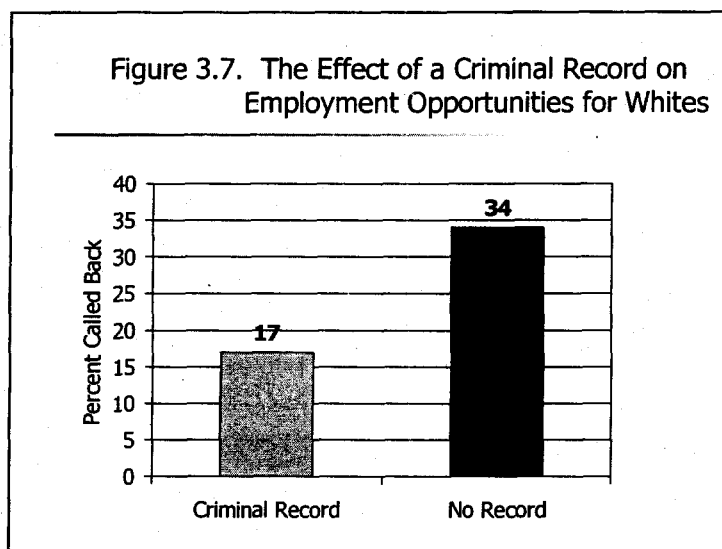
³⁹ There is some indication that the frequency of criminal background checks has increased since September 11, 2001. First Response Security, Inc., for example, saw a 25 percent increase in employers conducting background checks since that time (see http://www.maine.rr.com/Around_Town/features2001/jobsinme/11_01/default.asp).

⁴⁰ Two additional employers made calls to the numbers listed for the parole officer on the testers' applications. These calls, however, were not for the purpose of obtaining additional background information about the candidate. Rather, in both cases, employers had made several calls to the tester about the job opening; reaching only his voice mail, and they were looking for an alternative way to reach the applicant.

⁴¹ Note: the voice mail system was set up in such a way that even hangs-ups could be detected.

The Effect of a Criminal Record for Whites

I begin with an analysis of the effect of a criminal record among whites. White non-criminals can serve as our baseline in the following comparisons, representing the presumptively non-stigmatized group relative to blacks and those with criminal records. Given that all testers presented roughly identical credentials, the differences experienced among groups of testers can be attributed fully to the effects of race or criminal status. Figure 3.7 shows the percentage of applications submitted by white testers which elicited call-backs from employers, by criminal status.



The effect of a criminal record is large and statistically significant ($p < .01$).

As illustrated above, there is a large and significant effect of a criminal record, with 34 percent of whites without criminal records receiving call-backs relative to only 17 percent of whites with criminal records. A criminal record thereby reduces the likelihood of a call-back by 50 percent (see Appendix B for coefficients from the logistic regression model).

There were some fairly obvious examples documented by testers which illustrate the strong reaction among employers to the signal of a criminal record. In one case, a white tester in the criminal record condition went to a trucking service to apply for a job as a dispatcher: The tester was given a long application, including a complex math test, which took nearly 45 minutes to fill out. During the course of this process, there were several details about the application and the job that needed clarification, some of which involved checking with the supervisor about how to proceed. No concerns were raised about his candidacy at this stage. When the tester turned the application in, the secretary brought it into a back office for the supervisor to look over and to perhaps conduct an interview. When the secretary came back out, presumably after the supervisor had had a chance to look over the application more thoroughly, he was told the position had already been filled. While of course isolated incidents like this are not conclusive, this was not an infrequent occurrence. Often testers reported seeing employers' levels of responsiveness change dramatically once they had glanced down at the criminal record question.

Clearly, the results here demonstrate that criminal records close doors in employment situations. Many employers seem to use the information as a screening mechanism, without attempting to probe deeper into the possible context or complexities of the situation. As we can see here, in 50 percent of cases, employers were unwilling to consider equally qualified applicants on the basis of their criminal record.

Of course, this trend is not true among all employers, in all situations. There were, in fact, some employers who seemed to prefer workers who had been recently released from prison. One owner told a white tester in the criminal record condition that

he “liked hiring people who had just come out of prison because they tend to be more motivated, and are more likely to be hard workers [not wanting to return to prison].”

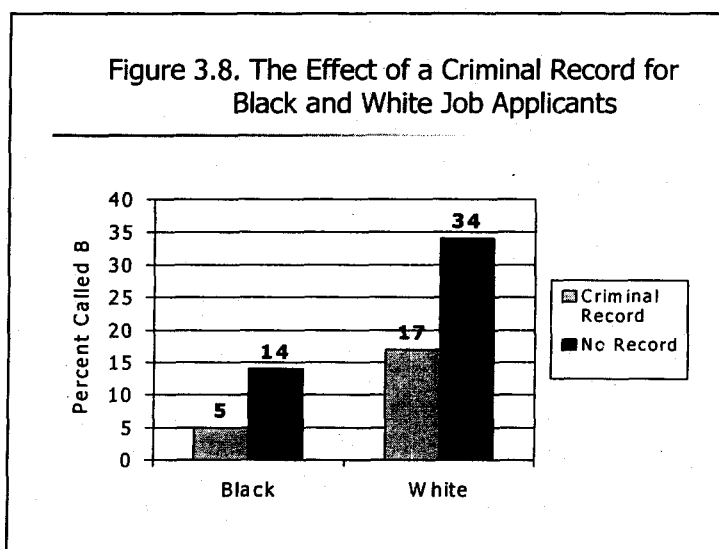
Another employer for a cleaning company attempted to dissuade the white non-criminal tester from applying because the job involved “a great deal of dirty work.” The tester with the criminal record, on the other hand, was offered the job on the spot. A criminal record is thus not an obstacle in all cases, but on average, as we see above, it reduces employment opportunities substantially.

The Effect of Race

A second major focus of this study concerns the effect of race. African-Americans continue to suffer from lower rates of employment relative to whites, but there is tremendous disagreement over the source of these disparities. The idea that race itself—apart from other correlated characteristics—continues to play a major role in shaping employment opportunities has come under question in recent years (e.g., D’Souza, 1995; Steele, 1991). The audit methodology is uniquely suited to address this question. While this study design does not provide the kind of cross-race matched-pair tests that earlier audit studies of racial discrimination have employed, the between-group comparisons (white pair vs black pair) can nevertheless offer an unbiased estimate of the effect of race on employment opportunities.⁴²

⁴² Between-pair comparisons provide less efficient estimators but they are nevertheless unbiased, provided that there are no systematic differences between the sample of jobs assigned to each pair or between the observed characteristics of the black and white pair (apart from race). In this study, jobs were randomly assigned to tester pairs such that no systematic differences should be observed between samples. Of course it is impossible, even in an experimental design, to rule out the possibility that unmeasured differences between the black testers and the white testers systematically bias the results. This problem is one of the key limitations of the audit design (see Heckman & Siegelman 1993). In the present study, several attempts were made to minimize this source of bias: first, testers were chosen based on similar physical and

Figure 3.8 presents the percent of call-backs received for both categories of black testers relative to those for whites. The effect of race in these findings is strikingly large. Among blacks without criminal records, only 14 percent received call-backs relative to 34 percent of white non-criminals ($p < .01$). In fact, even whites *with* criminal records received more favorable treatment (17 percent) than blacks *without* criminal records (14 percent).⁴³ The rank ordering of groups in this graph is painfully revealing of employer preferences: Race continues to play a dominant role in shaping employment opportunities, equal to or greater than the impact of a criminal record.



The effects of race and criminal record are large and statically significant ($p < .01$). The interaction between the two is not significant in the full sample.⁴⁴

dispositional characteristics to minimize differences from the outset; second, testers participated in an extensive training (including numerous role-plays) in which they learned to approach employers in similar ways; third, testers used identical sets of resumes to ensure their comparability on objective dimensions; and finally, the fact that this study tests only the first stage of the employment process means that testers had little opportunity to engage in the kind of extensive interaction that might elicit systematic differences in treatment.

⁴³ This difference is not significantly different from zero. Given, however, that we would expect black non-criminals to be *favoured* (rather than equal) relative to criminals of any race, the relevant null hypothesis should be positive rather than zero, thus generating an even larger contrast.

⁴⁴ The interaction between race and criminal record is significant when estimated among suburban employers and among employers with whom the testers had personal contact. See Chapter 4 for a discussion of these results.

The magnitude of the race effect found here corresponds closely to those found in previous audit studies directly measuring racial discrimination. Bendick et al. (1994), for example, find that blacks were 24 percentage points less likely to receive a job offer relative to their white counterparts, a finding strikingly similar to the 20 percent difference (between white and black non-offenders) found here.^{45,46} Thus in the 8 years since the last employment study of race was conducted, very little has changed in the reaction of employers to minority applicants. Despite the many rhetorical arguments used to suggest that direct racial discrimination is no longer a major barrier to opportunity (e.g., D'Souza, 1995; Steele, 1991), as we can see here, employers, at least in Milwaukee, continue to use race as a major factor in hiring decisions.

Racial Differences in the Effects of a Criminal Record

The final question this study sought to answer was the degree to which the effect of a criminal record differs depending on the race of the applicant. Based on the results presented in Figure 3.8, the effect of a criminal record appears more pronounced for blacks than it is for whites. While this interaction term is not statistically significant, the magnitude of the difference is non-trivial. While the ratio of callbacks for non-offenders

⁴⁵ Here I am relying on percentage differences in order to compare equivalent measures across studies. As I discuss below, however, I find it useful to rather calculate relative differences (ratio tests) when comparing the effect of an effect across two groups with different baseline rates. Unfortunately, the Bendick et al. (1994) does not include the raw numbers in their results and it is thus not possible to calculate comparative ratios in this case.

⁴⁶ Note also that the Bendick et al. (1994) study included an assessment of the full hiring process, from application to job offer. The fact that the racial disparities reported here (at the first stage of the employment process) closely mirror those from more comprehensive studies provides further reassurance that this design is capturing a majority of the discrimination which takes place in the hiring process.

relative to offenders for whites is 2:1, this same ratio for blacks is nearly 3:1.^{47,48} The effect of a criminal record is thus 40 percent larger for blacks than for whites.

This evidence is suggestive of the way in which associations between race and crime affect interpersonal evaluations. Employers, already reluctant to hire blacks, are even more wary of blacks with proven criminal involvement. These testers were bright articulate college students with effective styles of self-presentation. The cursory review of entry-level applicants, however, leaves little room for these qualities to be noticed. Instead, the employment barriers of minority status and criminal record are compounded, intensifying the stigma toward this group.

The salience of employers' sensitivity toward criminal involvement among blacks was highlighted in several interactions documented by testers. On three separate occasions, for example, black testers were asked in person (before submitting their applications) whether they had a prior criminal history. None of the white testers were asked about their criminal histories up front.

The strong association between race and crime in the minds of employers provides some indication that the "true effect" of a criminal record for blacks may be even larger than what is measured here. If, for example, the outcomes for black testers *without* criminal records were deflated in part because employers feared that they may

⁴⁷ Because the absolute number of call-backs is so low, the standard errors around these estimates are too large to detect statistical significance in the interaction term.

⁴⁸ Previous audit studies, focusing on one comparison only, have often relied on net differences in percentages as the primary measure of discrimination. Extending this approach to the present design, it would likewise be possible to compare the percentage difference in treatment among white non-offenders relative to offenders relative to that of blacks (a difference in differences approach). Given that the baseline rate of call-backs is substantially different for blacks and whites, however, this measure would be misleading. In an absolute sense, whites have greater opportunity overall and thus have more to lose. Taking into account this differential baseline, we see that the *relative* effect of a criminal record is in fact smaller among whites than it is among blacks.

nevertheless have criminal tendencies, then the contrast between blacks with and without criminal records would be suppressed. Evidence for this type of statistical discrimination can be found in the work of Bushway (1997) and Holzer et al. (2001).

Conclusion

There is serious disagreement among academics, policy makers, and practitioners over the extent to which contact with the criminal justice system—in itself—leads to harmful consequences for employment. The present study takes a strong stand in this debate by offering direct evidence of the causal relationship between a criminal record and employment outcomes. While survey research has produced noisy and indirect estimates of this effect, the current research design offers a direct measure of a criminal record as a mechanism producing employment disparities. Using matched pairs and an experimentally assigned criminal record, this estimate is unaffected by the problems of selection which plague observational data. While certainly there are additional ways in which incarceration may affect employment outcomes, this finding provides conclusive evidence that mere contact with the criminal justice system, in the absence of any transformative or selective effects, severely limits subsequent employment opportunities. And while the audit study investigates employment barriers to ex-offenders from a micro-perspective, the implications are far-reaching. The finding that ex-offenders are one-half to one-third as likely to be considered by employers suggests that a criminal record indeed presents a major barrier to employment. With over two million people currently behind bars and over 12 million people with prior felony convictions, the consequences for labor market inequalities are potentially profound.

Second, the persistent effect of race on employment opportunities is painfully clear in these results. Blacks are less than half as likely to receive consideration by employers relative to their white counterparts, and black non-offenders fall behind even whites with prior felony convictions. The powerful effects of race thus continue to direct employment decisions in ways that contribute to persisting racial inequality. In light of these findings, current public opinion seems largely misinformed: According to a recent survey of residents in Los Angeles, Boston, Detroit, and Atlanta, researchers found that just over a quarter of whites believe there to be "a lot" of discrimination against blacks, compared to nearly two-thirds of black respondents (Kluegel & Bobo, 2001). Over the past decade, affirmative action has come under attack across the country based on the argument that direct racial discrimination is no longer a major barrier to opportunity.⁴⁹ According to this study, however, employers, at least in Milwaukee, continue to use race as a major factor in their hiring decisions. When we combine the effects of race and criminal record, the problem grows more intense. Not only are blacks much more likely to be incarcerated than whites; according to the findings presented here, they may also be more strongly affected by the impact of a criminal record. Previous estimates of the aggregate consequences of incarceration may therefore underestimate the impact on racial disparities.

Finally, in terms of policy implications, this research has troubling conclusions. In our frenzy of locking people up, our "crime control" policies may in fact exacerbate the very conditions which lead to crime in the first place. Research consistently shows

⁴⁹ In November 1996, California voters supported Proposition 209 which outlawed affirmative action in public employment, education, and contracting. In the same year, the 5th Circuit Court of Appeals

that finding quality steady employment is one of the strongest predictors of desistance from crime (Shover, 1996; Sampson & Laub, 1993; Uggen, 2000). The fact that a criminal record severely limits employment opportunities— particularly among blacks— suggests that these individuals are left with few viable alternatives.

As more and more young men enter the labor force from prison, it becomes increasingly important to consider the impact of incarceration on the job prospects of those coming out. No longer a peripheral institution, the criminal justice system has become a dominant presence in the lives of young disadvantaged men, playing a key role in the sorting and stratifying of labor market opportunities. This paper represents an initial attempt to specify one of the important mechanisms by which incarceration leads to poor employment outcomes. Future research is needed to expand this emphasis to include additional incarceration effects and to estimate the collateral consequences of incarceration for labor market inequalities.

suspended affirmative action in Texas in the case of Hopwood v. University of Texas Law School.

Appendix 3A. Methodological Concerns

Below I discuss some of the limitations of the audit methodology and ways in which findings from an experimental design may conflict with real-life contexts.

Limits to Generalizability

1. The Reporting of Criminal Backgrounds

In the present study, testers in the criminal record condition were instructed to provide an affirmative answer to any question about criminal background posed on the application form or in person. Employers are thus given full information about the “criminal background” of this applicant. But how often do real ex-offenders offer such complete and honest information? To the extent that ex-offenders lie about their criminal background in employment settings, the results of this study may overestimate the effect of having a criminal record. If employers do not know, then surely a criminal record can have no influence on their hiring decisions.

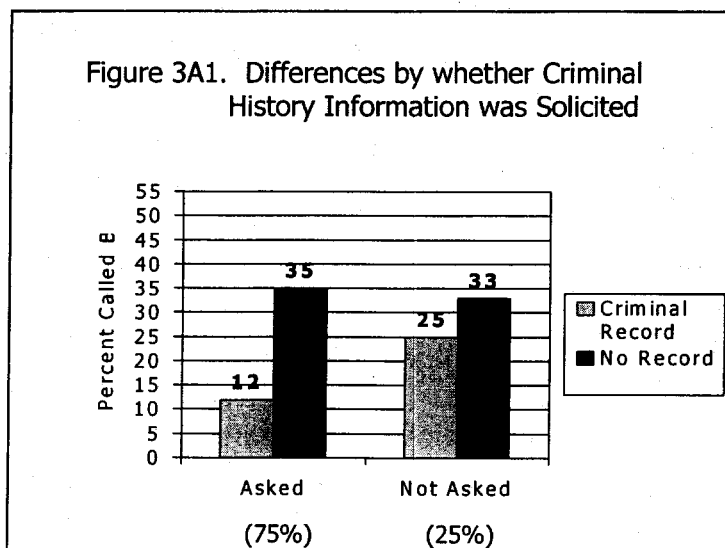
Before starting this project, I conducted a number of interviews with parolees and men with criminal records. When asked how they handled application forms, the majority of these men claimed to report their criminal record up-front. There are a number of reasons motivating this seemingly irrational behavior: First, most men with criminal records believe that the chance of being caught by a criminal background check is much larger than it actually is. While a majority of employers do not perform background checks on all applicants, there is the perception that this practice is widespread. Second, most men coming out of prison have a parole officer monitoring their reintegration. One of the most effective mechanisms of surveillance for parole

officers is to call employers to make sure their parolees have been showing up for work. If the individual has not reported his criminal history, therefore, it will soon be revealed.⁵⁰ There is thus a strong incentive for parolees to be upfront in their reporting.

A second source of information on this issue comes from interviews with employers. In a second stage of this project, the same sample of employers were interviewed about their hiring practices and experiences (see Chapter 6). During these conversations, the employers were asked to report what percent of applicants over the past year had reported a prior conviction; and, among those employers who performed official criminal background checks, what percent of applicants were found to have criminal records. According to the employers, roughly 12 percent of applicants over the past year reported having a prior record on their application form. Of those employers who perform official background checks, an average of 14 percent of applicants were found to have criminal records. The disparity between self-reports and official records, therefore, is a minimal two percent. In fact, one manager of a national restaurant chain mentioned that sometimes applicants report *more* information than they need to: While the question on his application form only asked about felony convictions over the past year, this employer revealed that applicants sometimes report misdemeanors and felony convictions from several years back. Whatever the reason, there seems to be evidence that far more ex-offenders report their prior convictions than “rational actor” models might predict. While surely some ex-offenders do lie on their applications, there is reason to believe this is far from the norm.

⁵⁰ This is particularly consequential for employees in states such as Wisconsin where employers are not allowed to fire someone for *having* a criminal record, but they are allowed to fire him for *lying* about his

A related issue of study design concerns the reporting of criminal background even when not solicited by the employer. Recall that 25 percent of employers do not ask explicit questions on their application forms about an applicant's criminal history. In order to make sure the experimental condition was known to all employers, testers also reported work experience in the correctional facility and listed their parole officer as a reference. While this strategy was chosen to reflect a composite profile of a number of real ex-offenders, by no way does this represent a modal application procedure. In most cases, if employers don't ask about (or check) criminal histories, they'll never know. It is possible that in conveying the information artificially, the level of measured discrimination is inflated. To address this concern, a direct test is possible. Figure 3A1 presents the call-back rate for employers who did and did not solicit information about prior convictions.⁵¹



record.

⁵¹ Note: Figures 3A1 and 3A2 are calculated for white testers only. The call-back rates for black testers was too low to accurately calculate this three-way interaction.

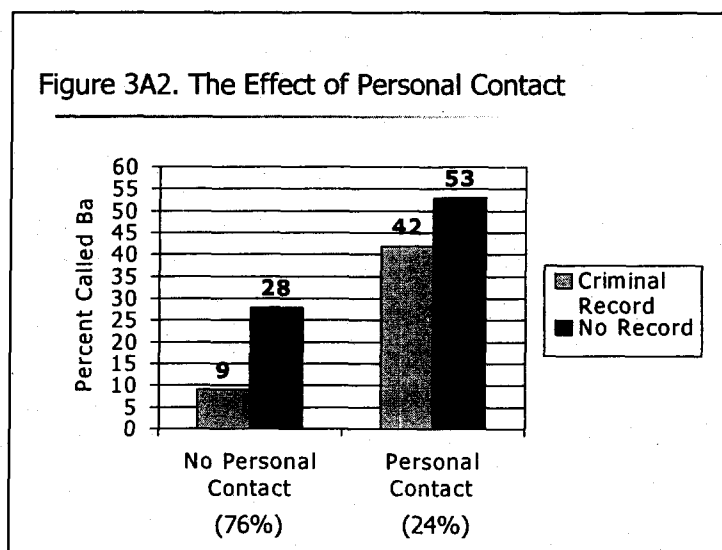
As is clear from this graph, employers who did not solicit information about criminal histories were much less likely to use the information in their hiring decisions. The disparity in treatment of ex-offenders relative to non-offenders among employers who did request the information (12 vs 35 percent) is more than twice as large as that among employers who did not ask (25 vs 33 percent). In terms of its correspondence to the "real world" therefore, providing unsolicited information about criminal backgrounds did little to affect employer responses.

2. The Representativeness of Testers

Testers in this study were bright, articulate college students with effective styles of self-presentation. The interpersonal skills of the average inmate, by contrast, are likely to be substantially less appealing to employers. The choice of testers in this respect was deliberate, as a means of fully separating the signal of a criminal record from other correlated attributes to which employers may also respond. It is nevertheless important to consider the extent to which these testers can be considered accurate representatives of the ex-offender experience. On one hand, it may be the case that the testers in this study represent a best-case scenario. Because their interactional style does not correspond to that of a stereotypical criminal, employers may be more willing to consider them as viable candidates despite their criminal background. In this case, the present study design would underestimate the true effect of a criminal record. On the other hand, for individuals with poor interpersonal skills, a criminal record may represent just one additional—but less consequential—handicap to the already disadvantaged candidate. If

this is the case, the effect of a criminal record may be overestimated by the testers in the present study.

One approach to investigating this problem is to analyze those applications submitted with no personal contact with the employer.⁵² In these cases, the interpersonal skills of the testers should have no influence on the employer's consideration of the applicant. In the analysis reported in Figure 3A2, we see that the effect of a criminal record is even greater in the absence of personal contact relative to the overall findings reported earlier.⁵³



Personal contact appears to mediate the effect of a criminal record, reducing its negative impact. These results are suggestive of the former hypothesis: the interpersonal skills of testers in the present study, to the extent that they are noticed by employers, serve to weaken the effect of a criminal record. The estimates reported here, therefore, likely represent a lower-bound estimate of the true effect of a criminal record.

3. The Case of Milwaukee

One key limitation of the audit study design is its concentration on a single metropolitan area. The degree to which the findings of each study can be generalized to the broader population, therefore, remains in question. In the present study, Milwaukee was chosen for having a profile common to many major American cities, with respect to population size, racial composition, and unemployment rate. There are, however, two unique features of Milwaukee limit its representativeness of other parts of the country. First, Milwaukee is the second most segregated city in the country, implying great social distance between blacks and whites, with possible implications for the results of the audit study. If race relations are more strained in Milwaukee than in other parts of the country, then the effects of race presented in this study may be larger than what would be found in other urban areas. Second, between 1991 and 1998, Wisconsin had the third largest growth in incarceration rates in the country (Gainsborough & Mauer, 2000), and currently has the highest rate of incarceration for blacks in the country (Bureau of Justice Statistics, 2002b). If the state-wide incarceration rates are reflective of an especially punitive approach to crime, this could also affect the degree to which a criminal record is condemned by employers, particularly among black applicants.

Of course, the only way to directly address these issues is through replication in additional areas. With respect to the main effect of race, previous audit studies have been conducted in Washington DC, Chicago, and Denver, confirming the basic magnitude of the effects reported here (Bendick et al., 1994; Turner et al., 1991; Culp & Dunson,

⁵² Over 75 percent of applications were submitted with no personal contact with the employer.

1986). Though the last major audit study of race was conducted over 8 years ago, these results provide some indication that Milwaukee is not a major outlier in its level of racial discrimination in hiring.

In the case of the criminal record effect, only future studies can confirm or contradict the results presented here. As the first study of its kind, it is impossible to assess the degree to which these results will generalize to other cities. Looking to existing survey research, however, we can gain some leverage on this issue. According to a recent survey conducted by Holzer & Stoll (2001), employers in Milwaukee reported substantially greater openness to considering applicants with criminal records relative to their counterparts in Chicago, Los Angeles, and Cleveland. If these self-reports accurately reflect employers' relative hiring tendencies, then we would expect the results of this audit study to provide conservative estimates of the barriers to employment faced by ex-offenders in other metropolitan areas.

4. Sample restrictions

The present study was intended to assess the effect of a criminal record on employment in entry-level jobs. In order to obtain a sample of such positions for use in this study, however, it was necessary to impose certain sample restrictions on the categories of entry-level employment to be included. The degree to which these restrictions affect the generalizability of these findings to real employment searches therefore warrants careful consideration.

⁵³ This figure presents the call-back rates for white testers only.

Virtually all employment audits have relied on samples of job openings identified through ads in metropolitan newspapers. Though want ads provide an easily accessible listing of job vacancies, research on actual job search behavior demonstrates that only a minority of jobs are found through this source. Holzer (1988) estimates that only roughly 20 to 25 percent of search time is spent on contacts generated by newspaper advertising, with friends and relatives and direct contact of firms by applicants representing much more common sources of new employment.

Though it would be preferable to include job vacancies derived from representative sources, it is difficult if not impossible to map the network of informal contacts that lead to most job opportunities. Instead, researchers have relied upon sources which allow for systematic and consistent sampling schemes, despite the reduction in representativeness. Fortunately, there is compelling research to suggest that the restricted sample provides a more conservative estimate of discrimination. Firms who wish to discriminate, it is argued, are more likely to advertise job openings through more restrictive channels than the metropolitan newspaper, such as through referrals, employment agencies, or more selective publications (Fix & Struyk, 1993:32). Indeed, this argument is indirectly supported by research showing that minorities are more successful in job searches generated by general newspaper ads than through other means (Holzer, 1987). Further, pilot audits conducted by the Fair Employment Council in Washington, DC also indicate lower rates of discrimination against minorities in jobs advertised in metropolitan

newspapers than those advertised in suburban newspapers or in employment agencies (Bendick et al., 1991, 1993).⁵⁴

The present study therefore, following previous audit studies, relies on a random sample of job openings from advertised sources (the *Milwaukee Journal Sentinel* and *Jobnet*). Prior to sampling, the following additional restrictions were imposed (for reasons discussed below):

- Not hiring through employment agency;
- No more than high school degree required;
- No public sector positions;
- No health care positions;
- No jobs related to the care of children or the elderly; and,
- No jobs whose announcements explicit stated security clearance required.

The restrictions with the largest effect on my sample are those related to employment agencies and the health care industry. Employment agencies are becoming increasingly dominant in regulating the market for entry-level labor. Between 35 and 40 percent of jobs advertised on Jobnet (the internet employment bulletin) were “temporary to permanent” positions through an employment agency. There exists quite a bit of literature on the quality of temporary employment and the treatment of workers hired through employment agencies (Henson, 1996). An audit of employment agencies, however, warrants an independent study, given the very different hiring procedures use in such establishments.

⁵⁴ Ethnographic evidence further suggests that white ex-offenders benefit more from personal networks in seeking employment than do blacks. Sullivan (1989) finds that, among juvenile delinquents, whites and Hispanics were readily placed in employment by relatives or extended networks following release from incarceration; blacks, by contrast, benefited much less from social networks in finding work. These informal methods of job search behavior, therefore, are likely to result in greater evidence of racial disparities in employment following incarceration than what is reported here.

The elimination of health care positions from my sample was due to the extensive legal restrictions in this sector barring the employment of individuals with criminal records.⁵⁵ This sample constraint eliminated a huge number of jobs otherwise available to entry-level job seekers without criminal records. The health services sector represents 8.3 percent of total employment in Wisconsin (COWS, 1996), and a much larger share of new employment. Hospitals alone were the 4th largest employers in the Milwaukee region in 1995 (COWS, 1996). These are some of the highest-wage jobs in the service sector (COWS, 1996).

Other occupations were likewise eliminated from the sample, not because of blanket legal restrictions, but because their job announcements explicitly stated that applicants must pass a criminal background check and/or that security clearance was required. While it is not clear that blanket exclusion of all criminal convictions in these cases is defensible under the law, the employers' policies are made fairly explicit. While one cannot always assume that stated policies will be enforced, in the case of criminal records, these jobs are unlikely to demonstrate much variance.

A true estimate of the collateral consequences of a criminal record on employment opportunities would take into account the large number of jobs formally closed to ex-offenders (rather than just those demonstrating a preference for or against applicants with criminal records). The estimates produced from the audits, therefore, represent only part of the overall effect of a criminal record on the likelihood of finding employment.

⁵⁵ Such restrictions also apply to occupations involving care for children or the elderly and many public sector positions.

Experimenter Effects

One potential weakness of the audit study methodology is that the expectations or behaviors of testers can influence the outcome of results in non-random ways. In the course of this research, it became apparent that testers may in fact (unconsciously) behave differently depending on the experimental condition. With respect to the criminal record condition, several testers commented that they felt irrationally bad about themselves when presenting themselves as ex-offenders. If it is the case that these feelings made them more self-conscious and/or more reticent or nervous when speaking with employers, then this behavior in itself may lead to spurious outcomes. These psychological reactions may be even more pronounced in the case of black testers. One tester early on reported feelings of discouragement and frustration that he had had very few responses from employers. As a successful, bright college student, the change in status to a young black criminal was extreme, and the difference in treatment he received seemed to take a toll. Fortunately, after gaining more experience with the project, this tester (and others) seemed to feel more comfortable in their interactions and better able to perform in their assigned roles.

The psychological experiences of testers can certainly influence the outcome of audit studies. It is unlikely, however, that they are the driving force behind the results reported from this study. As noted earlier, in a vast majority of cases testers had little if any contact with employers. Given that a majority of call-backs were made on the basis of applications submitted with little or no personal contact, the internal disposition of the tester is unlikely to exert much of an effect. The finding that personal contact actually

served to weaken the effect of a criminal record (see Figure 3A2 above) provides further evidence that the friendly, appealing qualities of the testers were apparent to employers even among applicants in the criminal record condition.

**Appendix 3B. Logistic Regression of the Effects of Criminal Record and Race
on Applicants' Likelihood of Receiving a Call-Back**

	Coefficient	Robust Standard Error	
Criminal record	-0.99	0.24	***
Black	-1.25	0.28	***
Criminal record*black	-0.29	0.38	

Note: Standard errors are corrected for clustering on employer ID in order to account for the fact that these data contain two records per employer (i.e., criminal record vs no criminal record). This model also controls for location (city vs suburb) and contact with the employer, variables which mediate the relationship between race, crime, and employer responses.

Appendix 3C: Wisconsin Fair Employment Act

According to Wisconsin Fair Employment Act, "It is unlawful to discrimination against employees and job applicants because of their sex, color, ancestry, disability, marital status, race, creed (religion), age (40 or over), use of lawful products, *arrest or conviction record*, honesty testing, national origin, pregnancy or childbirth, sexual orientation, genetic testing, or military service membership. This law applies to employers, employment agencies, labor unions, and licensing agencies"

(<http://www.dwd.state.wi.us/dwd/Posters/ERD-4531.pdf>, emphasis added).

An employer may only take prior convictions into account if the circumstances of the crime are "substantially related" to the circumstances of the particular job.

Unfortunately, the law provides no explicit definition of "substantially related," and cases are decided on an individual basis. Some insights into the scope and interpretation of the law, however, can be gained by reviewing the more than 50 cases that have been tried under this provision.

Several rulings, for example, make it clear that the length of time that has elapsed since an offense is not relevant to deciding whether a conviction is "substantially related" to the job (*Borum v. Allstate Ins. Co.*, LIRC, 10/19/01; *Nelson v. The Prudential Ins. Co.*, LIRC, 05/17/96; *Thomas v. DHSS*, Wisc. Personnel Comm., 04/30/93). An individual convicted of an offense unrelated to the job in question, therefore, cannot be rejected on the basis of having been recently released from prison.

With respect to the consideration of drug crimes specifically, case precedent provides somewhat contradictory guidance. The following statement were taken from

excerpts of judgments in cases concerning the use of drug convictions to bar employment:

In *Herdahl v. Wal-Mart Distribution Center* (LIRC, 02/20/97), the judge ruled that

“possession of marijuana was not substantially related to her position as a stocker. The position provided little opportunity for the Complainant to distribute drugs or to use drugs at the workplace. If the Complainant is considered unsuitable for the stocker position based upon the potential to distribute drugs, then it would appear that she could be lawfully excluded from essentially every job which placed her in contact with other workers or with the public. Such a result would be inconsistent with the goals of the Wisconsin Fair Employment Act.”

Likewise, in the case, the judge rule, “The mere fact that an employee works somewhere in the vicinity of potentially dangerous equipment or machinery is insufficient to warrant a finding that a drug-related arrest or conviction record is substantially related to the circumstances of the job, absent other evidence establishing an actual safety risk.”

On the other hand, in another case which occurred five years earlier, a judge ruled that,

“The Complainant’s conviction of a crime involving the delivery of drugs was substantially related to his employment as a machine operator at a paper mill where the opportunity for criminal behavior was significant in light of the large amount of free time available to the employee, the presence of only intermittent supervision, and the enormity of the workplace. In addition, the Complainant’s reaction to responsibility and character traits revealed by the conviction made it reasonable to conclude that the workplace would provide a potential temptation for a person with a demonstrated inclination to engage in conduct such as the illegal sale of drugs” (*Goeri v. Appleton Papers*, LIRC, 10/05/92).

According to the Equal Rights Opportunity Commission (EEOC) and the Wisconsin Department of Industry, Labor, and Human Relations—Human Rights Division, there are no formal guidelines specifying which crimes may be considered “substantially related”

to which jobs. Instead, cases are decided on an individual basis, and all aspects of the circumstances of the crime and of the job must be taken into account. This leaves the law open to substantial variation in interpretation by the ruling judge (as evidenced by the disparate rulings above), and makes it difficult to assess when and where the law might apply.

**Chapter 4. Two Strikes and You're Out:
The Intensification of Racial and Criminal Stigma**

Two Strikes and You're Out: The Intensification of Racial and Criminal Stigma

Jerome, one of the black testers, arrived at a branch of a national restaurant chain in a suburb 20 miles from Milwaukee. He immediately sensed that he was the only black person in the place. An employee hurried over to him, "Can I help you with something?" "I'm here about the job you advertised," he replied. The employee nodded reluctantly and went off to produce an application form. Ralph filled out the forms, including information about his assumed criminal history. He was given a math test and a personality test. He was then instructed to wait for the manager to speak with him. The manager came out after about 10 minutes, looked over Jerome's application, and frowned when he noticed the criminal history information. Without asking any questions about the context of the conviction, the manager started to lecture: "You can't be screwing up like this at your age. A kid like you can ruin his whole life like this." Jerome began to explain that he had made a mistake and had learned his lesson, but the manager cut him off: "I'll look over your application and call if we have a position for you."⁵⁶

Black testers in the criminal record condition routinely met with frustration in their searches for employment. The design of this audit study does not permit direct comparisons of interpersonal contact by race (because black and white testers visited separate employers), but the overall picture demonstrates the substantial differences with which black testers—in particular those with criminal records—experienced the job market. The results of the previous chapter suggest that the effects of race and criminal record may interact to intensify the stigma toward black ex-offenders. Above and beyond the individual handicaps of minority status and criminal record, the combination of the two seems to multiply disadvantage. While the limited sample size of the present study prevents us from conclusively demonstrating this interaction, the results are nevertheless suggestive of an important dynamic in need of further investigation. In the present

chapter, I look at the effects of race and criminal record across multiple domains, illustrating the ways in which employers respond differently to applicant types on the basis of personal contact, location, and occupation. Each of these factors demonstrate the ways in which employer- and applicant-characteristics interact to produce significant variation in employment outcomes.

Two Strikes and You're Out: The Intensification of Stigma for Black Ex-Offenders

In the previous chapter, it was hypothesized that, because of strong stereotypes about race and crime, employers may be particularly wary of blacks with proven criminal tendencies. Where race alone produces major disadvantage in the hiring process, the combination of minority status and criminal record can serve to intensify racial stereotypes and heighten negative reactions (Darley & Gross, 1983; Fiske & Neuberg, 1990). According to this perspective, with *two strikes you're out*.

At the same time, evidence of a criminal record among whites may be discounted, with greater willingness to see prior criminal involvement as an isolated incident rather than an internal disposition. There is ample research from cognitive psychology demonstrating that evidence not confirming to stereotypes is discounted (Rothbart, Evans, & Fulero, 1979). Because whites do not fit the stereotypical profile of a criminal, employers may be more willing to overlook a solitary prior conviction. In the following discussion, I illustrate the ways in which these differences in reactions to racial and criminal stigma may affect employment outcomes in various contexts.

⁵⁶ This vignette was reconstructed from the tester's field notes and conversations following the audit. The quotations are not exact reproductions of the conversation, but approximate the interaction to the closest degree possible.

In each of the following comparisons, I look at the outcomes for white testers first, followed by a discussion of the differences in effects for blacks. As mentioned in the previous chapter, whites can provide a baseline measure of the outcomes for all applicants with a given set of human capital characteristics. Adding race to this picture—and the interaction of race and criminal record—then demonstrates the often sharp contrast between these groups.

Personal contact

One of the most direct ways in which stereotypes are activated is through personal contact with members of stereotyped groups. Interactions with members of stereotyped groups trigger an array of conscious and unconscious associations which affect and distort the ways in which the interaction is perceived. At the same time, extensive interaction can provide the opportunity to supply personal information that is at odds with stereotyped expectations. To the extent that this information is noticed and retained, the effects of stereotypes may be weakened (These issues are discussed in detail in chapter 7). A closer look at the ways in which personal contact between testers and employers shaped the outcome of the audits can help us to infer the meanings attached to race and criminal record in the minds of employers and how these views are attenuated or intensified in the course of direct interaction.

Given that this audit study tested only the first stage of the employment process, a majority of tests were completed without significant personal interaction with the employer. Testers were instructed to ask to speak to the person in charge of hiring, but often this person was unavailable or appeared only briefly to instruct the tester to fill out

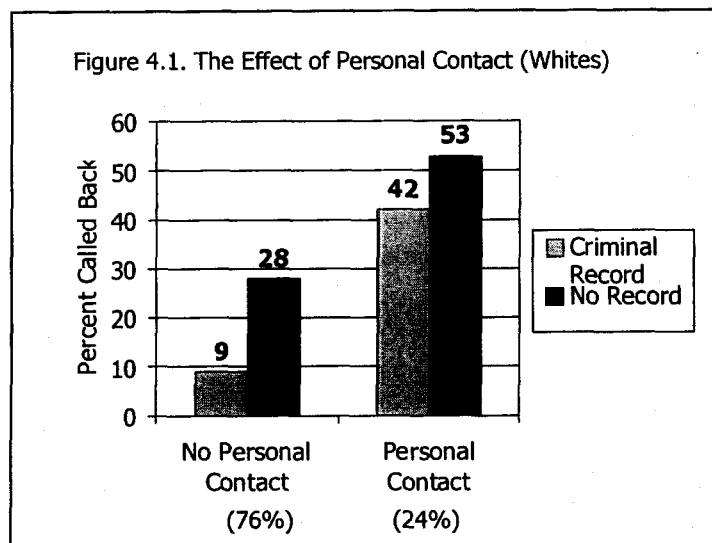
the application and wait for a call-back. In these cases, only the most superficial indicators are available to the employer when making decisions about which applicants to consider.

In about a quarter of all audits, by contrast, testers had the opportunity to engage in extensive discussions with employers. Whether in the form of an official interview or merely an informal conversation about the job, these interactions allowed testers to demonstrate their highly effective interpersonal abilities and to convey an image of general competence. Comparing the outcomes of testers who did and did not interact with the employer allows us to assess to what extent employers notice and utilize interpersonal cues in making their assessments of job applicants. Particularly in the case of applicants with criminal records, where stereotypical images are likely to dominate an employer's evaluation, the presentation of a friendly or trustworthy demeanor may be especially important.

Figure 4.1 presents the percent of call-backs received by white testers by criminal status and personal contact. Personal contact here includes conversations with employers and/or formal interviews, as recorded by testers on their post-application data sheet.^{57,58}

⁵⁷ Testers often had lengthy conversations with other employees while filling out their applications. In this analysis, only conversations with the person in charge of hiring were counted as having personal contact.

⁵⁸ Note: the initial tester response form did not include an explicit item regarding contact with the employer; rather, testers were asked to write about such interactions in the narrative section. As it became clear that this variable was salient for the audit outcomes, the response form was modified to include an explicit item measuring the extent of interaction with the person in charge of hiring (from (1) no contact to (4) formal interview). The changes in coding could imply higher levels of measurement error in tests using the first version of the form.



The effects of criminal record and personal contact are significant ($p < .01$). The interaction between criminal record and personal contact is marginally significant ($p = .07$).

The results in this figure clearly indicate that personal contact is associated with a much higher likelihood of receiving a call-back for all white testers. Non-offenders were nearly twice as likely to receive call-backs from employers with whom they had interacted, and ex-offenders were nearly 5 times as likely to be called back after having the opportunity to make personal contact with the person in charge of hiring. This finding is consistent with two plausible and non-mutually exclusive explanations. The first implies a change in the applicant's desirability following a direct personal interaction: the findings here are consistent with the interpretation that the testers' ability to make a good impression during personal interactions does in fact translate into much higher call-back rates. On the other hand, we must also acknowledge the possibility that there may be something specific about these firms which makes them more likely to respond to all applicants. Employers who are experiencing acute labor shortages, for example, may be those who tend to be present to conduct on-the-spot interviews. This would result in an association

between personal contact and hiring probabilities in the absence of any mediating effects. As we will see below, however, the fact that personal contact has a very different effect for black testers suggests that the interaction itself—rather than merely the types of employers likely to interact—does in fact have a direct effect on hiring outcomes.

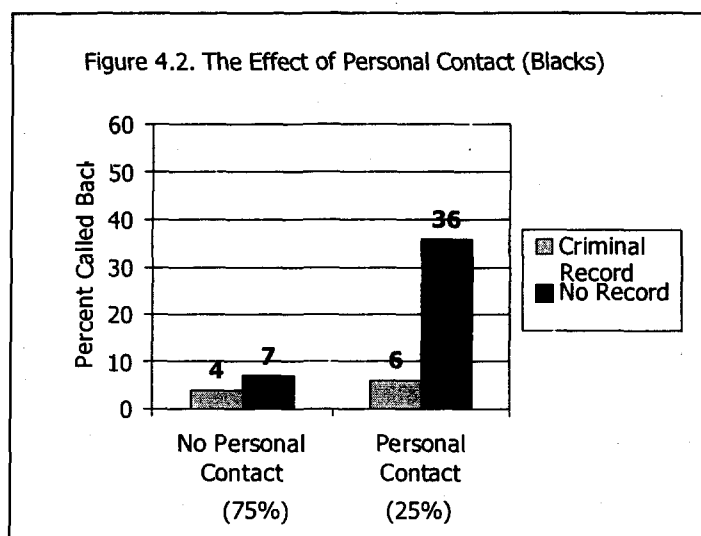
Even more importantly, these results demonstrate that the effect of a criminal record is substantially smaller in those cases where white testers had the opportunity to interact with the employer. While white ex-offenders were nearly 70 percent less likely to receive a callback in the absence of personal contact, those who did have the opportunity to interact with the employer were only 20 percent less likely to be called back relative to their non-offender partners. This finding suggests that presenting personal indicators that are at odds with the stereotypical profile of a criminal may in fact offset the negative stigma of a criminal record. Indeed, research on stereotypes finds that presenting individuating information can reduce the impact of stereotypical judgments (Allport, 1954; Fiske & Neuberg, 1990). For employers concerned that ex-offenders will be aggressive or uncouth, personal contact can effectively attenuate these associations, offering the applicant a better chance to demonstrate his capabilities.⁵⁹

The previous results applied only to white testers. Given that personal contact may have significant implications for the mediation of racial stereotypes as well as those concerning ex-offenders, it important to consider how this process may work differently

⁵⁹ Of course, personal contact will not always serve in an individual's favor. Certainly among many ex-offenders, a demonstration of "soft-skills" will further reinforce employers' negative stereotypes about this group. In the case of drug offenders, however, the range of delinquency is great. A large proportion of those incarcerated for drug offenses are first-time offenders with no history of violent behavior (Bureau of Justice Statistics, 1994). These individuals are far from the image of the "hardened criminal" which employers are likely to be most concerned about.

for black applicants. Figure 4.2 presents the percentage of call-backs received by black testers in each condition. From these results, we see a strikingly different picture.

On the one hand, as in the case of whites, personal contact does increase the likelihood of a callback for blacks *without* criminal records. Based on the numbers presented here, blacks without criminal records are more than five times more likely to receive a call-back if they have had personal interaction with the employer. In this respect, interpersonal cues certainly seem to strengthen the applicant's case, perhaps mediating initial negative racial stereotypes.⁶⁰



The main effects of criminal record and personal contact are significant ($p < .01$). In a model including an interaction between the two, the main effect of criminal record becomes insignificant, while the interaction term demonstrates a large and marginally significant negative effect ($p < .06$).

⁶⁰ Note that the rate of call-backs among black non-criminals who had personal contact with the employer (36%) is even higher than that among white non-criminals who had had no personal contact (28%). It may be the case that the appealing interpersonal abilities of these testers weighed more favorably than the mean value of interpersonal ability assigned to white testers when no direct evidence was available. It is also possible, however, as mentioned above, that the employers available to conduct on-the-spot interviews are also those most in need of new staff, in which case the higher rate of call-backs would imply differences in demand rather than the effect of any supply-side characteristics.

But in contrast to whites where personal contact increased the likelihood of a callback for all testers and narrowed the gap between those with and without criminal records, among blacks personal contact actually widens the disparities. As we can see in Figure 2, among those who had no contact with the employer, black testers with criminal records were 43 percent less likely to be called back relative to those without criminal records. Among those who did have personal contact, by contrast, there was a 83 percent difference. This disparity is strikingly large. A number of possible explanations should be considered. First, it is important to remember that these three-way interactions are based on small sample sizes. Though black testers completed 200 audits in total (or 400 tester-visits), only 35 tester-visits resulted in a call-back. As a result, the actual proportions in these figures are based on small n's: the numbers in each of these cells are 7, 10, 3, and 18, respectively. Small fluctuations in the number of call-backs among black ex-offenders, therefore, could make large differences in the comparison of effect sizes.

In this case, however, the disparity is large enough to warrant serious consideration. In fact, despite the small cell sizes, the interaction effect between personal contact and criminal status in a model predicting call-backs reaches statistical significance ($p < .05$).⁶¹ What is it, then, that leads employers to react so differently to interactions with black applicants with and without criminal records? While it is impossible to infer the cognitive attributions triggered by these interactions, the outcomes are consistent with the notion that the presence of multiple stigmas produces an intensification of effects. Even though these testers are bright, articulate, and personable,

⁶¹ Likewise, the interaction between race and criminal record among audits involving personal contact is statistically significant, $p < .05$.

these traits may not be sufficient to overcome the intense negative attributions which accompany the combination of minority status and criminal background. While whites with criminal records seem to benefit a great deal from personal interaction with employers, this type of interaction does nothing to improve the chances for blacks with criminal histories. Even a bright, friendly demeanor appears immaterial relative to the profound stigma associated with race and criminal involvement. With two strikes, you're out.

City and Suburban Location

Apart from the effects which take place within job locations, there are also important differences across job locations. A great deal of literature has described employment differentials in the city versus the suburb, with particular attention placed on the experiences of marginalized workers (Wilson, 1996; Freeman & Holzer, 1986). Central city employers are typically more open in their hiring practices, while suburban employers are often viewed as those who have escaped or avoided inner city populations, physically distancing themselves from a less desirable applicant pool (Tilly et al., 2001). Changes in the spatial distribution of job growth has been highly consequential for the employment prospects of young black and white men, as job development has primarily occurred in areas outside the city in areas generally less accessible to central city residents. Indeed, a recent survey of employment in the Milwaukee metropolitan area found that over 90 percent of recent job growth was in the outlying areas, relative to only 4 percent of new jobs in the central city of Milwaukee (Pawasarat & Quinn, 2000). These trends are in sharp contrast to the location of job seekers who are far more heavily

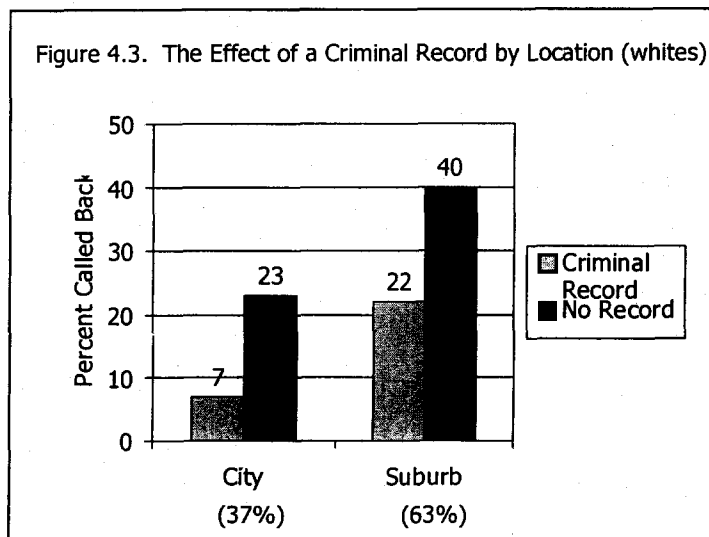
concentrated in the city. Assessing how the location of job openings affects the employment opportunities of blacks and ex-offenders, therefore, is important to understanding how recent trends in job growth contribute to the employment problems of these workers.

With respect to race, suburban employers typically appear to be more reluctant to hire racial minorities and openly express concerns over the characteristics of black men from the central city (Kirschenman & Neckerman, 1991; Wilson, 1996). According to one employer quoted in Wilson's study, "They're not dependable.... They may not show up on time. They just disappear for an hour or two at a time.... And the second thing is theft" (1996:120). Likewise, Holzer (1996) investigated characteristics of employers related to the likelihood of hiring a black worker for a recent opening. Controlling for the racial composition of the applicant pool, suburban employers were significantly less likely to hire an African-American relative to employers in the city.⁶² The attitudes of suburban employers towards black applicants, therefore, suggests that blacks face two compounding challenges in seeking employment in the rapidly expanding suburbs: First, minority applicants are disadvantaged due to their spatial concentration in urban areas, leaving many suburban jobs prospects (often not accessible by public transportation) out of reach (Wilson, 1996; Holzer, 1991). Second, among those who are able to travel to suburban locations, black applicants are less likely to be considered by employers relative to their urban or suburban white counterparts.

⁶² Of course, Holzer's study does not permit controls for the quality of applicants, leaving open the possibility that racial differences in hiring practices reflect actual differences in the relative human capital characteristics of black and white applicant pools. Given that labor supply is substantially lower in suburban areas than in the city (as a ratio of job openings to job seekers), however, it is not clear why suburban employers would be more selective than those in the city.

With respect to criminal record, there is a small amount of evidence to the contrary. According to a survey of employer preferences, Holzer (1996) found suburban employers to be somewhat less resistant to hiring applicants with criminal records (and less likely to conduct criminal background checks) than their counterparts in the city (p.55,59). It may be the case that central city employers are more likely to encounter ex-offenders among their applicant pool, and are therefore more sensitized to concerns over criminal backgrounds than their suburban counterparts. Whatever the case, there are few systematic investigations of these issues, and the interactions between race, criminal record, and location have yet to be explored.

Figure 4.3 presents the call-back rates for white testers by criminal status and location. The results here indicate that the overall demand for employment is substantially higher in the suburbs and surrounding counties relative to the city of Milwaukee. Among testers with and without a criminal record, the likelihood of a call-back is significantly greater in suburban areas; in fact, the rate of call-backs among white ex-offenders in the suburbs is close to equal that of non-offenders in the city. Location, therefore, is highly consequential with respect to the likelihood of finding employment.



The effects of criminal record and city are significant ($p < .01$). The interaction between the two is not statistically significant.

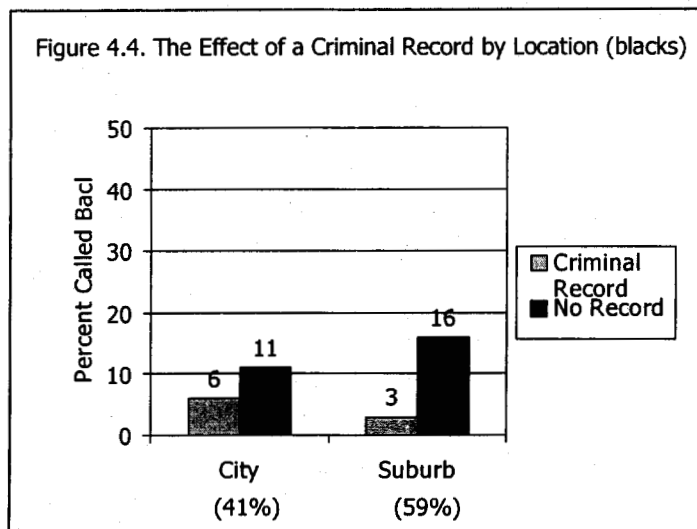
A second major finding from this graph is that the effect of a criminal record appears to be larger among city employers compared to those in the suburbs or surrounding counties. The ratio of callbacks for non-offenders relative to offenders among suburban jobs is just under 2:1 compared to a ratio of more than 3:1 among city employment. Though this interaction does not reach statistical significance in the present sample, the magnitude of the effect is nevertheless worth consideration. While a criminal record remains a major barrier in all contexts, suburban employers appear to be somewhat less put off by evidence of an applicant's criminal history than are city employers. This finding is consistent with evidence from Holzer (1996) that suburban employers are less likely to screen for criminal background information in their recruitment of non-college workers. It is also consistent with general arguments about labor supply, according to which the higher overall demand for workers among suburban employers should lead to less differentiation on the basis of worker characteristics (such as criminal record).

Among black testers, however, as we will see below, higher demand does not seem to have much effect.

Figure 4.4 illustrates the call-back rates among black testers by criminal record and location. Here we see that, moving from city to suburb, the increase in call-backs for black non-offenders is less than 50 percent (compared to a jump of almost 100 percent among white non-offenders). Among blacks with criminal records, on the other hand, the move from city to suburb actually lowers the likelihood of a call-back. In fact, the interaction between race and criminal record becomes significant among suburban employers, with black ex-offenders facing substantially worse prospects in suburban job searches than the additive effect of race or criminal record would predict.⁶³ Far from benefiting from the tighter labor market in the suburbs, black ex-offenders fare poorly in suburban job searches.⁶⁴

⁶³ The coefficient for the interaction term in a logistic regression predicting call-backs is -1.14 with a standard error of 0.59 , $p=.055$.

⁶⁴ Once again, however, it is important to acknowledge that the sample sizes are quite small in these comparisons, and therefore the stability of these estimates is difficult to confirm. The sample sizes in Figure 3 are 4, 13, 21, and 38, respectively; those in Figure 4 are 5, 9, 4, and 19, respectively.



The effect of a criminal record is significant ($p < .001$) while the effect of city in this model is not significant. There is a large and significant positive interaction between city and criminal record, indicating the substantial advantage to black ex-offenders in the city relative to their suburban counterparts.

The overall result of these disparate effects is a widening of the criminal record effect among suburban employment. While among whites the effect of a criminal record was less pronounced among suburban employers, among blacks, this trend is reversed. The ratio of call-backs for black non-offenders relative to offenders is less than 2:1 in the city, relative to more than 5:1 in the suburbs. Call-back rates remain, nevertheless, quite low for blacks in the city; but among those city employers willing to hire blacks, a criminal record appears to present less of an obstacle relative to the suburban context. Suburban employers, on the other hand, though somewhat more likely to consider black non-offenders, are particularly wary of black applicants with criminal histories.

The interaction between race, criminal record, and location suggests some interesting insights into the relative preferences of city and suburban employers. While suburban employers are generally more responsive to applicants of all kinds—reflecting the tighter labor market in suburban areas—this rule does not apply to blacks with

criminal records. Once again we see that the combination of race and criminal record has an effect far more powerful than either attribute has on its own. In the case of suburban employers, minority status *or* criminal record are admissible (though still not preferable), while the combination of the two represents almost full grounds for exclusion. As in the case of personal contact above, the *two strikes and you're out* phenomenon holds strong relevance to the context of suburban employment.

Occupational Category: The Case of Restaurant Jobs

A third domain in which tester experiences differed was across occupational categories. Job types varied substantially according to the profile of workers needed, from physical stature (for jobs involving lifting and carrying) to knowledge of Milwaukee roads (for delivery drivers). The norms and expectations of workers across occupational categories may likewise affect relative openness to minority applicants and/or applicants with criminal records.

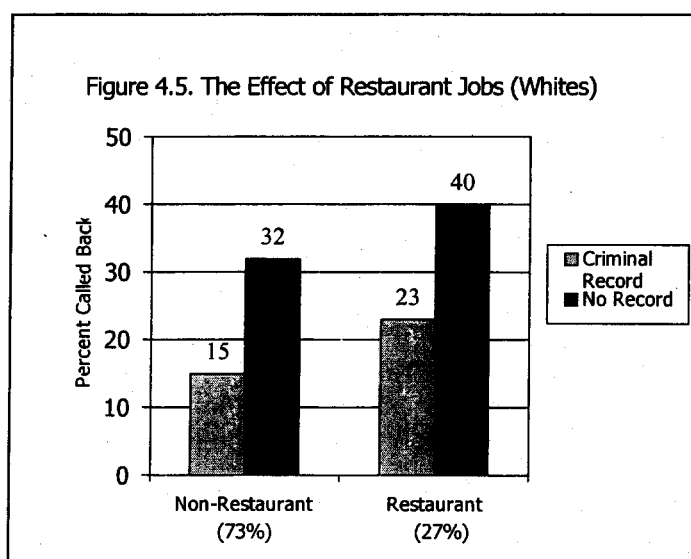
One notable difference among occupational types was the relative frequency with which applicants were asked about their criminal histories. Among six major occupational categories, restaurant jobs stood out in particular as the least likely to request criminal history information on application forms (see Table 4.1). In fact, among restaurant jobs included in this sample, just over half requested criminal history information, relative to more than 75 percent in all other occupational categories. It is worth considering how this distinctive characteristic of restaurant hiring procedures may affect the hiring patterns of blacks and ex-offenders.

Table 4.1. Percent of Applications Requesting Criminal Background Information by Occupation

	Restaurant	Production	Laborer	Service	Sales	Clerical
Yes	52	76	79	81	83	84
No	48	24	21	19	17	16
N	82	43	92	37	64	32

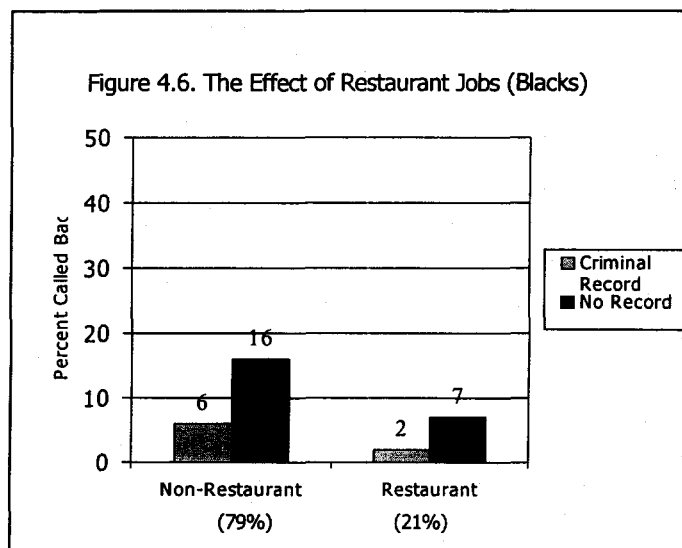
Restaurant jobs have high rates of turnover and offer low fixed wages (with the assumption that a majority of the employee's reimbursement will come from tips); the combination of these conditions often leads to the casting of wide net of recruitment and lower restrictions on candidacy. Indeed, among white testers, restaurant jobs offered one of the highest rates of call-backs for both non-offenders and offenders. Employers often seemed eager to hire applicants right away, and were perhaps therefore less concerned with the information provided about their criminal past.

Figure 4.5 presents the call-back rates for white testers by criminal status for restaurant and non-restaurant jobs. As we can see, rates of call-backs were higher among restaurant jobs for white applicants with and without criminal records, and, likewise, the gap between applicants with and without criminal records is somewhat smaller than in other occupational types.⁶⁵



The main effect of criminal record is significant ($p < .001$) while the effects of restaurant occupation and the interaction between the two are not significant.

⁶⁵ Of course, the difference in call-back rates for testers with and without criminal records would have been substantially smaller had no unsolicited criminal background information been presented. If we assumed that testers in the criminal record condition would have received a call-back in all cases where the non-criminal tester received a call-back and where employers did not ask about criminal histories, 35 percent of testers with a criminal record would have received call-backs in restaurant jobs. This accounts for roughly 70 percent of the difference in treatment among whites in restaurant jobs.



The main effect of criminal record is significant ($p < .001$) while the effects of restaurant occupation and the interaction between the two are not significant.

The outcomes for blacks, by contrast, were quite different (see Figure 4.6). Restaurant jobs were among the least likely to result in call-backs for black testers, irrespective of criminal condition; this difference is large and statistically significant, with the size of the race effect more than doubling within restaurant jobs ($p < .05$).⁶⁶ It is interesting that such a low-wage, high-turnover job would demonstrate such strong racial bias. One possible explanation is “customer discrimination,” or rather the employer’s perception thereof: If employers believe that diners prefer white waiters over black ones, this creates an incentive to discriminate against black applicants (Becker, 1962). Previous research has found strong evidence of a gender preference in restaurant hiring, with high-price restaurants significantly favoring men over women (the assumption being that high-paying customers prefer to be waited on by men) (Neumark, 1996). A similar type of

⁶⁶ In a logistic regression predicting callbacks, the coefficient for the main effect of race is $-.87$, with the coefficient of the interaction between race and restaurant occupation reaching -1.34 . These coefficients are from a model including main effects for race, criminal record, and restaurant occupation, with interactions between race and restaurant and race and criminal record (the latter interaction is not significant).

customer discrimination may be at play with respect to race, as shown here. A second possibility is concern over the exchange of money between customers and employees, given that waiters handle significant amounts of cash during each shift. If employers perceive blacks to be more likely to steal (as noted in the comment by an employer in Wilson's (1996) study, quoted earlier), they would then demonstrate a preference for whites in hiring for positions involving the handling of cash. Indeed, a separate analysis of all jobs requiring the handling of cash (not shown here) demonstrates a similar, though less pronounced, pattern to Figure 6. Whatever the underlying reason, this striking aversion to blacks among restaurant employers warrants further investigation.

As for the criminal record effect, we once again see evidence that black ex-offenders are by far the least favored group. While there is less evidence of an interaction in this case (likely due to a floor effect), it is readily apparent that the chances of a black ex-offender finding employment in a restaurant occupation are virtually nonexistent.⁶⁷ Despite the fact that restaurants appear relatively open to white ex-offenders (and certainly demonstrate an openness on their application forms), evidence of a criminal history among blacks appears to be strong grounds for rejection. The fact that restaurant jobs are one of the most frequent types of job openings (representing nearly a quarter of job openings in this sample), these findings do not bode well for the overall labor market outcomes of black ex-offenders.

⁶⁷ Note once again that the sample sizes used for these comparisons are small: In Figure 5, the sample sizes are 16, 35, 9, and 16, respectively; those for Figure 6 are 9, 25, 1, and 3, respectively.

Compounding Stigma: Concluding Remarks

This chapter explored the interaction between race and criminal record in three contexts, demonstrating the ways in which black ex-offenders face an intensification of stigma, above and beyond the simple additive effects of either characteristic alone. Given the small sample sizes available for these comparisons, these findings can be considered only preliminary hypotheses in need of further investigation. The consistency of effects across domains, however, provides some assurance that this phenomena is not merely artifactual. Even in cases where demand for employment is high, employers appear unwilling to overlook the "two strikes" facing black ex-offenders. If representative of larger trends, these results suggest some troubling conclusions for the employment prospects of blacks with criminal records. Blacks, already burdened by their disproportionate representation in prison, carry the added weight of compounding stigma. The combination of minority status and criminal record create barriers to employment that appear virtually impossible to overcome.

Chapter 5. Employers' Perspectives

Employers' Perspectives⁶⁸

The results of the audit study provide a clear picture of employer preferences as measured by hiring outcomes. The behavioral response measured by the audit study—call-back or no call-back—documents the extent to which race and a criminal record shape hiring outcomes under a controlled set of conditions. And yet, based on the results of the audit, we see the process from only one perspective: the applicant seeking work. Apart from the comments made by employers directly to testers, we observe very little about the underlying factors which give race and criminal status such salience in hiring decisions. Likewise, based on the audit study results, we know only about employment outcomes specific to a particular set of applicant characteristics. In the present study, for example, a drug felony was selected to represent the criminal record, with the applicant having only recently been released from prison; of course, a different set of choices may have led to different outcomes. In the following chapters, I seek to provide a more expansive account of the hiring process by including the perspective of the employers themselves.

Following the completion of the audit study, each employer (or representative thereof) was asked to participate in a telephone survey about their hiring priorities and concerns for entry-level workers. In the survey, employers were asked a variety of questions about their attitudes towards applicants with criminal records, probing both general and specific dimensions of their reactions. The results of the survey allow us to

⁶⁸ I would like to express deep appreciation to Harry Holzer, Michael Stoll, and Steven Raphael for allowing me to use their survey questions in this study. For helpful advice in designing new questions, I thank Nora Cate Schaffer, Jeremy Freese, Robert M. Hauser, Lincoln Quillian, Eric Grodsky, and Chet Pager. My thanks also to the project staff at the Michigan State Survey Center who administered this survey.

follow up on a number of questions left unanswered by the audit study, providing a more complete understanding of how and why employers make the hiring decisions they do. For example, the survey allows us to ask: How do employers' reactions to applicants with criminal records compare to their reactions to other groups of marginalized workers? How do the attitudes of Milwaukee employers compare to those of employers in other metropolitan areas? How do drug crimes compare to other sorts of crimes in terms of employers' reactions? What are the most salient dimensions of a criminal record that shape employers' decisions about applicants with prior convictions? Answers to each of these questions can help to provide a more comprehensive understanding of the demand-side processes which regulate the entry of ex-offenders into the labor force. Employers serve as key gatekeepers in the job placement process; gaining deeper insight into their attitudes and opinions can help us to understand how the distribution of job outcomes (as measured by the audit study, or other measures of the job placement of ex-offenders) comes into being.⁶⁹

Methodology

Drawing on the sample of 350 employers selected for the audit study, respondents were asked to participate in a telephone survey focused on employers' concerns and considerations in hiring entry-level workers. Following a stipulation made by the University of Wisconsin Human Subjects Committee, no mention was made of the

⁶⁹ This manuscript takes no account of the supply-side processes which may also affect the distribution of outcomes for ex-offenders. Differences in job-search behavior, human capital characteristics, and the many potential disruptions associated with incarceration (loss of housing, disruptions of family ties, etc.) may also have a substantial influence on the employment outcomes of ex-offenders. For a treatment of these issues, see Nelson et al., 1999; Travis et al., 2001.

previous audit that had taken place. It was decided that disclosing the occurrence of the audit study could place subjects at greater risk, given that managers or human resource employees may be sanctioned if discriminatory practices within individual establishments were revealed. If asked, subjects were told that they were selected on the basis of an entry-level job opening they had advertised within the past six months (indeed, this was the selection criteria for the audit study).

Calls were made to each establishment, asking to speak with the person in charge of hiring. In companies where more than one person was responsible for hiring decisions, it is possible that the individual participating in the telephone survey was different from the individual who reviewed the testers' applications in the audit study.⁷⁰ It is assumed that general hiring policies are shared among company representatives and, therefore, there should be a fairly high level of consistency in responses among individuals within firms; any individual differences should appear as random error.

The baseline survey instrument was developed by Harry Holzer and his colleagues.⁷¹ It includes questions about the company, such as size, industry, employee turnover, and racial composition; questions about hiring procedures, such as the use of interviews, personality or aptitude tests, and background checks; questions about the last worker hired for a position not requiring a college degree, including age, race, and sex of

⁷⁰ In cases where more than one person was responsible for hiring decisions, interviewers attempted to identify the individual most directly involved in the screening of entry-level workers. Once this person was identified, they served as the target respondent until a completion or refusal was secured. If the initial target was unavailable or unwilling to participate, attempts were made to contact alternative personnel (involved in hiring decisions) within the company.

⁷¹ The first version of this survey was developed for the Multi-City Study of Urban Inequality Employer Survey (Holzer, 1996). Holzer, Stoll, and Raphael (2002) later modified the initial instrument to focus more closely on applicants with criminal records. The instrument used for the present study was further modified to reflect the priorities of this research project (see below).

the worker, recruitment method, wage, and promotion opportunities; and questions about the employer's attitudes about various kinds of applicants, including welfare recipients, applicants with long spells out of the labor market, unstable work histories, or criminal records. In addition, several survey items were added to more closely mirror the audit study. In particular, a vignette was included describing a hypothetical applicant very similar to the tester profile (see below). The applicant was described as white for those employers who had been audited by white testers and black for those employers audited by black testers. The vignette was then modified to assess employers' reactions to applicants convicted of different types of crimes or who had received different types of sanctions. These items give us some leverage with which to assess the degree to which the audit results may have been different had the profile of the tester been different (e.g., if the type of crime or the context of the conviction tested had been different). Additionally, an open-ended question was added to probe employers' reasons for being willing or unwilling to hire the applicant described in the original vignette. This question offers a view of employers' concerns in their own words, highlighting the issues most salient to employers about applicants with criminal records.

The survey was administered by the Michigan State Survey Center. The final survey sample included 177 respondents, representing a 51 percent response rate. Response rates were calculated according to the basic formula: $I/(I+P+R)$, where I equals the number of completed interviews, P equals the number of partial interviews, and R represents the number of refused eligible numbers (Groves & Lyberg, 1988). Between the time of the audit and the survey, two companies had declared bankruptcy and an

additional two had non-functioning numbers. These firms were dropped from the survey sample and are excluded from the denominator for calculations of response rates.

Typical response rates for academic telephone surveys range from 50 to 80 percent. The present survey falls toward the lower end of the range of acceptable response rates as the result of several possible factors. Response rates for surveys of top management and organizational representatives typically lag behind those of employees or of the general population (Baruch, 1999). Likewise, there has been increasing resistance of businesses to participate in surveys, given the proliferation of market research firms as well as academics seeking employer participation for the growing number of studies involving businesses (Remington, 1992). There has been a notable downward trajectory in the response rates from business surveys over the past 25 years (Cox et al., 1995; Baruch, 1999), with increasing numbers of refusals citing that participation was against company policy (Fenton-O'Creevy, 1996, cited in Baruch, 1999). Even among the general population, Curtin et al. (2000) report that the number of calls required to complete an average interview and the proportion of interviews requiring refusal conversion doubled between 1979 and 1996. The inundation of telemarketers (and, to a lesser extent, survey research) matched by the technological advances of caller-ID and privacy managers has made it increasingly difficult to recruit survey respondents for academic research (Remington, 1992).

In order to assess the possible bias that may result from selective participation, two comparison tests were made.⁷² The first test compared basic characteristics of

⁷² Note: there is also quite a bit of research investigating the effects of low response rates on survey outcomes. Keeter et al. (2000) administered two identical questionnaires to national household samples

employers who responded to the survey to those who were eligible for participation but refused (see Appendix 5A). Based on industry, location, and call-back rates, the two groups were very similar, though some differences in occupational distribution were apparent: employers for restaurant jobs were most likely to respond to the survey, while those for laborer or service positions were least likely. This difference probably has to do with the accessibility of employers in locally-run restaurants, relative to those in decentralized factories, warehouses, or companies. The overrepresentation of restaurant employers in this sample is somewhat cause for concern, given that these employers tend to be more open to applicants with criminal records (as discussed in the previous chapter, and later in this chapter). In an effort to account for this overrepresentation, key outcomes are recalculated using weights to achieve the sample distribution of the audit study. Even without these adjustments, however, the distribution of responses on key attitude items closely match those of a previous sample of Milwaukee employers: In a second test of sample bias, basic employer characteristics from the present sample were compared to an identical set of questions asked of a more representative sample of Milwaukee employers conducted in 1999 (Holzer & Stoll, 2001). Though the earlier Milwaukee survey included a broader geographic area and oversampled large firms, the general attitudes expressed by employers in both samples were strikingly similar (see

using different levels of effort, the first resulting in a response rate of 36 percent, the second, 60.6 percent. Comparisons across 91 demographic, behavioral, attitudinal, and knowledge items found an average difference of 2 percent in the distribution of responses. Likewise, Curtin et al. (2000) compared responses to the Survey of Consumer Attitudes using a full sample to responses when difficult to reach or difficult to convert respondents were excluded (thus simulating the sample population had less effort been used to reach these respondents). These authors report virtually no differences in cross-sectional estimates of "consumer sentiment," even when systematic differences in the demographics of each sample were observed. It seems, therefore, that fairly valid estimates can be achieved even with suboptimal response rates. According to Curtin et al. (2000), there are diminishing returns to increasing response rates, with

Appendix 5B). The consistency of these findings provides some reassurance that the present sample can serve as a useful gauge for the priorities and concerns of employers in the broader Milwaukee metropolitan area.

The comparison of samples across Milwaukee surveys also addresses concerns over the sampling frame of this study. Because this sample was initially drawn for the purposes of the audit study, it cannot be considered a pure random sample of all Milwaukee employers; it is rather a sample of those employers who advertised for entry-level jobs between June and December 2001 in the *Milwaukee Journal Sentinel* and on the internet job listing, *Jobnet*, and who met the selection criteria for the audit study (see Appendix 3A). Most importantly, all jobs in the health care sector, public sector, and those involving care of children or the elderly were excluded from this sample due to explicit legal restrictions on the hiring of ex-offenders in these positions. Evidence for the similarity between the present sample and a previous random sample of Milwaukee employers on key variables of interest provides strong reassurance for the general utility of this sample (see Appendix 5B for a more thorough discussion of sample selection issues).

A final methodological issue to be raised regarding the results of this chapter concerns the use of self-reports from survey questionnaires. This issue is the central focus of the following chapter, but it is worth bringing to the attention of readers at the start of this discussion. The findings reported here come from employers' verbal representations of their hiring preferences and practices. Caution must be used in

large gains in external validity achieved by increasing response rates from 20 to 40 percent while smaller gains are registered by moving from 40 to 60 percent (p.414).

generalizing these reports to estimates of actual hiring practices. As discussed in the following chapter, there is evidence for a substantial disconnect between self-reports and observed behaviors (Duetscher, 1966; LaPiere, 1934). What is less subject to distortion, though, are the relative comparisons of self-reports. Though verbal estimates may not correspond to actual levels of behaviors, it is far more likely that self-reports are consistent across items (Schuman & Johnson, 1976). This chapter, then, relies on within-survey estimates of employer attitudes, providing comparisons across items for a picture of employers' relative preferences. The agenda of this analysis is purely descriptive; the patterns of responses offered by the employers in themselves provide valuable insight into the hiring process for ex-offenders.

Results

The results from the survey offer us a more detailed perspective on the characteristics and concerns of the employers included in the audit study. We can better assess what kinds of employers were audited and what their hiring practices are like (See Appendix 5C for descriptive statistics on the sample). Most importantly, we can learn more about the barriers to employment for ex-offenders based on the stated policies and preferences of employers. In the survey, employers were given three separate opportunities to report their attitudes about applicants with criminal records, offering three levels of generality: a standardized survey question, a vignette, and an open-ended response. In the following discussion, I examine responses to this series of questions investigating the ways in which a criminal record shapes employers' evaluations of entry-level workers.

Attitudes about Hiring Ex-offenders

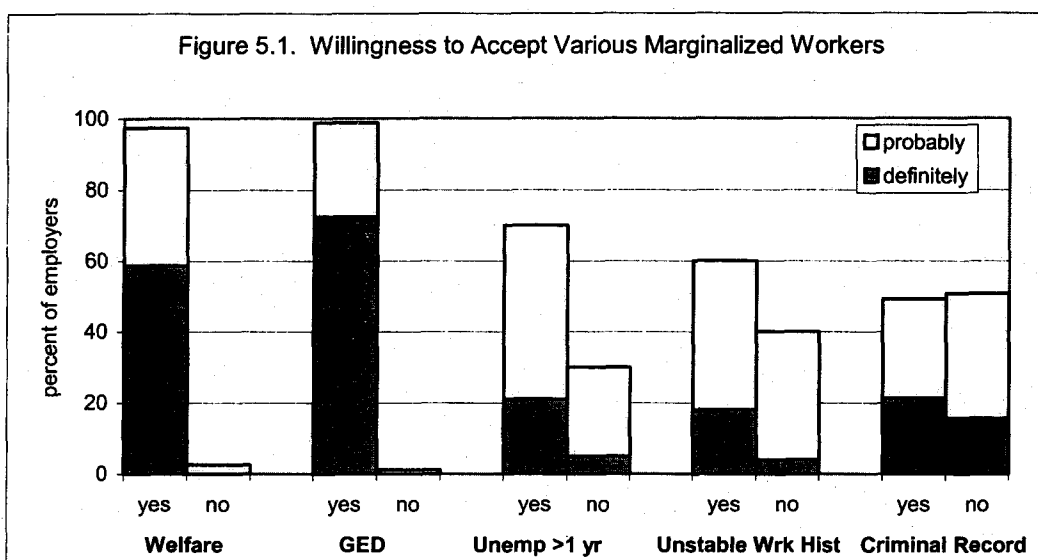
In order to assess their basic positions on hiring applicants with criminal records, employers were asked the following question: "Next, I am going to list several types of applicants. Please tell me if you would accept each type for the [most recent non-college] position.... An applicant who has a criminal record?" The four response categories included "definitely will," "probably will," "probably not," and "definitely not." Overall, Milwaukee employers expressed moderate reluctance to hiring applicants with criminal records. Just over half of employers indicated that they would probably or definitely not accept an applicant with a criminal record (35 and 16 percent, respectively).^{73,74} Thus without any additional information about the applicant, a criminal record forms a fairly strong basis for employment decisions.

The salience of a criminal record in the evaluations of employers can be better understood relative to considerations of other marginalized workers. Figure 5.1 compares the distribution of responses concerning an applicant with a criminal record relative to consideration of an applicant on welfare, an applicant with a GED (instead of a high school diploma), an applicant who has been unemployed for a year or more, and an applicant with only short-term or part-time work experience.⁷⁵ These results demonstrate that virtually all employers are "very likely" or "somewhat likely" to accept applicants on welfare or with GEDs; roughly 70 percent are willing to accept applicants with long histories of unemployment, 60 percent are willing to accept applicants with only short-

⁷³ An additional 25 percent of respondents (not included in the original percentage breakdown) indicated that their response would depend on the type of crime. I explore variation in attitudes by type of crime below.

⁷⁴ Roughly 21 percent of employers reported that they "definitely will" accept an applicant with a criminal record, with 28 percent reporting that they "probably will" accept the applicant.

term or part-time work experience, while just under 50 percent are willing to accept applicants with criminal records. A criminal record, therefore, stands out as the most damaging characteristic among this array. It is interesting to note that, even characteristics directly related to worker quality (e.g., the work history variables) are less consequential than are the character traits and/or behavioral patterns associated with a criminal record. Ex-offenders exist at the bottom of the hiring queue, facing closed doors to employment from roughly half of all employers.



All comparisons with the criminal record category are statistically significant ($p < .05$), based on a one-sample test of proportions with repeated measures.

Before generalizing to the larger implications of these findings, however, it is important to consider the specific context in which this survey was conducted. Milwaukee has a unique social and economic history which may in fact lend itself to more extreme reactions to individuals with criminal records. This concern was raised with respect to

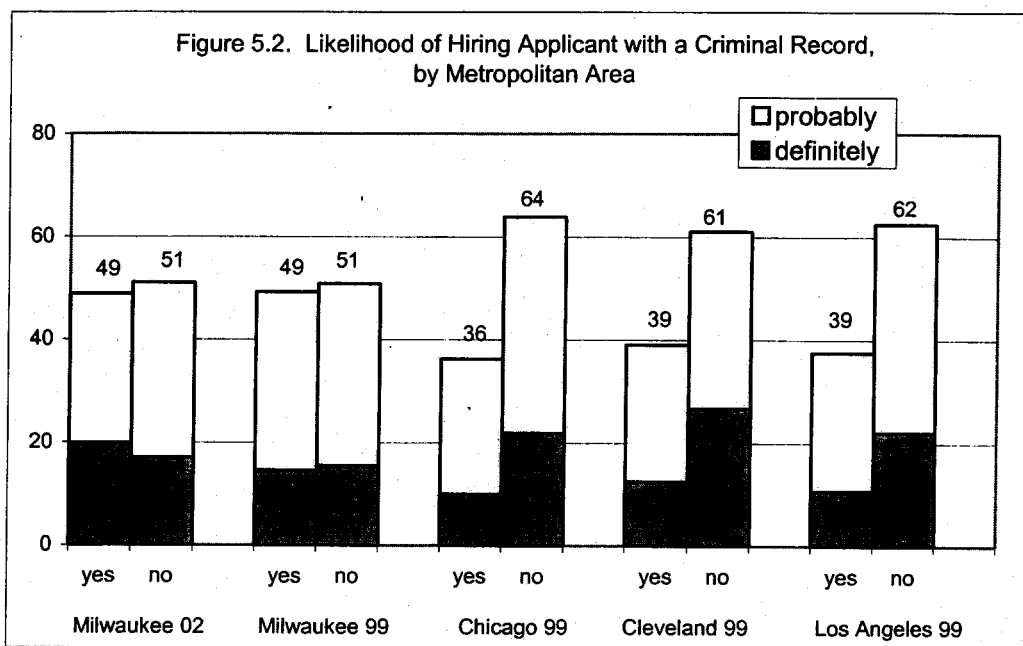
⁷⁵ These items were phrased in wording identical to the criminal record question above.

the audit study results, considering the possibility that the dramatic effects were specific to the localized area of the study (see Appendix 3A for a lengthier discussion of this issue). If Milwaukee were an outlier with respect to its employers' views toward ex-offenders, we would need to exercise great caution in generalizing the results to any broader context.

Fortunately, existing survey data can give us some leverage on this question. The survey question assessing employer attitudes about hiring ex-offenders was drawn from a previous survey administered by Holzer and Stoll (2001) in Milwaukee and several other cities in 1999. It is thus possible to directly compare the responses of Milwaukee employers in this sample to those of employers in other metropolitan areas. Figure 5.2 compares the distribution of response categories among employers in the four cities. Note that the distribution of responses for Holzer's Milwaukee sample and the present sample are identical, providing strong reassurance of the comparability of this sample. Compared to responses to identical questions asked of employers in Chicago, Cleveland, and Los Angeles, these findings demonstrate that Milwaukee employers, in fact, report a significantly greater openness to considering applicants with criminal records relative to employers in these other cities. Whereas in the other three cities nearly two-thirds of employers reported that they would "definitely not" or "probably not" accept an applicant with a criminal record, in Milwaukee only half of employers expressed negative opinions.⁷⁶ Far from expressing extreme negative opinions, therefore, employers in

⁷⁶ A similar pattern can be found in a comparison of the responses to an identical question included in the employer survey of the Multi-City Study of Urban Inequality, administered between June 1992 and May 1994 (Holzer, 1996). The trends for Atlanta, Boston, Detroit, and Los Angeles relative to the current sample of Milwaukee employers are presented in Appendix 5D.

Milwaukee demonstrate a surprising level of openness relative to employers in other metropolitan areas. If the correspondence between self-reports and behavior (however low this may be) is consistent across samples, the employment prospects for ex-offenders elsewhere may be far worse than those documented here.



Source for 1999 data: Holzer & Stoll (2001). Differences between Milwaukee and other cities, based on two-sample tests of proportions, are statistically significant, $p < .05$.

It is rather surprising that Milwaukee represents such an outlier in this respect. There have been few regional comparisons of attitudes toward ex-offenders and therefore there is little prior research to draw from in forming an explanation. It may be the case that because of Wisconsin's strong economic position since the mid to late 1990's, employers have grown more tolerant of less desirable workers. Certainly, relative to each of the other cities listed here, Milwaukee has had a substantially lower unemployment rate throughout the period of observation (Bureau of Labor Statistics, 2002). And yet, we do

not see the same patterns in response to applicants with other undesirable characteristics. In fact, Milwaukee employers are less likely to consider hiring applicants with unstable work histories or who have been unemployed for a year or more relative to employers in Chicago, Cleveland, and Los Angeles (Holzer & Stoll, 2001). It is not the case, therefore, that worker shortages have led Milwaukee employers to show more tolerance on all dimensions relative to their metropolitan counterparts.

Alternatively, the greater openness of Milwaukee employers may have to do with the legal protection afforded to ex-offenders in Wisconsin, under expanded Fair Employment regulations. While very few cases have come to court under the anti-discrimination clause for ex-offenders, these laws may set a precedent for (or, alternatively, reflect a culture of) greater openness towards individuals with prior convictions.⁷⁷

Of course, it is also possible that the legal climate in Wisconsin places greater pressure on survey respondents to provide socially desirable responses. It may be the case, then, that employers in Milwaukee, while holding similar opinions about ex-offenders to employers in other cities, are less likely to express their aversion to these applicants in survey questionnaires. And yet, there is some additional evidence to suggest that the greater openness expressed by Milwaukee employers to applicants with criminal records goes beyond mere rhetoric. According to the survey respondents, nearly half of the Milwaukee employers (48 percent) had hired one or more applicants with criminal records in the past year. By sharp contrast, only 23 percent of a recent sample of

Los Angeles employers reported having hired one or more applicants with criminal records over the past year (Stoll et al., 2002).⁷⁸ Presumably, the reporting of actual hiring experiences is less subject to the pressures of social desirability than are attitude questions. If these self-reports are accurate, Milwaukee employers are indeed more open to and experienced with hiring applicants with criminal records.

Whatever the reason for these attitudes, it seems that Milwaukee is not an anomaly in its negative views towards ex-offenders. If anything, Milwaukee represents an outlier in its tolerance of applicants with criminal records. The results reported in this study, therefore, may represent a best-case scenario in portraying the views of employers in other metropolitan areas.

Variation by Type of Crime or Context of Sanction

The initial survey question about a generic applicant with a criminal record leaves a substantial amount of ambiguity concerning the referent group. The phrase "applicant with a criminal record" conjures up a particular mental image for each employer, and yet it is not apparent to us what this mental image consists of or which aspects are of greatest importance. In order to obtain more precise insight into the way employers think about and react to various kinds of applicants with criminal records, a vignette was constructed to capture a particular profile, with relevant work- and crime-related characteristics explicitly specified. The applicant described in the vignette was designed to closely match the profile of the testers in the audit study. As mentioned earlier, employers who

⁷⁷ Based on a list of cases compiled by the Equal Employment Opportunity Commission of Wisconsin, there have been 51 separate cases brought up under charges of discrimination against individuals with criminal records; the earliest recorded case was in 1981.

had been audited by white testers were read a vignette in which the hypothetical applicant was white; employers who had been audited by black testers were read a vignette in which the applicant was black. The hypothetical applicant in the vignette was introduced with the following description:

Chad is a 23-year old [black/white] male. He finished high school and has steady work experience in entry-level jobs. He has good references and interacts well with people. About a year ago, Chad was convicted of a drug felony and served 12 months in prison. Chad was released last month and is now looking for a job. How likely would you be to hire Chad for an entry-level opening in your company?

Of those employers presented with the vignette in which Chad was white, roughly 62 percent reported being “somewhat likely” or “very likely” to hire him. This expressed willingness to hire Chad is quite striking, relative to the 49 percent of employers who reported that they “probably will” or “definitely will” hire a generic applicant with a criminal record. Clearly employers are sensitive to the specifics of Chad’s profile, which presents a more appealing candidate than the generic (stereotypical) image of an ex-offender, both in terms of personal qualifications and type of offense.

Surprisingly, however, with respect to the race of the described applicant, the employers’ responses showed little variation. Of those presented with the vignette in which Chad was black, a virtually identical proportion of employers reported favorable chances of employment, with only a two-tenths percentage decline from the white vignette. In fact, across the vignette items discussed below, the differences by race of the

⁷⁸ This question was not asked of the employers in the 1999 four-city study (Holzer & Stoll, 2001), but it was included in a more recent (2001) study of Los Angeles employers.

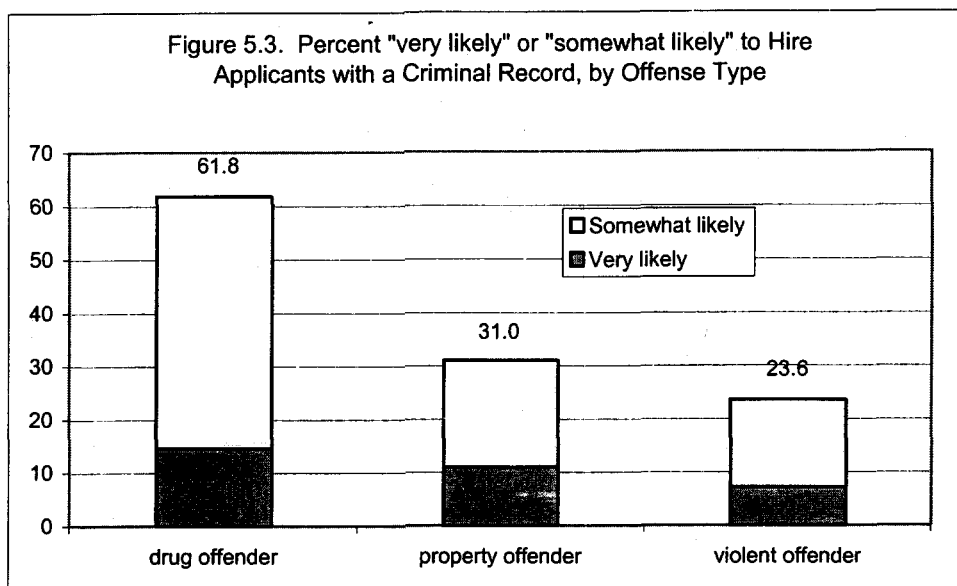
hypothetical applicant were insignificant and substantively small. Except where otherwise noted, therefore, I present the average of responses across the two subsamples for the remainder of this discussion.⁷⁹

Following the initial vignette, employers were then asked to report the likelihood of hiring Chad if, instead of having been convicted of a drug crime, he had been convicted of a property crime such as burglary. When considering such an applicant, employers expressed a much stronger reluctance to hire (see Figure 5.3). Only 30 percent of employers reported being somewhat or very likely to hire this applicant, relative to twice as many employers willing to consider a drug offender. When asked about an applicant convicted of a violent crime, such as assault, employers were even more reluctant. In this case, only 24 percent of employers were somewhat or very likely to hire Chad, relative to roughly half of employers who said they were "very unlikely" to hire him.⁸⁰ Not surprisingly, a history of violent crime is most concerning to employers. Clearly, reactions to "an applicant with a criminal record" mask a tremendous amount of heterogeneity within this aggregate category.⁸¹

⁷⁹ It is noteworthy that, while employers are highly responsive to the nature of the crime described in survey items, as I will demonstrate below, the race of the applicant shows little effect. I return to more thorough consideration of this issue in the following chapter, considering these findings in contrast to the sharp racial distinctions apparent in the audit study results.

⁸⁰ By contrast, the extreme "very unlikely" category was chosen by only 20 percent of those considering a drug offender and 37 percent of those considering a property offender.

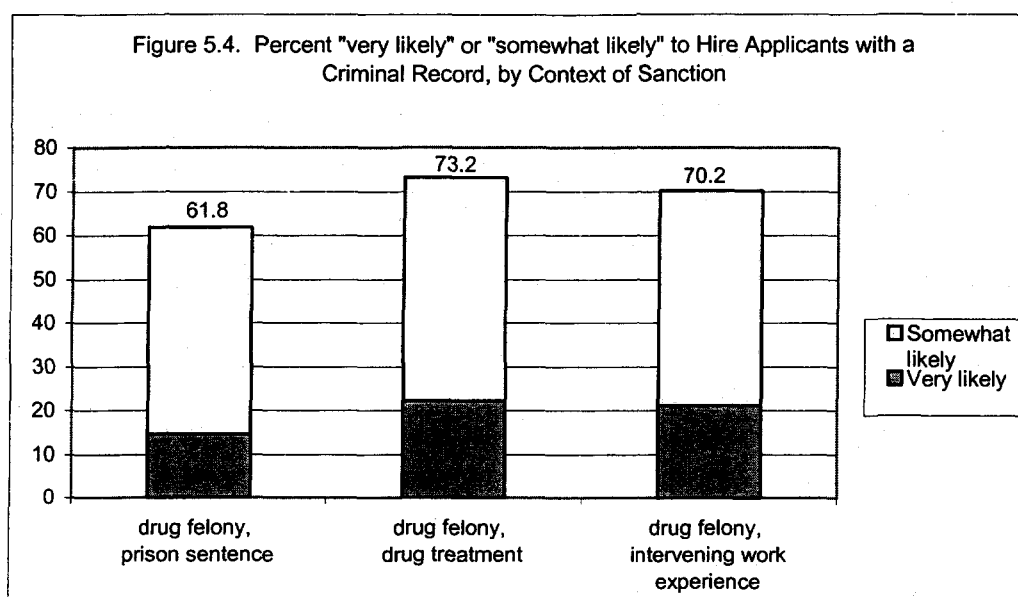
⁸¹ The results of the audit study, therefore, should represent a fairly conservative estimate of the effect of a criminal record, given stronger negative reactions to other classes of offenders. We would expect that if the audit study had included a property crime such as burglary or a violent crime such as assault instead of the drug crime, the results might have been even more extreme.



Note: Percentages have been averaged across employers in both vignette conditions (i.e., black and white). Differences between the drug offender category and other crime types are statistically significant, ($p < .01$).

A final set of variations introduced by the vignette items concerned the context of the sanction. In the initial vignette, Chad had served 12 months in prison for his felony drug conviction. Employers were later asked to consider their reaction to Chad had he been through a drug treatment program instead of going to prison. Employers were substantially more likely to consider this applicant, with roughly 73 percent of employers expressing a willingness to hire such a candidate relative to the 62 percent willing to hire the drug offender coming straight from prison (see Figure 5.4). This change in responsiveness could be due either to employers' assessments of the seriousness of the offense as reflected by differential sanctions or to differences in the likelihood of rehabilitation. In the first case, clearly prison represents a more serious form of punishment than does treatment, even though the same class of offenders can be placed in either setting. To the extent that employers assume drug offenders who are placed in treatment programs are on average less serious offenders than are those who receive

prison sentences, they will be more willing to hire an applicant coming out of treatment. Alternatively, employers may view treatment as an indicator of the likelihood of rehabilitation. An obvious concern to employers in considering a drug offender is the possibility that he might continue to be a user. Indeed, several of the employers explicitly stated this concern as their primary objection to hiring an applicant with a drug felony conviction (see below). Presumably, knowledge that the individual has undergone treatment provides greater reassurance that he will be able to stay clean from drugs in the future. Whether employers view treatment as an indicator of the seriousness of the offense or of the likelihood of recovery, it is clear that employers are far more wary of individuals coming out of prison than of those who have received rehabilitative intervention. The context of the sanction can therefore matter for the outcomes of ex-offenders, apart from any impact on their own physical and psychological well-being, by signaling to employers differential levels of risk.



Note: Percentages have been averaged across employers in both vignette conditions (i.e., black and white). The difference between the 'prison sentence' category and other categories are statistically significant ($p < .05$).

A second variation in the context of Chad's drug conviction was to ask employers to consider that, instead of coming straight from prison, Chad had been released six months ago and had been working at a car wash since that time. Once again, employers responded more favorably to this applicant, with roughly 70 percent of employers expressing a willingness to hire. We can infer from this increase in responsiveness that employers are concerned that individuals coming straight from prison are more likely to reengage in crime.⁸² Evidence of intervening work experience, by contrast, can serve as a test for the applicant's ability to show up consistently and stay out of trouble.

The substantial variation in employer responses depending on the context of the sanction have strong implications for crime policy recommendations. In the first case, current crime policy emphasizes a strong punitive approach to dealing with offenders; treatment programs in prison reach only a fraction of inmates who report substance abuse problems (ONDCP, 2001). The present results suggest that a greater emphasis on drug treatment programs, in concert with or in place of incarceration, could have a beneficial impact on the employability of these individuals after release. Several states have, in fact, recently reversed mandatory sentencing laws for drug offenders, moving instead to a system of drug courts with a primary emphasis on treatment (New York Times, 9/2/01). Aside from the benefits these programs can have for the problems of addiction, they may

⁸² Indeed, employers' concerns are largely supported by existing data. A recent report on recidivism demonstrates that 44 percent of inmates released in 1994 were rearrested for a felony or serious misdemeanor within one year of release. Recidivism within the first year accounts for nearly two-thirds of all recidivism in the first three years (the duration covered by this study) (Bureau of Justice Statistics, 2002c).

further improve the long-term outcomes of ex-offenders by increasing the trust of those employers considering them for jobs.

A second set of policy recommendations can be drawn from the scenario of intervening work experience. Here again we see that employers respond to signals that an ex-offender has "gone straight," with steady work experience following release from prison providing one such cue. These results suggest that a stronger emphasis on work-release programs would likewise benefit ex-offenders in search of longer-term employment. The initial transition into the workforce is often the most difficult time, and one in which the lure of illicit activity can be the greatest (Petersilia, 1999). Assisting ex-offenders in their initial job placement could have lasting benefits for their economic stability and desistance from crime (see Uggen, 2001).

The range of responses employers have to applicants depending on the specifics of their criminal history or the context of the criminal sanction demonstrates a fairly high level of sensitivity to the particulars of an applicant's background.⁸³ Employers differentially evaluate profiles of ex-offenders on the basis of the severity of their offense and the signs of their rehabilitation, presumably reflecting an internal calculus of continued risk. In the following section, I gather more detailed information about the specific dimensions of a criminal record that are most salient in these considerations.

⁸³ Certain aspects of the survey design may inadvertently inflate contrasts among vignette items. Because employers are asked to respond to a series of items in which only one characteristic varies, their attention is fully focused on the particular variable in question (e.g., the difference between prison and drug treatment). In the real world, by contrast, employers' attention is rarely drawn to such specific dimensions of a criminal record, and thus the degree to which they distinguish among these characteristics may be muted relative to

In the Words of the Employers

The vignette questions offer a structured investigation of employers' responses to varying ex-offender characteristics. These items highlight the broad dimensions according to which ex-offenders are commonly classified. In order to probe beyond these aggregate categories, to trace some of the subtle contours of employers' attitudes, respondents were asked to discuss these issues in their own words. Following the initial vignette item, describing the hypothetical applicant convicted of a drug felony and recently released from prison, employers were asked to explain the primary reason they would or would not consider hiring this applicant. These responses provide insight into those issues and concerns most salient to the employers themselves.⁸⁴

Among the wide range of responses offered, several themes emerged as priority concerns. These can be first divided among those with unfavorable, ambivalent, or favorable views on hiring applicants with criminal records (see Table 5.1). Among employers expressing negative opinions, the most salient categories included an emphasis on (1) the applicant's behavior; (2) his character; or (3) the company's (or state's) policies on hiring ex-offenders. Among those with ambivalent feelings, employers indicated that their decision to hire or not would depend on some range of characteristics, such as (1) the applicant's references; (2) his work experience; (3) his presentation in the interview; or (4) and the nature and timing of the conviction.⁸⁵ Among those expressing a willingness to hire the applicant, respondents emphasized (1) viewing the applicant as

the contrasts shown here. Further audit studies including variations in type of crime and context of sanction would help to resolve this question.

⁸⁴ Response categories were coded by two independent researchers with an inter-rater reliability of .96.

⁸⁵ Recall that this open-ended question was asked before the remaining vignette questions were asked and thus the emphasis found here is not the result of initial priming.

otherwise well-qualified; or (2) giving the applicant "a second chance." Together, these perspectives reflect the multitude of characteristics and concerns associated with applicants with criminal records. Below I provide a more detailed exposition of employers' comments about this group.

Among those reluctant to hire an applicant with a prior felony drug conviction, concerns over behavior were among the most frequent employer responses. Seven employers mentioned concerns over drug use, with an additional seven employers emphasizing that hiring would be conditional on passing a drug test. Certainly drug use in the workplace is a major concern among employers, given the consequences for productivity and possible injury. In a similar vein, another group of employers emphasized that their decision would depend upon the extent to which the applicant had gone straight, with five employers mentioning that they would consider Chad if he had participated in some type of rehabilitation program. According to an employer for a mechanical parts plant, he would only hire Chad "if he has gone through some type of rehab and is able to stay off drugs." These employers sought tangible evidence that drug use would not continue to be a problem in the lives of these workers. In addition to concerns about the applicant's own drug use behavior, several employers (n = 10) were more concerned about forms of behavior that would harm others nearby. Responses included an emphasis on the "vulnerability of people we serve" or the "threat to the other workers." Introducing an ex-offender into the workplace leaves open the potential for threatening altercations. For these employers, the main concern was what the conviction might signal about the likelihood of future debilitating or dangerous forms of behavior.

A second set of responses focused on the character traits signaled by a felony conviction. Employers spoke of concerns about “honesty” and “trust” between employer and applicant, with the implication that a prior felony conviction signals a deeply comprised integrity. One employer for a national retail chain said, “I can’t trust that kind of applicant... because we deal with products made by our company, our friends.” In this case, the dishonesty signaled by a prior felony conviction was of primary concern, despite the fact that no specific breach of trust was indicated by the possession or distribution of drugs. Others emphasized questions about the reliability of the applicant, and whether he could be counted on to show up for work everyday on time. According to an employer in a regional restaurant chain, “I wouldn’t hire [Chad] because of irresponsibleness. I want someone dedicated and who shows up for work on time, able to function.” For these employers, the felony conviction seemed to reflect a more generalized character trait; one which stood in sharp contrast to the expectations of the workplace.

A third set of negative responses focused on the regulations governing the hiring of applicants with criminal records. Eleven employers stated that hiring someone with a criminal record was against company policy, period. Though in some cases it was not readily apparent why these businesses should be legally authorized to impose a categorical exclusion on ex-offenders, this was the stated reason behind their decision. Others (n = 8) emphasized that the specific requirements of the job would make it inappropriate and perhaps illegal to hire someone with a drug felony conviction. Though in the vignette a specific job type was not defined (employers were asked to consider the applicant for an “entry-level position” in their company), many employers likely had in

mind the last non-college job they had filled, about which they had been asked a series of questions earlier in the survey. Again, in some cases, the direct link between the circumstances of the crime and the requirements of the job would be insufficient to withstand legal scrutiny (the requirement of "handling cash," for example, may make employers wary of hiring an applicant with a criminal record, despite the fact that the charge of 'possession with intent to distribute' has little direct relevance to theft). Nevertheless, these employers invoked legal or regulatory arguments in support of their position, thereby establishing a definitive protocol. A final set of employers (n = 12) cited the conviction as reason in itself, providing no further explanation.

The second category of responses comes from employers who stated ambivalent feelings about hiring an applicant with a felony drug conviction. While these employers did not reject the candidate outright, they expressed hesitancy and emphasized the need for additional information. These employers indicated that their decision to accept the candidate would hinge on other factors, such as references, work experience, presentation in the interview, and the nature and timing of the conviction. A number of employers (n = 13) indicated that references and/or work experience were central considerations, providing verification of the applicant's reliability and work ethic. Other employers (n = 21) privileged the information gathered through personal interaction, placing heavy importance on their "first impression" of the candidate, or "how he comes across in the interview." These employers seemed to feel confident that their ability to read the body

language of an applicant to assess his trustworthiness or ability provided an effective screen.⁸⁶

A final set of considerations among employers with ambivalent feelings about hiring a drug felon concerned the nature and timing of the conviction. Seven employers indicated that they would need more information about the circumstances of the crime in order to determine if it would disqualify the applicant. According to one such employer, "It depends on the circumstances and the situation. If they got busted for selling drugs at their last work I wouldn't hire them." Another employer said his concern would be, "if he has caused a hazard to anyone, or theft." These employers express a sentiment most closely upheld by the law, considering the specific circumstances of the conviction as they relate to workplace responsibilities. In addition to the context of the crime, a number of employers were most concerned about the time since the conviction. Seven employers explicitly stated that the primary factor in their decision to hire Chad was how long ago the conviction had taken place. It is unlikely that these employers are aware of the fact that case law based on the Wisconsin Fair Employment Act explicitly states that time since conviction cannot be used as a criterion for employment decisions related to applicants with criminal records (see Appendix 3C). In any case, employers seemed concerned that recent releases would be more likely to wind up back in prison, even if gainfully employed. These responses are consistent with the earlier finding that employers were more likely to express a willingness to hire an applicant when he had six months of intervening work experience, relative to an applicant having just been released

⁸⁶ As we will see in Chapter 7, however, this form of judgment can be highly susceptible to serious cognitive distortions.

from prison. Time out provides a testing ground to assess whether the applicant has gone straight.

The final group of employers in the sample were those who reported a willingness to hire the hypothetical applicant with a felony drug conviction. In support of their position, a number of employers emphasized his work-related qualifications independent of the criminal record (n=10). One such employer described him as an "otherwise suitable candidate," suggesting that the conviction was insufficient to disqualify him. Another employer indicated he would hire such applicants "as long as they can do the job." These employers seemed able to bracket consideration of the conviction in their review of the applicant, treating it as a largely irrelevant or inconsequential factor. Rather these employers were more concerned with determining "if he's the best candidate" or "if they are good in their job," apart from their criminal histories. Unlike a majority of respondents, these employers did not seem to view a criminal record a valid criterion for disqualification or even a useful signal for more relevant attributes; rather, these employers expressed confidence that the applicant's work-related qualifications provided sufficient information for their review.

Finally, among those who were somewhat or very willing to hire the hypothetical applicant, a sizeable number of employers emphasized the desire to give Chad "a second chance." Four separate employers used these words explicitly, making remarks such as, "If he is out, he has served his time and he deserves a second chance." Other employers (n = 5) used similar reasoning. For example, one employer for a small company warehouse said, "I'd have to talk to him, check his references, and evaluate him, but not hold something like that against him. In this day and age it's easy to get a felony, and

there are a lot of good people sitting around who are excellent workers.” Another employer from an equipment and parts business emphasized a similar theme: “I don’t know that it would bother me too much [the conviction], but I would hire him to give him an opportunity to get back on his feet, especially since he is actively looking for employment.” These employers appeared sympathetic to the plight of an individual who had made a serious mistake but was actively seeking to make amends. In contrast to many of the employers mentioned above, for whom a conviction signaled deeply entrenched dispositional or behavioral problems, these employers seemed to believe that a conviction was not a serious indictment of overall worker quality; rather, these employers appeared to view the conviction as an unfortunate handicap, for which the applicant would benefit from special consideration.

Based on these responses, it is clear that a wide range of considerations come into play in shaping employers’ views on ex-offenders. Far from relying on consistent criteria, these comments suggest that employers privilege very different modes of assessing risk or determining qualifications among applicants with criminal records. Of course, we do not know to what extent these differential weightings influence actual hiring decisions. Additional audit studies would be needed to assess the extent to which variation in the applicant’s profile or presentation affect the distribution of hiring outcomes. What these results do suggest, however, is that a criminal record is associated with a large constellation of work-related attitudes and behaviors. While not all employers view a criminal record as immediate grounds for disqualification, many expressed serious concerns over the character, behaviors, and work-related competence of individuals with criminal backgrounds. Though many suggested that references, work

experience, and personal presentation would be key determinants in the decision to accept an applicant with a criminal record, it is not clear that the typically cursory review of entry-level applicants affords sufficient time or attention to this contextual information (see Chapters 3 and 4).

Variation among Employers

Up until this point, I have considered variation in employers' responses to different kinds of applicants and to different aspects of applicants with criminal records. One remaining question is, To what extent do the characteristics of employers influence their attitudes about hiring ex-offenders? In order to address this question, I use information about the employers gathered from the survey to predict attitudes about hiring an applicant with a recent felony drug conviction (the hypothetical applicant presented in the vignette).⁸⁷ This analysis can shed some light on the attributes of employers that produce more or less receptive environments for ex-offenders seeking work. Unfortunately, the sample size of the survey ($n = 145$) is too small for sophisticated analyses.⁸⁸ Instead, I have entered sets of variables separately in thematic blocks. The results of these models can provide a useful preliminary view of the effects of employer characteristics, and a guide for future research using a larger sample.

Table 5.2 presents the results from a series of logistic regressions predicting expressed willingness to hire an applicant with a recent felony drug conviction. The first

⁸⁷ Patterns of results using the generic question about "an applicant with a criminal record" are largely similar, though levels of significance differ somewhat. Unfortunately, using the results from the audit study as the dependent variable is not possible: the number of employers who responded to a tester in the criminal record condition in the audit study *and* who completed the telephone survey is too small to allow for multivariate analyses.

⁸⁸ Missing data have been handled through listwise deletion.

set of variables follow-up on the findings from Chapter 4, investigating variation by location and occupation.⁸⁹ Though the distinction between city and suburban employers was substantial with respect to the audit outcomes, this variable had no effect on employers' reported attitudes.⁹⁰ Several specifications of the occupation variable were estimated. While other occupational categories showed no significant difference from one another, the contrast between employers hiring for restaurant jobs relative to other occupations is significant. As in the case of the audit results, restaurant employers are significantly more open to hiring applicants with criminal records, presumably due to the low fixed pay and high rates of turnover in these jobs.

The second set of variables assess the influence of employee composition. These results show that the racial composition (percent black or percent Hispanic) have little affect on the attitudes of employers about hiring ex-offenders.⁹¹ A similar set of analyses assessing the effect of the racial composition of the applicant pool or the racial composition of customers (not shown here) likewise shows no effects. The size of the establishment (number of employees) is also not related to employer attitudes about ex-offenders.

The third set of variables, assessing prior experiences with ex-offenders, finds that employers who have hired an applicant with a criminal record over the past year are more likely to report favorable attitudes towards hiring the applicant in question (with a felony

⁸⁹ Additional tests for industry found no significant effects.

⁹⁰ Even entered alone, this variable does not have a significant effect on employer attitudes.

⁹¹ Though racial composition has little relationship to attitudes, it does demonstrate a strong association with outcomes. The percent black in an establishment is highly predictive of whether an employer has hired one or more employees with criminal records over the past year, as reported on the survey. The effect of this variable remains significant even after controlling for the percent of applicants who are black,

drug conviction). Prior experiences are therefore consistent with employer attitudes, though the causal direction of this relationship remains unknown. Interestingly, net of prior ex-offender hires, the quality of these hires shows little effect. Among the 48 percent of employers who had hired one or more ex-offenders over the past year, 81 percent report having had a very or somewhat positive experience with this employee. Nevertheless, the quality of previous experiences has no effect on employer attitudes net of having had the experience at all. Likewise, the effect of having claimed a Work Opportunity Tax Credit for hiring an ex-offender (representing 23 percent of employers who had hired one or more ex-offenders in the past year) has no effect on attitudes towards hiring this group.

The fourth set of variables consider the demographics of supervision. According to this set of analyses, a minority owner is associated with a much greater openness to hiring ex-offenders, suggesting that the race of the owner sets of strong tone for the hiring policies of the company. Net of the race of the owner, the race and gender of the hiring manager has little effect on expressed attitudes.

The fifth set of variables consider the hiring screens used by employers. According to this analysis, employers who perform official criminal background checks are significantly less willing to hire applicants with drug felonies. Indeed, it is not surprising that employers who are most reluctant to hire ex-offenders take precautionary measures by screening applicants in advance. Net of this screen, the use of drug tests or aptitude/personality tests has no relationship to employer attitudes.

suggesting that this is not merely the composition of the applicant pool—and correspondingly higher proportions of applicants with criminal records—that drive the results.

Finally, I consider the effects of job requirements. Employers for jobs involving the handling of cash, customer service, or the handling of expensive merchandise are not more or less likely to consider hiring a drug offender. In a separate model estimating the effects of these variables on the expressed likelihood of hiring a property offender, by contrast, the requirement of handling cash does show a significant negative effect. This suggests that employers are at least somewhat sensitive about the direct relationship between offense type and job requirements, apart from the general wariness of applicants with criminal backgrounds.

While the results of these analyses provide only tentative findings (given the small sample sizes), they are suggestive of some interesting patterns.⁹² The fact that minority owners stand out as so strongly willing to take a chance on drug offenders suggests that these employers are far more sympathetic to the problems of drug use.⁹³ Consistent with this finding, public opinion surveys show that blacks are far more likely to support the decriminalization of drugs and to promote alternatives to incarceration for drug offenders than are whites (Gallup Poll, cited in Bureau of Justice Statistics, 2000a). Given these views, it is not surprising that black owners are less likely to hold a drug conviction against an individual seeking work. Among employers more generally, these findings suggest a fairly high level of consistency between reported attitudes and hiring practices: those who have hired an ex-offender over the past year express a significantly

⁹² Significant variables retain their effects in a model which combines each of them, with the exception of occupation (restaurant versus other) which is no longer significant in this full model.

⁹³ It is also the case that the minority employers in this sample were distributed somewhat differently across occupations relative to the overall sample. Minority employers were more likely to be hiring for restaurant jobs and less likely to be hiring for sales positions. Controlling for occupation, however, has little effect on the estimated effect of minority ownership on willingness to hire a drug felon. In these models, the coefficient remains large and statistically significant.

greater willingness to hire such applicants in the future. Those who screen applicants for criminal records, by contrast, are committed to weeding out these applicants from the hiring pool and, likewise, express less favorable attitudes towards hiring drug felons. While these analyses in no way establish causal relationships between the characteristics of employers and their attitudes, they provide some interesting insight into the differences across establishments that are associated with more and less openness to hiring ex-offenders. Additional research is needed to further pursue these initial findings, and to allow for a more complex specification of these models.

Conclusion

This chapter aimed to investigate the hiring of ex-offenders from the perspective of employers. These results confirm that employers are very reluctant to hire ex-offenders, even relative to applicants with limited educational attainment or unstable work histories. And yet Milwaukee employers are not uniquely punitive in this respect; relative to employers in other metropolitan areas, Milwaukee employers demonstrate a substantially greater openness to hiring ex-offenders. If these expressed attitudes are indicative of hiring behaviors, then the plight of ex-offenders in other cities may be substantially worse.

The survey results further indicate substantial heterogeneity within the aggregate category of "criminal record." Employers are far more reluctant to hire individuals who have been convicted of property or violent crimes relative to drug offenses. Given the dramatic effects of a criminal record demonstrated in the audit study (testing a drug

felony), we can expect that the effects could have only been stronger had another type of crime been chosen.

Looking at the range of responses employers have to applicants depending on the specifics of their criminal history or the context of the criminal sanction is helpful in thinking about the ways in which we might facilitate prisoner re-entry into the workforce. While for violent offenders alternatives to incarceration are unlikely to become a plausible strategy, for drug offenders such programs have shown potential to be highly effective (RAND, 1994). If well-designed criminal sanctions can help not only to assist offenders in overcoming addictions but also to make them more employable following their release, their long-term effectiveness (with respect to an ex-offender's economic self-sufficiency and desistance from crime) could be substantially enhanced. Likewise, for all offenders, assistance in the transition to first-work after release may have lasting effects for subsequent employment opportunities. Helping offenders make it through their first year out of prison is of critical importance; and yet current parole systems are poorly equipped to offer meaningful assistance or supervision during this time (Dickey, 1988; Petersilia, 1999). A shift in resources from incapacitation to assistance with re-entry has the potential to be a very worthwhile investment.

Investigating the attitudes of this group provides a useful perspective on how ex-offenders are perceived by potential employers. And yet, of the small body of research that exists on the barriers to employment for ex-offenders, a majority has relied on survey data for a measure of demand-side processes (Holzer, 1996; Holzer et al., 2002; Husley, 1990; Jensen & Giegold, 1976). There is virtually no information about how the self-reported attitudes measured on employer surveys correspond to actual hiring decisions.

Fortunately, matching the present survey data with the outcomes of the audit study allows for a comparison of these measures. The following chapter presents the results from these comparisons.

Table 5.1. Stated Reason for Hiring Decision

<i>Percent</i>	<i>Frequency</i>	<i>Reason</i>
19.5	29	<i>Concerns over Behavior</i>
4.7	7	Concerns over drug use
4.7	7	Drug test would be required
3.4	5	Signs of rehabilitation
6.7	10	Others would be influenced or harmed
7.4	11	<i>Concerns over Character</i>
4.0	6	Trust, honesty
3.4	5	Reliability
12.8	19	<i>Against Regulations</i>
7.4	11	Against company policy
5.4	8	Conviction job relevant
8.1	12	<i>Conviction itself</i>
34.9	52	<i>Depends on Other Factors</i>
8.7	13	Depends on references and/or work experience
14.1	21	Depends on appearance, presentation, attitude, personality
4.7	7	Depends on nature of conviction
2.7	4	Depends on position
4.7	7	Depends on timing of conviction
12.7	19	<i>Not Concerned about Criminal Record</i>
6.7	10	Otherwise suitable candidate
6.0	9	Second chance
4.7	7	<i>Other</i>
100%	N=149	Total

Table 5.2. Logistic Regression Predicting Willingness to Hire Applicant with Drug Felony

Variable Blocks (entered separately)	Coef.	Std. Err.
<i>Location and Occupation</i>		
City	0.28	0.33
Restaurant	0.74	0.38 *
<i>Composition of workplace</i>		
Percent black	0.24	0.81
Percent Hispanic	0.99	1.19
Number of employees	0.00	0.00
<i>Experience with hiring ex-offenders</i>		
Hired ex-offender in past year	0.95	0.55 *
Positive experience with ex-offender employees	0.67	0.61
Received tax credit for hiring ex-offenders	-0.37	0.76
<i>Demographics of supervision</i>		
Minority owned company	1.41	.79 *
Black manager	1.67	1.07
Female manager	0.03	0.36
<i>Hiring screens</i>		
Official criminal background check	-0.79	0.38 **
Drug test	-0.41	0.38
Aptitude/personality test	0.04	0.40
<i>Job requirements</i>		
Handling cash	0.06	0.41
Customer service	-0.35	0.47
Handling expensive merchandise	0.13	0.37

* p<.10, ** p<.05, *** p<.01

Appendix 5A. Checks for Bias in Sample Distribution

Table 5A1. Distribution of Industries by Response Category

	Percent of Non-respondents	Percent of Respondents	Total
Construction	0.72	1.13	0.95
Manufacturing	15.83	12.43	13.92
Transportation, communication	4.32	5.08	4.75
Wholesale trade	7.91	8.47	8.23
Retail trade	46.76	49.72	48.42
Finance, insurance & real estate	5.04	1.69	3.16
Services	19.42	21.47	20.57
Total	n = 139	n = 177	n = 316

Note: Whenever possible, representatives for employers who refused participation were asked to describe the main product or service of their company for the purpose of coding industry among non-respondents.

Table 5A2. Distribution of Occupations by Response Category

	Percent of Non-respondents	Percent of Respondents	Total
restaurant	17.26	29.94	23.77
laborer/warehouse/dri	32.74	19.77	26.09
production/operators	11.90	11.86	11.88
sales	16.07	20.90	18.55
service	11.90	9.60	10.72
clerical/managerial	10.12	7.91	8.99
Total	n = 173	n = 177	n = 350

Table 5A3. Distribution across Locations by Response Category

	Percent of Non-respondents	Percent of Respondents	Total
City	65.70	56.50	61.03
Suburb	34.30	43.50	38.97
Total	n = 173	n = 177	n = 350

Table 5A4. Distribution of Call-Backs by Response Category

	Percent of Non-respondents	Percent of Respondents	Total
Call-back	24.28	24.29	75.71
No call-back	75.72	75.71	24.29
Total	n = 173	n = 177	n = 350

Appendix 5B

One concern about the sample used for the present survey is that it does not represent a truly random sample of employers in Milwaukee. First, sample restrictions relevant to the audit study were imposed in such a way as to exclude particular sectors of the labor force. Most importantly, employers for all occupations in the health care industry, involving care of children or the elderly, and in the public sector were excluded due to specific legal restrictions on the hiring of ex-offenders. Also, only employers who advertised in the main metropolitan newspaper and/or an internet job listing were included (see Appendix 3A for a more extensive discussion of sample restrictions). Second, the response rate for the survey was lower than optimal, leading to concerns over potential sampling bias.

In order to assess the extent to which this sample can represent Milwaukee employers more generally, I compared particular items from the present survey to identical items included in a survey of Milwaukee employers in 1999 (Holzer & Stoll, 2001). The earlier Milwaukee survey included a stratified random sample of all Milwaukee employers drawn primarily from telephone directories; before inclusion, employers were screened to select for those who had hired someone into a job not requiring a college degree in the past year. The sample thus provides more comprehensive coverage of the population of Milwaukee employers (who have hired recently) than does the present sample. Two other differences, however, should also be noted between the earlier and the present Milwaukee surveys: The earlier survey included employers in Ozaukee county, Washington county, Waukesha county, and Milwaukee

county. By contrast, the present study included employers only in Waukesha and Milwaukee. The earlier survey thus included many more employers in suburban areas far from the central city and broader coverage of the Milwaukee metropolitan area. Second, the earlier sample was stratified by firm size, oversampling large establishments to roughly correspond to the number of workers hired. To the extent that large firms have different characteristics from smaller ones, the two surveys will differ by design.

The earlier survey was intended to gauge employer's willingness to hire welfare recipients; fortunately, it additionally included general questions about the company's hiring policies and preferences that can be used to compare to the present survey.

Descriptive statistics for the two surveys are presented in the table below. As would be expected, the Holzer & Stoll sample includes on average larger establishments with higher numbers of vacancies relative to the present sample. Also related to firm size, a higher proportion of workers within the Holzer & Stoll survey are unionized relative to the present study. Interestingly, an identical proportion of firms in both samples are minority-owned.

Despite these vast differences in size and associated characteristics, the attitudes expressed by both samples of employers regarding their willingness to hire marginalized workers was strikingly similar. Most relevant, in both samples 49 percent of employers indicated a willingness to accept an applicant with a criminal record, relative to 51 percent who would not. Distributions of responses concerning other applicant types also corresponded closely across surveys.

Though the present sample differs in key respects from Holzer and Stoll's (2001) stratified random sample of employers in the Milwaukee metropolitan area, the

consistency across key items of interest provides some reassurance concerning the generalizability of these findings. Given the constraints necessitated by the audit study, this sample nevertheless provides a fairly effective representation of the attitudes of Milwaukee employers more generally.

Table 5B1. Comparisons across Two Milwaukee Surveys

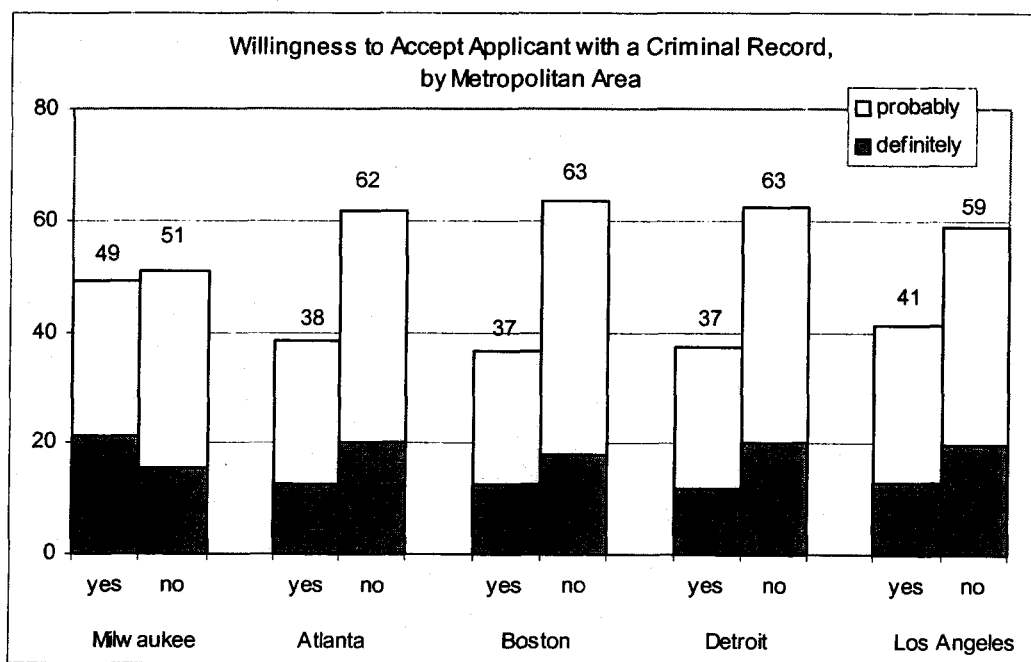
Variable	Pager 2002	Holzer & Stoll 2001
Number of employees	66.95	180.47
Number of vacancies	4.48	7.79
% Minority owned	8.40	8.41
% Unionized	9.30	15.19
Industry		
% Manufacturing	12.43	20.00
% Retail trade	49.72	21.00
% Services	21.47	39.00
% Other industry	16.38	20.00
Hire welfare recipient		
Definitely/probably would	97.4	96.62
Definitely/probably not	2.60	3.37
Hire applicant with GED		
Definitely/probably would	98.8	97.23
Definitely/probably not	1.20	2.77
Hire applicant with criminal record		
Definitely/probably would	49.20	49.20
Definitely/probably not	50.80	50.80
Hire applicant unemployed >1 year		
Definitely/probably would	70.90	80.15
Definitely/probably not	2.90	19.86
Hire applicant with unstable work history		
Definitely/probably would	60.50	67.49
Definitely/probably not	39.50	32.51

Appendix 5C. Descriptive Statistics of Milwaukee Employers

<i>Employer Characteristics</i>	<i>Mean</i>	<i>Std.Dev.</i>
Number of Employees	66.66	90.35
Use temporary employees	21.50	
Unionized employees (1=yes)	9.30	
Minority owned	8.40	
Distance from public transportation (tenths of miles)	9.62	23.93
Minutes to work using public transportation	27.35	19.87
Turnover rate (# employees who left in past yr/# current employees)	0.46	0.64
Vacancy rate (# vacancies/# employees)	0.53	0.50
Employee composition		
% White	67.66	29.12
% Black	17.70	23.40
% Hispanic	12.07	16.73
Applicant composition		
% White	56.25	28.13
% Black	26.43	28.62
% Hispanic	13.99	13.92
Customer composition		
% White	70.88	23.98
% Black	18.69	18.24
% Hispanic	7.82	7.71
<i>Recruiting and Screening Practices</i>		
Recruitment time (weeks)	2.15	4.36
Recruitment method		
# applicants for last position	25.93	38.32
# applicants interviewed for last position	8.20	12.65
Require tests (1=yes)	0.28	0.45
Verify references		
always	60.80	
sometimes	31.30	
never	8.00	
Drug test		
always	32.90	
Sometimes	7.50	
Never	59.50	
% applicants testing positive for drugs	7.27	16.22
% asking criminal background question on application	79.40	
% applicants self-reporting criminal record	11.60	20.98
% performing criminal background check		
Always	36.30	
Sometimes	26.30	
Never	37.40	
% applicants found to have criminal background	14.37	23.38
N	177	

Appendix 5D

Similar to the trends for four cities reported above (Holzer & Stoll, 2001), the results from the Multi-City Study of Urban Inequality (MCSUI) show Milwaukee employers to report more favorable attitudes towards applicants with criminal records relative to employers in other metropolitan areas. Because these data are less recent, however, (collected between 1992 and 1994), they provide a less adequate comparison to the present sample.



Source: Holzer, 1996

**Chapter 6. Walking the Talk?
What Employers Say Versus What They Do**

Walking the Talk? What Employers Say Versus What They Do

In 1930, Richard LaPiere, a Stanford professor, traveled twice across the country by car with a young Chinese student and his wife. The purpose of the trip, unbeknownst to his travel companions, was to assess the reactions of hotel and restaurant proprietors to the presence of Chinese customers. During the course of 251 visits to hotels, auto camps, restaurants, and cafes, only once were they refused service. Six months later, LaPiere mailed a survey to each of the proprietors, in which one of the questions asked, "Will you accept members of the Chinese race as guests in your establishment?" Of the 128 completed surveys, more than 90 percent of respondents indicated unequivocal refusal.⁹⁴ The discrepancy between these proprietors' responses to the surveys and their actual behavior is indeed striking: While nearly none of the proprietors expressed a willingness to accept the patronage of Chinese customers, virtually all of them did so when confronted with the situation. If we were to make generalizations based on either the survey results or the field study alone, we would develop radically different views on the level of racial hostility towards the Chinese at that time in history.⁹⁵

LaPiere's study provides a much-needed reality check for researchers who rely on survey data for measures of prejudice or discrimination. Unfortunately, there have been

⁹⁴ The survey was also sent to an additional 128 establishments in similar areas that had not been visited by the research team to assure that their visit had not contaminated responses. A similar pattern of responses was found among this supplementary sample.

⁹⁵ While the LaPiere study finds stronger signs of racial discrimination in self-reports than actual behaviors, most recent comparisons of racial attitudes and behaviors have found the reverse. See Crosby et al. (1980) for a review of the literature (indirectly) comparing the results of survey research with behavioral studies of racial prejudice and discrimination. In this review, the authors conclude that racism is far more prevalent than what would be expected based on survey research of racial attitudes.

very few efforts to provide the kind of comparison offered in LaPiere's study.⁹⁶ Survey results are often accepted as an adequate reflection of reality, with little effort to validate these assumptions. The present chapter seeks to make headway in this discussion, following up on the insights provided by LaPiere more than 70 years ago. Fortunately, the present study design allows for a direct comparison of employers' declared preferences and policies for hiring applicants with criminal records with their actual performance in real employment settings. The two measures of employer behavior resulting from the audit study include the frequency of reference checks and the frequency of call-backs. Each of these outcomes, in combination with the survey data, offers a direct assessment of the correspondence between survey reports and actual hiring practices. In this chapter, I compare the survey and audit results, considering varying assumptions about the measure of behavior that most closely reflects the self-report. I then discuss several theoretical models which attempt to reconcile the discrepancy between these two measures of hiring preferences.

Before turning to a discussion of the results, a comment on measurement should be made. While the self-reports obtained from social surveys are typically referred to as

⁹⁶ In the past 70 years since LaPiere's classic study, dozens of investigations of the attitude-behavior (A-B) relationship have been carried out (though these numbers pale in comparison to the thousands of surveys that have been conducted during this time with no behavioral verification). What is most striking about this literature is the wide range of correlations reported across different studies: Both Deutscher (1966) and Wicker (1969), for example, review a large number of studies that find virtually no relationship between attitudes and behaviors. Schuman and Johnson (1976) also discuss a number of notable studies in which a zero or negative correlation between attitudes and behaviors was found; in their review, however, they conclude that a majority of research on the A-B relationship finds a moderate relationship. On each extreme, correlations tend to be close to zero among A-B assessments of racial attitudes and of transient economic transactions and above .85 among studies of voting behavior; most others fall somewhere in between (Schuman & Johnson, 1976). The strongest conclusion that can be drawn from this literature is that no simple formula can describe the A-B relationship; rather, tremendous variation exists in the measurement of attitudes and their associated behaviors and assumptions about their correspondence should be reviewed with caution.

attitudes, this concept remains somewhat ambiguous.⁹⁷ It is important to remember, however, that the measurement of attitudes is necessarily mediated by the survey instrument. It is thus impossible to assess the extent to which an “expressed attitude” measured by a forced-choice survey question does or does not correspond to the respondent’s true underlying attitudes. There is, for example, substantial evidence that the context and wording of survey questions can have substantial effects on their outcomes (Mangione et al., 1992; Fowler, 1995). In the context of the survey questions analyzed here, I discuss several ways in which the nature of the survey question may in itself result in discrepancies between measured “attitudes” and actual behavior. It is important to keep in mind that the empirical discussion of attitudes cannot be separated from the influences of the survey method by which they are measured.

Reference Checks

In the audit study, reference checks were included as an outcome variable with the expectation that, particularly for applicants with questionable background characteristics, references would play a key role in the hiring decisions of employers. Indeed, throughout the survey, employers emphasized the importance of checking references in the screening of entry-level applicants. In an early section of the survey assessing general hiring practices, 61 percent of employers said that they “always” check references, with an additional 31 percent reporting that they “sometimes” do. A vast majority of employers, therefore, claim to check references when hiring for non-college jobs. Beyond their

⁹⁷ The definition of attitudes includes an expansive array of expressions: Attitudes are typically defined as consisting of an affective component, an evaluative component, and a behavioral component (Schuman, 1995). The present research focuses primarily on the behavioral intentions expressed by employers as an

general use in screening applicants, references appeared to play an especially important role in the evaluation of applicants with criminal records, according to open-ended survey responses. At least 10 employers explicitly mentioned references as a factor in deciding whether or not to hire an applicant with a felony drug conviction. According to an employer for a regional grocery chain, hiring the applicant would "depend on his personal references, which are extremely important." Another employer cited references as the sole criteria by which he would decide whether or not to hire the applicant. Based on these responses, it seems that references play a key role in vouching for an applicant with questionable background characteristics.

And yet, the actual outcome of the audit study revealed strikingly different results. Voice mail boxes were set up for testers' references to record calls from employers. Of the 350 audits completed, however, only four separate employers (or one percent) called to check references. Moreover, testers in the criminal record condition were no more likely to have their references checked than were those in the non-criminal record condition. This finding stands in stark contrast to the reported practices of this same group of employers.

One possibility, of course, is that employers do not check references until later in the hiring process. The audit study followed testers only through the first stage of the employment process, which may have preceded the point at which most employers check references. Indeed according to survey responses, roughly 60 percent of employers who check references do not do so until after the interview. Nevertheless, 14 percent of

indicator of their attitudes about ex-offenders. Behavioral intentions are considered to be those measures of attitudes that should most closely correspond to observed behavior (Fishbein & Ajzen, 1975).

employers claim to check references before conducting interviews (with an additional 23 percent saying "it varies") relative to the one percent of employers who actually checked during the course of the audit study.

Perhaps even employers who check references before conducting interviews may limit their calls to a selected pool of applicants. If employers only call references for those candidates that they have already decided to interview, a much smaller number of reference checks would be expected. Using call-backs as an indicator of intention to interview, we can calculate the number of reference checks as a percentage of call-backs.⁹⁸ This figure, 4.7 percent, comes closer to approaching the 14 percent of employers who claim to check references before conducting interviews, though it remains far lower than the self-reports. Employers thus tend to overstate the prevalence of this hiring practice by a substantial margin. Though references are emphasized by employers as a critical aspect of the review process, particularly for those with criminal records, it seems that, in practice, references are rarely used in this early—and perhaps most critical—stage of the hiring process.

The case of reference checks provides a clear example of the errors in reporting of basic employment practices. While it is unlikely that employers actively attempt to conceal their actual practices, problems of recall and variability of events can easily lead to distortion.⁹⁹ What we can learn about hiring practices more generally from survey

⁹⁸ In this calculation, each employer is counted only once, even if they made call-backs to both testers. The total number of employers who made one or more call-backs is 85.

⁹⁹ The problem of measurement error is not restricted to survey questions. The audit study includes only a one-time measure of employer behavior and is thus likewise susceptible to error. Measurement error in one or both indicators would attenuate the association, independent of any real divergence of outcomes (Schuman & Johnson, 1976).

research should be qualified by the potentially substantial disparities between self-reports and behavioral outcomes, as measured here.

Hiring Intentions

References, of course, represent only a means to an end. The larger concern in this process is the actual hiring outcomes of ex-offenders, whatever procedures are used to get to this point. Once again, the combination of data from the survey and the audit allows us to compare the extent to which employers accurately estimate and/or report their likelihood of hiring particular applicants.

The vignette (discussed in the previous chapter) was expressly designed to correspond closely to the profile of testers in the audit study. Chad, the hypothetical applicant, is presented with similar levels of education, experience, and personal qualifications to those on the resumes presented by testers. The type of crime is identical, though the prison sentence in the vignette (12 months) is shorter than that reported in the audit study (18 months). Thus the vignette aims to measure employers' self-reports concerning how they would respond to such an applicant, while the audit measures how they actually did respond to an applicant with almost identical characteristics.

Figure 6.1 presents the key results from both data sources. The first two columns below represent the percent of employers who reported being "very likely" or "somewhat likely" to hire the hypothetical applicant, depending on whether he was presented as white or black. I include the "somewhat likely" group here to correspond to my behavioral measure, which is a call-back rather than an actual hire (see below). The second two columns represent results from the audit study, illustrating the percent of call-

backs received by each group. In the audit study, call-backs can also be considered a measure of "willingness to hire," given that this represents the first cut of the hiring process. Though a call-back is by no means a guarantee of employment, given that employers typically call back several applicants before selecting their preferred hire, it does indicate a favorable initial review of the applicant.¹⁰⁰

It is, of course, difficult to equate qualitative estimates with quantitative probabilities. The use of vague quantifiers such as "very" or "somewhat" are, to some degree, matters of interpretation, making it difficult to provide direct comparisons to precise quantitative outcomes. There is a literature on the meaning of vague quantifiers which attempts to offer greater precision to our understanding of these terms (Pace & Friedlander, 1982; Schaeffer, 1991; Simpson, 1944). Lichtenstein and Newman (1967), for example, developed a questionnaire with 41 words and phrases representing commonly used expressions associated with numerical probabilities. A sample of 188 individuals were asked to assign probabilities between .01 and .99 to each of these phrases.¹⁰¹ Based on this analysis, the phrase "very likely" was assigned a mean probability of .87 (median=.90) with a standard deviation of .06; the phrase "somewhat likely" was assigned a mean probability of .59 (median=.60) with a standard deviation of .18. While these calculations may vary across groups, contexts, or over time (Schaeffer, 1991; Pace & Friedlander, 1982), they can be used as rough estimates with which to

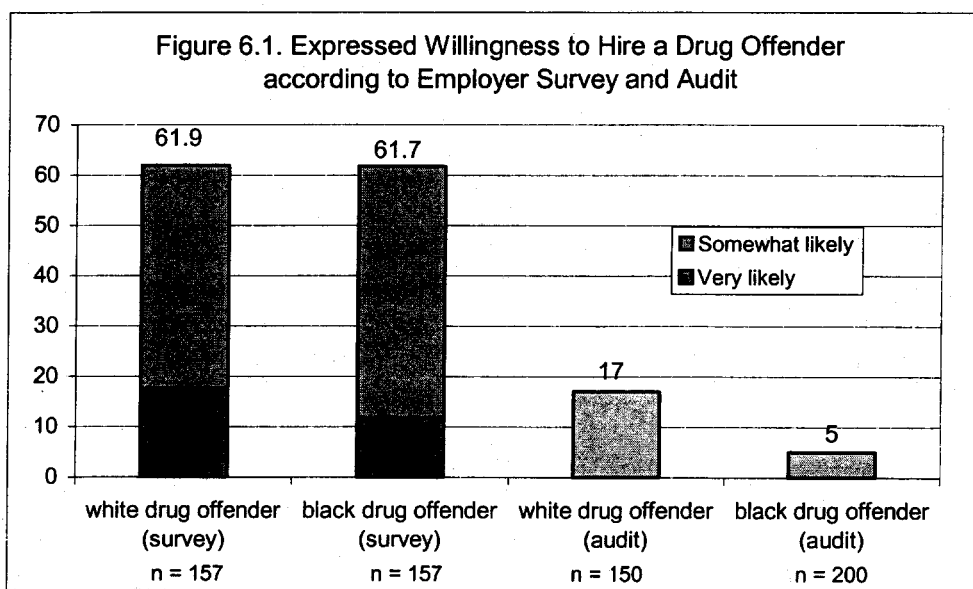
¹⁰⁰ According to the survey results, employers reported interviewing an average of eight applicants for the last non-college job they had filled. Further, employers on average interviewed 55 percent of the applicants that applied. Though, as in the case of self-reported reference checks, these estimates may be inflated, they provide some evidence that the interview stage is far from synonymous with a hire. Rather, a call-back may in fact represent a fairly low bar of approval.

¹⁰¹ Respondents for this study were a sample of male employees from the System Development Corporation.

calibrate our measures of behavior. Even if we were to assume that two out of three interviews would result in a job offer, a generous estimate according to employers' own reports (see footnote 100), this ratio (66 percent) remains closer to the "somewhat likely" category (59 percent) than to the "very likely" category (89 percent), as estimated by Lichtenstein & Newman. Given that employers were asked to rate their likelihood of *hiring* the applicant rather than inviting him/her for an interview, those who responded with either "somewhat" or "very" likely should provide comparable estimates to the proportion of initial call-backs.

The results of the two outcomes, however, are anything but comparable. As we can see in Figure 6.1, employers report a far greater likelihood of hiring drug offenders in the survey than was found in the audit. Employers' reported likelihood of hiring a white applicant with a drug felony (and a given set of human capital characteristics) is nearly four times greater than their actual behavior when confronted with such an applicant would indicate. For employers considering a black applicant, the disparity between what they say and what they do even larger, with employer self-reports presenting a likelihood more than 12 times greater than that found in the audit. It would be premature to conclude that employers intentionally lie about their hiring practices; there are many possible ways in which a survey question may elicit a different kind of response from that elicited by a live interaction (an issue I consider in detail below). But the disparities apparent in these results are nevertheless extremely consequential for our understanding of the social world: Relying on survey data, employers' responses present a view of openness to applicants with drug felonies which is far greater than the reality measured in actual hiring situations. To accept the survey results as an accurate indicator of the

opportunities available to ex-offenders would grossly understate the barriers to employment they face.

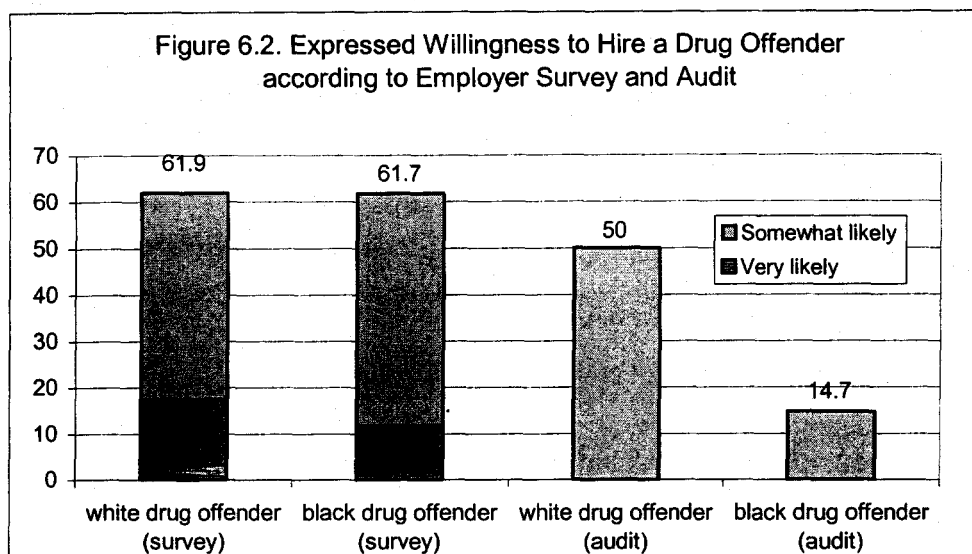


Note: Survey results include employers who said they were "very likely" or "somewhat likely" to hire the hypothetical applicant (with "very" at bottom of columns). Audit results represent the percent of call-backs for each group. Differences between within-race comparisons of survey and audit results are significant based on a two-sample test of proportions ($p < .05$)

One possible objection to this comparison is that it may artificially exaggerate the difference between survey and audit results. When considering a hypothetical applicant, employers do not have to take into account alternative possibilities among the applicant pool. Thus the hypothetical applicant may exceed the minimum threshold for acceptable applicants, even if, in actuality, there tends to be other applicants who are better qualified. By contrast, the tester in the audit study is competing with a pool of real applicants of varying quality. To the extent that real applicants provide better qualifications than does the tester's profile, the tester will receive few call-backs for reasons unrelated to race or criminal record.

An alternative way of presenting the information which addresses this concern is to calculate the number of call-backs received by testers with criminal records as a percentage of white testers without criminal records who received call-backs. White testers without criminal records in this case represent a kind of baseline, presenting a given set of qualifications common among all testers, but without the handicaps of minority status or criminal record. Employers who made call-backs to white testers without criminal records signal that this level of education and experience is desirable enough to make the first cut. Relative to this baseline, we can assess the proportion of whites and blacks with criminal records who received call-backs, thereby eliminating any effect of employer non-responses due to extraneous factors.¹⁰² Overall, 34 percent of employers were willing to consider white applicants with no criminal record and with the given set of human capital characteristics presented by all testers. Only half of these employers, by contrast, were willing to consider applicants with identical characteristics plus a criminal record; and just under 15 percent (of different, but randomly selected employers) were willing to consider applicants with identical credentials plus a criminal record and minority status (see Figure 6.2).

¹⁰² Similarly, we can view the estimated likelihood of hire from the survey results (61.9 percent or 61.7 percent) as relative to a baseline of 100 percent for a hypothetical applicant similar to the one described in the vignette but without a criminal record. To the extent that some employers would report being unlikely to hire such an applicant (if, for example, they tend to only hire applicants with some college experience), the ratio of the self-reported likelihoods of hiring an ex-offender relative to a non-offender would be even higher (and thus the contrast between the self-reports and behavioral outcomes even greater).



Note: Survey results include employers who said they were “very likely” or “somewhat likely” to hire the hypothetical applicant (with “very” at bottom of columns). Audit results represent the number of call-backs for each group as a percentage of white non-offenders who received call-backs. Differences in within-race comparisons of survey and audit results are marginally significant for white applicants ($p < .06$) and significant for black applicants ($p < .05$) based on a two-sample test of proportions.

The differences between self-reports and behaviors in this comparison, though smaller, remain consistent. In the case of white applicants, though the distance between the survey and audit results has narrowed substantially, this difference remains marginally significant ($p < .06$). The case for black applicants is even more clear-cut. Even the adjusted rate of call-backs for black testers (14.7 percent) remains far short of the survey estimates of hiring likelihoods (61.7 percent).¹⁰³ The survey results thus vastly overstate the opportunities for employment available to black ex-offenders.

Whatever measure is used, two main findings remain consistent: First, the view of employers’ openness to hiring applicants with a felony drug conviction is greater than that demonstrated by their behavior. While survey responses present a rather benign view of the employment barriers to ex-offenders, the audit results tell a very different

story. This result underscores the importance of using great caution in relying on employers' self-reports as a proxy for behavior. Second, the degree to which race is a factor in hiring decisions is far less pronounced in the survey results than in the audit study. Even though separate employers were asked the vignette in which the applicant was white or black, the estimates of hiring likelihoods for both applicants were virtually identical. By contrast, actual behavioral measures show that white ex-offenders are more than three times more likely to receive consideration from employers relative to their black ex-offender counterparts. The differences in the magnitude of the race effect between self-reports and observed behaviors represent a highly robust test of the disparity. While disparities in the estimates of overall hiring likelihoods could be explained by differences inherent to the method of measurement (discussed below), the race effect provides a within-method measure of the disparity between survey reports and behavioral outcomes (through a difference in differences approach). Again, these results suggest that the usefulness of employer surveys—even with experimental designs—may not be an effective way to gauge the degree to which sensitive characteristics like race affect actual employment opportunities. Below, I discuss the methodological and theoretical processes which might account for these differences. First, however, I present one additional test of this relationship.

Perhaps the most direct means of assessing the correspondence between employers' self-reports and behaviors is to look exclusively at the subsample of employers for whom I have data from both the audit study and the survey. While the

¹⁰³ This percent is calculated by dividing the percent of callbacks received by blacks with criminal records (5 percent) by the baseline percent of callbacks for whites without criminal records (34 percent).

previous comparisons have included all employers who completed either the telephone survey and/or responded to one or both testers in the audit study (representing only partially overlapping groups), this final analysis allows us to compare the survey responses to the audit outcomes for an identical group of employers.¹⁰⁴ The results of this cross-tabulation are presented in Table 6.1.¹⁰⁵ Consistent with the results reported above, we find that the survey responses have very little connection to the actual behaviors exhibited by these employers.

Table 6.1. A Comparison of Employers' Self-Reports and Behavioral Outcomes for Overlapping Sample

Likely to Hire Drug Offender	Audit Results	
	No Call-Back	Call-Back
No	56 (93.3 %)	4 (6.7 %)
Yes	81 (92.7 %)	7 (7.3 %)

Among those who reported a favorable likelihood of hiring an applicant with a prior felony drug conviction on the survey, 7.3 percent made calls to the tester with the criminal record in the audit study, relative to 6.7 percent of those expressing an

¹⁰⁴ Using non-overlapping samples is problematic only to the extent that the distribution of respondents from one data source differs systematically (in ways related to their responses) from those respondents in the other data source. Comparisons across occupation, industry, location, and call-back rates indicate few differences across samples. There were, however, a higher proportion of employers from the restaurant industry and a smaller proportion of employers from manufacturing industries in the survey relative to the original distribution from the audit. A reweighting of the survey sample to match the distribution of the audit sample produced only a slight change in the mean likelihood (from .62 to .60). It is unlikely, therefore, that differential response rates of employers across industries has any effect on the survey outcomes or the differences between survey responses and observed behavior.

¹⁰⁵ A full breakdown of survey responses (including all four categories) by audit results is presented in Appendix 6A.

unfavorable likelihood who also made calls to the tester with the criminal record.¹⁰⁶

Though this difference is in the expected direction, it is far too small to reach statistical significance. Further, the absolute levels of responses are tell very different stories: Of the nearly 81 employers who reported a favorable likelihood of hiring an ex-offender, only 7 actually demonstrated a behavioral indication to that effect. Probability estimates from surveys, therefore, seem to provide poor indications of actual employment opportunities for ex-offenders.

Of course, there are several limitations of this analysis that must temper its conclusions: First, the sample sizes are quite small. Only eleven of the 35 employers who made call-backs to testers in the criminal record condition completed the survey. Thus our ability to generalize from these results is quite limited. Second, remember that the respondent in the survey may be a different from the individual who reviewed the testers' applications. To the extent that hiring practices vary within firms depending on the individual manager or human resource officer, the correspondence between survey results and audit results will be attenuated. Nevertheless, all three methods of comparison tell a similar story: it is difficult to get an accurate picture of actual hiring outcomes based on responses to employer surveys; employers generally express a far greater likelihood of hiring applicants with criminal records (particularly in the case of blacks) than we see in actuality.

¹⁰⁶ Given the small sample sizes in this final comparison, a further breakdown by race of the tester would be impossible. Analyses, therefore, include all call-backs to testers in the criminal record condition, regardless of race.

Attitudes and Behaviors: Why Do They Differ?

Why might employers' survey responses present such discrepant results from their actual behavior? There are several theoretical explanations that could be used to account for this incongruity. In this section, I provide a discussion of these explanatory accounts, considering the range of underlying processes which may give rise to differing outcomes depending on the method of measurement.¹⁰⁷

First, social surveys have long been plagued by the problem of social desirability, or the phenomenon that respondents seek to give socially appropriate answers to questions, even if this involves distorting the truth (Bradburn, 1983). Particularly when asked questions about sensitive issues such as race and criminal records, the pressures for providing socially desirable (and legally permissible) responses is great. Though sophisticated designs have been developed to try to minimize such concerns or disguise sensitive issues (Sneiderman & Piazza, 1993; Schuman & Bobo, 1988), it remains difficult to obtain accurate measures of bias or discrimination from respondents

¹⁰⁷ One might also question whether the six month lag between the data collection for the audit study and that for the survey may be responsible for some of the disparity. Changes both within and around firms during this time could have resulted in real changes in employers' attitudes which would have been measured as error. Certainly, changes in management or human resource personnel that may have occurred during this period would increase the likelihood that the individual responding to the survey was different from the one who reviewed the testers' applications (Also, as noted above, even if no changes in management took place, in firms where more than one person is responsible for hiring decisions, there may have been different respondents to the survey and the audit). While I would expect a majority of the variation in openness to ex-offenders to take place at the firm-level rather than at the level of individual personnel (and therefore to be more stable across employee transitions), the possible shifts in management of firms during the period between the audit and the survey may account for some of the discrepancy in results. Changes in the economic climate, on the other hand, should have worked to make survey responses less optimistic. The unemployment rate in Milwaukee averaged 4.8 percent during the time of the audit, while during the two months in which the survey was administered, it had risen to nearly 6 percent (Bureau of Labor Statistics, 2002). Given that employers' openness to less desirable workers increases in the context of tight labor markets (Freeman & Rodgers, 1999), we would rather expect more favorable responses from employers during the period of the audit study relative to the period of survey data collection. Overall, it is unlikely that any changes within or around firms during this time would have been

themselves. According to this perspective, respondents conceal their true feelings about blacks or ex-offenders in answering surveys; the discrepancy between self-reports and behaviors, therefore, can be viewed as the difference between false and true measures of a respondent's attitudes. While certainly social desirability pressures result in some distortion of survey results, it is not the case that employers in the present study were unwilling to express opposition to any applicants with criminal records. Over 50 percent of employers expressed an unwillingness to hire a generic applicant with a criminal record, and more than 70 percent were unwilling to hire an applicant who had been convicted of a property or violent crime. It seems unlikely, therefore, that social (or legal) pressures to accept ex-offenders have white-washed employer responses; high levels of acceptance were reported only for the drug felon presented in the vignette.

Social desirability bias is a much greater concern in questions about race. The norms of racial equality are so strong that survey respondents are unlikely to feel comfortable expressing negative opinions about members of other racial groups (Crandall, 1994). In order to preempt this concern in the present study, employers were not asked to directly compare applicants on the basis of race. Instead, one group of respondents was asked vignette questions describing a black applicant and a separate group was presented with a vignette describing a white applicant. The comparison between the mean responses of each group, in the absence of any direct contrast, should therefore reflect differential evaluations of applicants by race. And yet, the small and non-statistically significant differences found in these comparisons failed to reflect the

sufficient to account for the dramatic disparities between employers' self-reports and observed behavior, particularly with respect to black applicants.

level of racial discrimination experienced in actual hiring outcomes. While it is difficult to discern exactly what internal process produced these results, it is certainly possible that employers actively suppress any indication of race preferences in their responses to surveys. Even in the absence of direct comparisons by race, employers are aware that the race of the hypothetical applicant has been specified and may therefore make conscious or unconscious efforts to verbally compensate for any negative reactions they may have to a black applicant. If respondents do in fact suppress negative reactions to race-specific targets, even when no direct comparison is provided, this calls into question the effectiveness of experimental survey designs as a strategy for measuring underlying racial prejudice. Any self-reported attitude towards a black target may in fact be distorted by the respondent's own compensatory estimation procedure.

A second possible explanation relates to differences in the criteria used when assessing a hypothetical versus an actual job candidate. It is plausible that, in considering the acceptability of a hypothetical applicant, employers invoke universalistic criteria in formulating their responses. In these general terms, apart from the minority of employers who categorically reject all applicants with criminal records, a prior conviction is not typically grounds for immediate disqualification. Rather, if the applicant's overall characteristics exceed a minimum threshold of employability, the respondent is likely to indicate a willingness to hire. By contrast, in actual employment situations, employers must use highly particularistic criteria in making hiring decisions. In this case, the applicant's characteristics are judged, not only according to some minimum threshold, but also relative to the pool of available applicants, and relative to the specific requirements of a job. In this case, many more contingencies are at play, and the

presence of a criminal record may become a salient criterion by which to weed out less-qualified applicants. Even if the employer genuinely believes that s/he would hire the applicant described in the abstract vignette, when confronted with the situation in real life, the contingencies of the hiring process may render hypothetical scenarios irrelevant.

In the article discussed above, LaPiere (1934) makes a similar argument.

According to LaPiere, survey responses constitute "verbalized reaction[s] to a symbolic situation," or reactions to a highly abstracted representation of reality (p. 231).

According to this viewpoint, survey responses do tell us something meaningful about the attitudes of respondents, but we have no way of anticipating the degree to which these expressed attitudes will be reflected in any particular set of behaviors. Certainly it is difficult to anticipate how any individual, including oneself, may react to a situation previously encountered only in hypothetical terms.

A final perspective on the discrepancy between self-reports and behaviors proposes that the priming of characteristics during a phone interview may not elicit the same intensity of response as does the in-person presentation of the same characteristics. Hearing a description of a hypothetical black ex-offender is quite different than seeing a young black man approach one's business in search of employment. The live interaction may trigger feelings of fear, anxiety, threat, or rejection in ways that a written vignette does not. Indeed, Poskocil (1977) argues that the discrepancy between expressed and observed racial prejudice can be explained, not by concealed racial hostility, but by heightened anxiety during interracial interactions. According to this view, whites commonly experience extreme social discomfort in the presence of blacks, leading to behaviors that may be coded as discriminatory, despite (accurately reported)

nonprejudiced attitudes. Certainly, some research studying speech errors and conversation durations have shown marked differences in interracial interactions relative to conversations among same-race participants (Word et al., 1974). These findings are consistent with the view that whites experience discomfort in interactions with blacks, even if these feelings may be unrelated to their general attitudes about blacks.

Taking a less sympathetic perspective, these same findings could be interpreted as a revealed form of racial stereotyping not apparent in survey responses. If whites are anxious around blacks because of activated stereotypes about, say, black aggression, intelligence, or dishonesty, the observed behavioral responses do tell us something about the respondent's racial attitudes, even if these attitudes are not consciously endorsed by the respondent him or herself. In the next chapter, I discuss the ways in which the markings of stigma (e.g., race or criminal record) can shape the interactions with and evaluations of job applicants without any conscious awareness. The expectations associated with certain group memberships are so strong that substantial distortions can occur in the gathering and interpreting of information in ways that confirm prior expectations. While hypothetical applicants in a survey questionnaire may not elicit such strong reactions, when presented with an actual black ex-offender applying for a job, the interaction can result in a more intense activation of stereotypes with stronger implications for hiring outcomes.

It is not possible, using the present data, to demonstrate conclusively which underlying process may have generated the observed discrepancies. In fact, it is highly plausible that more than one process may have been at work simultaneously. What these results do demonstrate, however, is clear indication that survey research taps into a very

different set of processes than those measured through behavioral studies. While these processes are likely related to a common underlying disposition, the correspondence between the two can be quite weak. It is important that researchers recognize these limitations before drawing inferences about behavior from the self-reports of survey respondents.

Are Survey Data Useless?

What can we conclude from these results regarding the usefulness of survey data?

Should we disregard all findings based on employers' self-reports? Certainly it would be premature to advise such a radical stance. In fact, despite the large discrepancies between self-reports and actual behaviors measured in the present study, survey results remain useful in many respects.

First, survey data can tell us something useful about how employers *think* about important hiring issues. Not all attitudinal measures must be calibrated to actual behavior in order to validate their utility. The attitudes employers express about what makes a productive employee or why certain applicants would be (un)desirable, as just two examples, are significant in their own right; these beliefs tell us something important about the way that employers make sense of the staffing process and how they prioritize worker characteristics. Particularly when issues of social desirability are less at stake, surveys can gather a wide range of important information based on employer self-reports.¹⁰⁸

¹⁰⁸ In fact, even sensitive issues such as race, for which the problems of social desirability bias are more relevant, employer self-reports can provide useful information to complement behavioral measures. It is unlikely, for example, that all or even most employers who discriminate against blacks do so because of deep-seated beliefs about the inferiority of black employees. In fact, it is likely that many employers

Second, it is not always the case that behaviors represent the gold standard for truth. In some cases, individuals may feel their behavior constrained in ways their verbal expressions are not. Critics of the LaPiere study, for example, question the conclusion that the proprietors' self-reports were misleading of their "true attitudes" (Dockery & Bedeian, 1989). Rather, it is possible that the discomfort and disruption that would have been caused by a refusal to admit expectant visitors was sufficient to convince the proprietors to suppress their negative attitudes and admit the Chinese guests. In this case, the threshold for expressing negative attitudes through behavior would be higher (and thereby more prohibitive) than the verbal expression of these same sentiments (see Campbell, 1963). Given the warm welcoming by proprietors as reported by LaPiere, it is unlikely that these individuals were suppressing deep animosity at the time of their visit. Nevertheless, it is important to acknowledge that both attitudes and behaviors can be subject to substantial distortion in measurement.

Third, survey results can often provide useful information about relative behavioral propensities, even if they overstate absolute levels. Schuman and Johnson (1976), for example, distinguish between literal and correlational consistency in the comparison of reported attitudes and observed behavior (see also Merton, 1940; Campbell, 1963). Literal consistency implies that there should be a direct correspondence between attitudes and behaviors; a person does what s/he says s/he will do. Correlational consistency, by contrast, suggests that there is a consistent ordering

genuinely believe their own responses to surveys, professing the value of equal opportunity, while simultaneously justifying their behavior in hiring situations on grounds other than race (for example, residence in high-crime neighborhoods, negative influences of peer groups, etc. (see Kirschenman & Necherman, 1991)). In this case, the divide between employers' self-reports and their actual behavior

among individuals in their attitudes and behaviors; individuals who express tolerance toward ex-offenders will demonstrate more tolerant behaviors toward ex-offenders relative to those who express intolerant views, even if the level of tolerance observed is lower than that expressed. According to this view, survey results can tell us something about the relative ranking of individuals over time, across cities, or according to particular characteristics, even if these results do not give us a clear indication of the level of discrimination we might witness in actual interactions.

The sample sizes in the present study prevent us from establishing a systematic relationship between the survey and audit responses of individual employers. If we had a larger number of observations, we might expect that some correlation between employers' attitudes and behaviors would emerge, even if the absolute levels remain widely divergent. Future research in this area would be extremely useful; if a correlational consistency does in fact exist among self-reports and behaviors, survey results would be able to tell us a great deal about the contexts in which employers' attitudes (and corresponding behaviors) are likely to be most extreme. Given that survey research represents a much less taxing and costly method of gathering data (relative to behavioral studies), the value of survey results should not be dismissed.

Conclusion

LaPiere (1934) revealed a striking inconsistency in the way hotel and restaurant proprietors reacted to Chinese customers in person versus how they responded on surveys. The present study notes a similar discrepancy between employers' self-reported

represents a meaningful discrepancy between two legitimate realities; the resolution of these differences

likelihood of hiring a particular applicant relative to their actual hiring behaviors when faced with a nearly identical candidate. These provocative findings call into question the adequacy of survey research for simulating the outcomes of actual interactions. Given that a majority of research on hiring preferences and practices comes from survey data (e.g., Holzer, 1996; Husley, 1990; Dowing, 1984; Jensen, 1976), these results indeed have serious implications.

It is not the case that survey research can tell us nothing about important employment issues. In fact, in many cases, surveys can provide useful information about opinions and beliefs that need not be calibrated to actual behavior; in other cases, surveys may provide a very close reflection of actual employer behaviors. What this research emphasizes, however, is the importance of testing one's assumptions, and providing external validation of key results. In the case of employers' behavior with respect to hiring ex-offenders, survey results are far off base. The correspondence between self-reports and behaviors with respect to other important hiring outcomes has yet to be established.

represents an important focus of sociological investigation in its own right.

**Appendix 6A. A Comparison of Employers' Self-Reports
and Behavioral Outcomes for Overlapping Sample**

<u>Likely to Hire Drug Offender</u>	<u>Audit Results</u>	
	<u>No Call-Back</u>	<u>Call-Back</u>
Very likely	20 (90.9 %)	2 (9.1 %)
Somewhat likely	69 (93.2 %)	5 (6.8 %)
Somewhat unlikely	25 (88.3 %)	3 (10.7 %)
Very unlikely	31 (96.9 %)	1 (3.1 %)

Chapter 7. Racial and Criminal Stigma

Racial and Criminal Stigma

sti'gma, n. (pl -s or -ta). 1. brand, stain, blemish, defect - a symbol of disgrace or infamy

The central objective of this manuscript has been to investigate the extent to which race and criminal status shape the evaluations of employers. Based on the empirical results from both the audit study and the employer survey, it has become clear that both characteristics have powerful effects on the employment outcomes of entry-level job-seekers; in the absence of any correlated characteristics, minority and criminal status relegate applicants to the bottom levels of the hiring queue. How is it that these characteristics exert such influence in employment interactions? The previous chapters have sought to provide empirical answers to this question, analyzing employers' self-reported attitudes and observed behavioral responses to applicants with marginalizing characteristics. In the following chapter, I seek to complement these findings with a theoretical perspective on the processes of attribution that mediate employers' evaluations of minority and ex-offender applicants. Within this discussion, I provide a conceptual framework with which to understand the ways these social labels affect micro-level interactions; and, subsequently, the ways in which micro-level interactions can produce and reproduce inequality. The concept of social stigma is particularly useful in this discussion, providing an orienting framework with which to view the cognitive and social dimensions by which race and criminal record become salient in social interactions. Drawing from the empirical findings of this manuscript as well as previous social-psychological research, I provide illustrations of the ways in which employers articulate and/or demonstrate their reactions to applicants based on the applicant's race or

criminal status, and the possible implications of these reactions for the processing of stigma more generally.

Social Stigma

In social interactions, individuals seek to make use of limited information in forming evaluations of strangers. Certain characteristics provide cues that help to fill in missing information. Race and criminal status each represent salient characteristics which trigger associations of socially meaningful attributes. Each possesses a predominantly negative valence with implicit assumptions about the character or competence of its bearer. It is these characteristics which form the basis of stigma. In his seminal work on the topic, Goffman (1963:3) describes stigma as “an attribute that is deeply discrediting;” it a characteristic widely viewed as “an insurmountable handicap that prevents competent or morally trustworthy behavior” (Michener et al., 1986:281) The markings of stigma, whether they be physically or socially designated, can have generalized effects across a wide range of social domains.¹⁰⁹ According to Goffman, stigma often develops as a “master status,” overshadowing other relevant individual characteristics to define an individual’s primary social identity. In this way, the concept of stigma goes beyond the interrelated terms of labeling or stereotypes to invoke a more durable form of status denigration.¹¹⁰

¹⁰⁹ Though the attributes in themselves are arbitrary, they tend to cluster around particular socially designated characteristics. According to Goffman (1963), there are three types of stigma: those of tribal association, including race and religion; those of physical defect, including deformity and physical disabilities; and blemishes of character, including mental illness and criminal history.

¹¹⁰ The existing literature in this area tends to use the concepts of stigma, stereotypes, and labeling interchangeably (see Crocker et al., 1998; Link & Phelan, 2001). Indeed, Goffman himself characterizes stigma as the relationship between “an attribute and a stereotype” (1963:4). While the mechanisms by which these processes exert their effects are largely overlapping, I argue that stigma, in its definition as “a

In the domain of employment, as the focus of this study, both race and a criminal record represent important sources of stigma which shape and constrain opportunities. Employers notice and interpret these labels, attributing negative characteristics to individual members of the group(s) based on perceived associations between being black or having a criminal record and one's level of productivity. Irrespective of an individual applicant's aptitude or disposition, membership in a stigmatized group has direct bearing on the outcomes of external evaluations. In this chapter, I focus on the micro- and macro-level processes by which stigma becomes consequential.

In considering the impact of stigma, it is first important to distinguish between three distinct components: the affective component (prejudice); the cognitive component (stereotypes); and the behavioral component (discrimination). Each of these dimensions can be mutually reinforcing; at the same time, it is important to recognize their independent effects. Responses to scales measuring prejudice, for example, are often discordant with direct behavioral measures of discrimination (Banaji & Greenwald, 1994; Devine, 1989; Dovidio et al., 1986). And while certainly stigmatized individuals can suffer from severe prejudice, the effects of stigma are not limited to those conscious and intentional acts of ill-will. In fact, some of the most powerful consequences of stigma lie in its unconscious effects, whereby cognitive processes can be distorted in the presence of socially meaningful cues (Fiske, 1998). In the following section I discuss the affective and cognitive dimensions of stigma as they relate to behavioral expressions of

master status," invokes the concept of a dominant identity affecting interactions across a wide range of social domains. The processes of stereotyping and labeling, while also activated in the presence of stigma, refer to more localized interactions which may or may not form the basis of a generalized social identity.

discrimination. I then link these processes to their broader consequences for stratification.

Prejudice, Statistical Discrimination, and Automatic Cognitive Response

The empirical results of the audit study provide a direct measure of discrimination, the behavioral response to stigma. Based on these results, we can assess the extent to which job applicants receive differential treatment on the basis of minority status and criminal record. Ultimately, it is the behavioral response which is most consequential for the production of status inequalities. In the language of economics, these outcomes represent employers' "revealed preferences," even without direct information about an employer's personal attitudes and beliefs about a particular group. In this chapter I seek to explicitly specify the range of internal processes which produce observed discrimination. While these are rarely measured directly, it is useful to articulate the possible ways in which individuals interpret and react to stigma. Three distinct (but not mutually exclusive) responses are most relevant to this discussion: the affective reaction, including emotional and visceral sentiments; the conscious cognitive reaction, referred to as statistical discrimination; and the pre-conscious cognitive reaction, referring to the automatic processes of gathering, coding, interpreting, and retrieving information.

"Just [him] having the conviction bothers me." —employer for a local brewery

The first class of reactions, also referred to as simple prejudice, refer to the affective or subjective associations and judgments of stigmatized groups. Feelings of dislike, fear, contempt, or revulsion often accompany interactions with stigmatized individuals and can

directly influence behavioral responses. Described in the economics literature as “taste discrimination,” this form of preference ordering emerges from the personal likes and dislikes of individual employers (Becker, 1971). Indeed, in the present study, a number of employers (n = 12), when asked to explain why they would be unwilling to hire an applicant with a felony drug conviction, cited “the conviction itself” as their primary objection (see Chapter 5). In many cases, applicants with criminal records may be viewed as unworthy or undesirable for “respectable” places of employment. Beyond concerns over competence or reliability, employers may experience a more fundamental aversion to the class of law-breakers, viewed as anathema to the social norms of the workplace.

“I’d be concerned that the applicant [with a criminal record] would not be responsible for coming to work every day on time.” – employer for a local inn

The second class of reactions to stigma are more directly tied to assessments of the objective relationship between group characteristics and individual attributes. These cognitive assessments can be described as statistical discrimination, whereby real or perceived group averages for a particular characteristic are used to predict an individual’s rank on that particular characteristic. When important information is difficult to observe (e.g., productivity), easy-to-observe identifiers (e.g., race, criminal record) are often used as proxies, relying on assumptions about the aggregate connection between the two. If an employer believes, for example, that individuals with prior felony convictions have on average poor work habits, are less reliable, or have lower ability relative to non-offenders, then they are likely to make judgments about individual applicants with

criminal records on the basis of this assessment.¹¹¹ While rarely is there a one-to-one correspondence between group averages and individual cases, these judgments can certainly form the basis of rational decision-making. The costs of a poor hire are potentially much greater than the costs of overlooking a quality applicant, suggesting that even imperfect associations between group averages and individual assessments can provide useful guides. Particularly in the case of ex-offenders—where group membership is predicated on actual behavior (i.e., criminal activity)—it is not unreasonable for employers to experience concern when confronted with applicants with proven criminal tendencies.

What then, is problematic, about the use of group averages to predict individual performance? Aside from legal restrictions prohibiting discrimination on the basis of race and criminal history, there are several negative externalities of this strategy that must be taken seriously. First, though at times beneficial to the employer, this approach has serious negative consequences for the applicant. While employers may favor conservative strategies of applicant screening, competent applicants burdened by the stigma of group membership are largely powerless to negate the assumptions about their group identity. For those individuals who are genuinely striving toward self-sufficiency, attributions based on group membership can undermine efforts to “go straight” (Harris, 1975; Anderson, 2001). Blocked opportunities to secure legitimate employment can have

¹¹¹ It is important to note that the inventory of attributes used for the purposes of statistical discrimination include normatively acceptable attributes (such as educational attainment) in addition to the suspect characteristics highlighted here. The cognitive process involved in each of these evaluations is the same, though one may argue that the consequences are unequal. For a highly competent applicant overlooked because s/he lacks appropriate educational credentials, it remains at least partially within that individual's control to “change group membership” by pursuing additional schooling. By sharp contrast, no matter how competent or motivated, one cannot work one's way out of being black or having a criminal record.

long-term consequences for an individual's outlook as well as outcomes (see discussion of self-fulfilling prophecies below).

A second potential cost of statistical discrimination is its limited responsiveness to changing associations. The utility of imputing group averages onto individual assessments lies in relatively accurate assessments of stable group characteristics. When the composition of the group is changing, however, or when the distribution of important characteristics is not stable, the value of prior assessments diminishes. Researchers disagree over the degree to which inaccurate group assessments can persist over time. Perfect-market models assume that inefficiencies will be automatically eliminated over time, as relevant actors discover their practices to be suboptimal and correct for necessary modifications (Oettinger, 1996). Factors such as occupational segregation, imperfect information flows, and negative feedback effects, however, impede awareness of changes and work to preserve existing outcomes (Tomaskovic-Devey & Skaggs, 1999).

This issue is of particular relevance in the case of individuals with criminal records. In periods of low incarceration, where the inmate population is limited to the most serious and/or chronic offenders, a criminal record could well serve as a sound basis for making character judgments. In a period, however, where the criminal justice system has been deployed for an ever-widening range of offenses and where increasing numbers of inmates are serving time for first-offenses and non-violent crimes, there is tremendous heterogeneity within the ex-offender population (Bureau of Justice Statistics, 1994). If we assume that the frequency and severity of criminal activity are the components of the "criminal character" most closely tied to labor market productivity, then surely changes in the composition of inmates over the past three decades has affected the association

between incarceration history and worker quality.¹¹² As the variance in worker quality among the inmate population increases, the predictive value of the signal declines.

Whether or not employers appropriately correct for these compositional changes in their evaluations of job candidates over time remains an open question.

Statistical discrimination, therefore, while often employed as a “rational” strategy for estimating unobservables, has serious limitations for applicants and, in some cases, employers as well. Assumptions about group membership may provide useful hypotheses with which to approach the evaluation of applicants, but only direct inquiry can provide information relevant to their true qualifications. Unfortunately, as I discuss below, even honest attempts to evaluate individuals can be colored by the unconscious effects of stereotypes.

“Depends on the employee’s appearance.” –employer for a national coffee chain

“Depends on his presentation.” –employer for a regional men’s clothing store

“How he conducts himself.” –employer for a national mattress store

“[I’d decide by] reading their body language.” –employer a national restaurant chain

A great number of employers in the survey, as reflected by the sample of comments listed above, emphasized that, in considering an applicant with a criminal record, they would want to “get a feel” for the applicant before offering him the job. Employers sought interpersonal cues, including appearance, presentation, and body language, to shape their evaluations of the applicant’s character and quality. Unfortunately, the emphasis on these

¹¹² It is of course the case that incarceration signals not only prior criminal activity but also the experience of a potentially brutal institutional climate, which may be of further concern to employers. Nevertheless, individuals have heterogeneous experiences in prison, with some using the opportunity to gain skills and “go straight,” while others become more firmly entrenched in criminal networks. As the heterogeneity of those going into prison increases, we would likewise expect the heterogeneity of those coming out to increase proportionately.

informal modes of information-gathering provide numerous opportunities for cognitive distortion, no matter how consciously open-minded the inquiry. Indeed, the third and final class of stigma response represents the pre-conscious cognitive dimension. Even individuals who harbor no negative feelings or judgments against a stigmatized group can be unwittingly influenced by broader social stereotypes. The social psychological literature on stereotypes provides a wealth of evidence demonstrating the ways in which category-based expectations affect evaluations. Though clearly stereotypes vary in their accuracy for predicting individual attributes, they can provide a useful heuristic for impression formation, particularly in the context of time or processing constraints. But stereotypes do more than provide guiding hypotheses; they remain actively at work during the testing of these hypotheses, in ways that affect the coding, processing, and gathering of information. Though these cognitive processes may operate according to rational and/or efficient procedures, they can lead to a substantial distortion of perceptions and, further, to modes of interaction which enact negative expectations. In the remainder of this section, I address three primary forms of cognitive distortion associated with social stereotypes: these include (1) selective processing of information; (2) biased interpretation of information; and (3) reduced quantity and quality of information searches. Each of these processes shed light on the ways in which a single characteristic can shape and transform (even dominate) evaluations, even in the absence of conscious discrimination.

In the first case, it is clear that stereotypes create strong expectations about group members that may lead to the selective attention to and interpretation of information.

When presented with a range of evidence, subjects are more likely to remember

information consistent with the stereotyped category and more likely to disregard inconsistent information (Fazio; 1986; Bodenhausen, 1988). For example, in a study by Bodenhausen and Lichtenstein (1987), subjects were asked to review evidence from a crime in order to assess the defendant's guilt. When the defendant was presented as an ethnic minority, subjects were subsequently better able to recall incriminating evidence and less able to recall exonerating evidence compared to subjects presented with ethnically nondescript targets. The strong associations between race and crime facilitate the processing and encoding stereotype-consistent information, leading subjects to differentially attend to the full range of evidence. This "confirmation bias" thus places a greater burden on the amount and/or salience of information needed to overcome stereotyped associations. Individuals unconsciously privilege information consistent with expectations, while simultaneously discounting that which contradicts them. Though efficient when dealing with accurate expectations, these processes can lead individuals to retain false beliefs far longer than optimal.

In addition to privileging attention to confirmatory evidence, stereotypes can further lead to systematic distortions in the interpretation of neutral or ambiguous information (Bodenhausen, 1988; Sagar & Schofield, 1980). In a study by Darley and Gross (1983), for example, researchers asked subjects to rate the academic ability of a young girl shown taking an achievement test. Subjects were led to believe that the girl came from either a high or a low socioeconomic background. Though all subjects were shown identical videotapes, those who believed the girl came from a higher socioeconomic class rated her as having significantly higher ability than those who believed the girl was from a lower socioeconomic class. Both groups cited specific

elements of her behavior during the test as "evidence" for her ability level. The expected association between social class and ability, therefore, led to strong distortions in the coding and processing of information concerning performance. It is not unrealistic to consider that similar biases may operate during interviews when employers are confronted with applicants from stereotyped groups. An energetic, outgoing, young white applicant, for example, may be viewed as motivated and eager to work, where a similarly energetic, outgoing, young black male may be seen as a hussler or a "player." Even relatively straightforward cues can be interpreted in vastly different ways, depending on the context of the situation or the characteristics of the actor (see Sagar & Schofield, 1980).

The third major distortion produced by stereotypes concerns the quantity and quality of new information gathered to make judgments (Hattrup & Ford, 1995; Trope & Thomson, 1997). Trope and Thomson (1997), for example, asked subjects to make judgments about the attitudes of stereotyped and nonstereotyped targets, allowing subjects to ask questions of the targets to inform their opinions. Despite opportunities to disconfirm the stereotype, subjects asked significantly fewer questions of the stereotyped target than of the nonstereotyped target. Subjects with strong category-based expectations were therefore willing to make decisions about specific individuals on the basis of their group membership without learning much about their personal characteristics. Given the costs of information search (e.g., time and effort), perceivers are willing to forgo opportunities to gather individuating information about individuals who belong to stereotyped groups. Though exposure to information that is inconsistent with stereotypes has been shown to attenuate their effects on judgment (Allport, 1954;

Fiske & Neuberg, 1990; Anderson, 1999), perceivers are less likely to seek out such information when confronted with members of salient social groups (but see Neuberg, 1989). A pernicious cognitive cycle is thus produced: the effects of stereotypes are most pronounced when available information about a target is limited or ambiguous (Hatrup & Ford, 1995); and yet, individuals are less likely to seek out additional information which might attenuate the impact of the stereotype when the stereotype provides salient heuristic cues.

Again, it is easy to imagine how this might play out in employment settings. In cases where employers are confronted with stereotyped applicants (i.e., blacks or ex-offenders), they may be more likely to make negative attributions about the individual without probing deeper into the specific character of the applicant in question. During the course of an interview, employers may ask fewer questions which probe job competence or worker integrity, providing few opportunities to disconfirm initial expectations. Indeed prior research has shown that white subjects conducting mock interviews with black applicants ask fewer questions and terminate interviews more quickly than with similar white applicants (Word et al., 1974). While in some cases this may result from overt prejudice, these patterns of behavior can also be the product of more subtle cognitive distortions in the evaluation process rather than an animus-based form of discrimination.

The confirmation-bias produced by stereotyped perceptions affects not only the quantity but also the quality of information gathered. Individuals are not merely passive recipients of information about their social world; rather, they actively participate in its construction. In doing so, pre-existing stereotypes can alter interactions in such a way as

to distort the production of information; information later used to evaluate the accuracy of initial expectations. More pointedly, prior research demonstrates that stereotypes affect interactions in such a way that leads to the objective confirmation of pre-existing expectations. For example, in a two-part experimental study of job interviews, Word et al. (1974) demonstrate the ways in which nonverbal behavior can produce self-fulfilling prophecies in interracial interactions. In the first experiment, naïve white job interviewers interacted with trained white and black job applicants. Conversations with the black applicants contained a greater number of pauses, speech errors, and were terminated more quickly. The second experiment employed a trained interviewer and naïve white applicants. The interviewer was trained to interact with the subjects as the interviewer in the first experiment had interacted with either the black or white applicants. White subjects treated like the blacks of the first experiment were judged to perform less adequately and to be more nervous in the interview situation than subjects treated like the whites. This experiment demonstrates the ways in which the expectations of interviewers can—by way of nonverbal interactions—impact the objective performance of job applicants. No longer merely relying on cognitive distortions, the act of gathering information can further lead to the behavioral confirmation of existing stereotypes (see also Christensen & Rosenthal, 1982; Dipboye, 1982).

Again, it is important to emphasize that these processes can emerge even among individuals who do not actively or intentionally seek to discriminate. According to Crocker et al. (1998:513), "Rather than being relaxed and spontaneous, people may find themselves vigilantly guarding against unwitting prejudiced behavior, leading to anxiety or uneasiness." Employers may be wary of broaching sensitive topics thereby leading to

more strained interactions with blacks and/or ex-offenders. Indeed, employers in the audit study often seemed uncomfortable about the issue of a criminal record and uncertain about what was legally or socially appropriate for them to ask. This created heightened discomfort and left the applicant without the opportunity to explain the context of the crime nor the extent of his rehabilitation.

The three types of responses described in this section illustrate the various ways in which individuals process and react to stigma. Certainly this does not represent an exhaustive discussion of reactions to stigma, nor should it imply that all reactions are negative. What this section does suggest is that stigma can elicit powerful conscious and unconscious reactions with serious consequences. Particularly in employment interactions, applicants bearing the mark of stigma are unlikely to be perceived in the same light as their non-stigmatized counterparts, regardless of their personal qualifications.

One limitation of the present discussion—and of much of the literature to date—is its emphasis on singular interactions. The employer evaluates the applicant or the juror evaluates the defendant within a single round of interaction. But for the stigmatized individual, it is not merely this unique interaction that carries significance but rather the accumulation of such incidents which become consequential. In the remainder of this chapter, I discuss the longer-term consequences of stigma, both for individual and group outcomes.

The Cycle of Stigma

Beyond the visible forms of disadvantage to blacks and ex-offenders documented by this study, there is a pernicious epilogue to this story. The audit study measures the first round of what, in the course of real life-job searches, is an iterative process. As job seekers make attempts to secure employment, they receive explicit and implicit feedback from employers about their suitability for various kinds of jobs and their desirability to various kinds of employers. The information gathered during these initial searches is likely to guide subsequent search behavior and to influence expectations of the returns to investments in work-related capital.

An abundance of social-psychological literature documents the powerful negative feedback effects created when initial reactions are internalized or imposed upon stigmatized individuals. A "self-fulfilling prophesy" of poor outcomes can thus be generated as expectations become reality, regardless of how inaccurate were the initial evaluations (Merton, 1948). To use the findings of the present audit study as an example, consider the longer-term impact of discrimination at the point of hiring. The fact that blacks and ex-offenders were each one-half to one-third as likely to be considered for entry-level job openings implies that their search process will on average take twice to three times the amount of time spent by whites and/or those without criminal records. While eventually these individuals are likely to wind up with job offers, the time to employment can have serious consequences in itself. The first potential consequence is its impact on an individual's psychic disposition, resulting from the frustration and disappointment from nearly continuous rejection. "Expecting and fearing rejection, people who have been [in prison] may act less confidently and more defensively, or they

may simply avoid a potentially threatening contact altogether. The result may be strained and uncomfortable social interactions with potential stigmatizers, more constricted social networks, a compromised quality of life, low self-esteem, depressive symptoms, unemployment and income loss" (Link & Phelan, 1999).¹¹³ Thus, as stigmatized individuals come to expect disapproval or rejection, their internal defenses become activated. The tension caused by such interactions can be resolved through either an active disidentification with the initial goal (i.e., finding work), thereby preserving the congruence between one's aspirations and one's achievements (Crocker et al., 1994), or through an internalization of negative attributions, with an associated lowering of expectations for success (Fanon, 1967).

The psychological toll this can take on a job seeker was apparent even among testers, for whom these interactions were the substance of their paid employment. Testers in the criminal record condition reported feelings of frustration and demoralization as they witnessed the dismissive glances given to their applications. One tester reported early on feelings of discouragement and frustration that he had had very few responses from employers. As a successful, bright, African-American college student, the change in status to a young black criminal was quite extreme, and the difference in treatment he received seemed to take a toll. Fortunately, after gaining more experience with the project, this tester (and others) seemed to feel more comfortable in their interactions and better able to perform in their assigned roles. But it was clear from these initial reactions the degree to which these impersonal interactions can serve a

¹¹³ This quote was drawn from a study on the stigma of mental illness; the psychic reactions described, however, apply more broadly to other forms of stigma as well.

serious blow to one's self-confidence and motivation. For job seekers actually in need of work, this process is likely to be far more taxing.

Indeed, interviews with real ex-offenders have brought up similar issues, with individuals reporting feelings of heightened anxiety when approaching employers because of their criminal record—not knowing what might be asked of them, not knowing if or how to approach the topic, and not knowing how much it would be used against them. These anxieties can surely form their own self-fulfilling prophecies, as the anxiety of the applicant can translate into poor interactions with the employer. The psychic costs of stigma can thereby manifest themselves in very tangible ways, as the expectation of rejection leads to tense or defensive interactions. The cycle of stigma is reinforced as blacks or ex-offenders present the angry or “shifty” personality traits already associated with their group membership.

The second potential long-term consequence of stigma (as experienced, in this case, through increased time to employment) is its impact on an individual's objective qualifications, as the job seeker spends more and more time out of work. Research has consistently shown that employers are reluctant to hire individuals who have large gaps in their employment histories (Holzer, 1996; Wilson, 1996). For an ex-offender just released from prison, the weeks or months spent searching for employment accumulate as an “objective” basis on which to refuse consideration of the applicant. A job search, therefore, already two to three times more difficult from the beginning, becomes increasingly problematic with the passage of time.¹¹⁴ Racial and criminal stigma trigger

¹¹⁴ See Duneier's (1999) discussion of how the timing of opportunity can, in itself, have serious consequences for the emergence of deviance (p. 377, n.8).

negative employment outcomes; negative employment outcomes then exacerbate the manifestation of stigma; the cumulative disadvantage which accrues to such individuals sets into motion a self-reinforcing cycle of stigma.

The complex consequences of stigma are described in detail by Loury (2002) in what he terms "the logic of self-confirming stereotypes" (p.26-33). In this discussion, Loury articulates three key components of this cycle by which initial evaluations—no matter how innocent—can have serious consequences for distribution of outcomes among groups. The first stage involves an initial evaluation, say, by employers of job applicants, for which employers must draw inferences on the basis of limited and difficult-to-observe information. Following what could be a rational cognitive process, employers are likely to make statistical inferences, based on perceived associations between observed characteristics (such as race, gender, age, criminal history) and job-relevant concerns. Whether or not an employer seeks to intentionally exclude members of certain social categories, internalized expectations about these categories can play a significant role in the evaluation process (as we have seen above).

In the second stage of this cycle, the employer's initial evaluation provides feedback to the applicant, concerning the degree to which their job-relevant characteristics are noticed and appreciated, and, likewise, the probability that future investments in job-relevant skills will be rewarded. To the extent that blacks and/or ex-offenders feel that their job-relevant characteristics are devalued by employers, the incentive to invest in such skills will decline (see also Arrow, 1998). Whether or not the individuals themselves internalize negative attributions, a rational cost-benefit analysis of job search behavior indicates that the returns are lower for members of stigmatized

groups. While some may become motivated to overcome these barriers through an effort of escalated intensity, many will likely to resign themselves to failure (Crocker and Major, 1989).¹¹⁵

Finally, through the interaction of initial (category-based) evaluations and feedback effects, an equilibrium can be reached. As initial rejections create disincentives for stigmatized individuals to persevere, a congruence between employer expectations and applicant characteristics is achieved. The result of this negative feedback loop is that, over time, it becomes entirely "rational" for employers to make decisions on the basis of "functionally irrelevant attributes" (Loury, 2002:27): as prior negative expectations lead to the emergence of real differences in job-relevant attributes, the perceived link between the stigma (race and/or criminal record) and productivity becomes realized.

Perhaps even more damaging, the mechanisms producing this outcome can remain entirely hidden. Employers mistakenly believe that the disadvantaged state of racial minorities or ex-offenders is due to some intrinsic property of the group, while in fact this association is at least in part produced by faulty expectations imposed by the employers themselves.¹¹⁶ Negative outcomes are thus seen as the confirmation of expectations rather than the consequence thereof, perpetuating an unchallenged system of misattributions and faulty judgments.

¹¹⁵ See Williams, 1984 and Flaim, 1984 for discussions of the "discouraged worker" in the contemporary labor market.

¹¹⁶ Of course, at least in the case of ex-offenders, it is not difficult to imagine why an employer would be reluctant to consider such an applicant; in many cases s/he may be right. But for those ex-offenders who actually do want to come clean, or, for the increasing numbers in prison who were nothing more than petty criminals to begin with, the strong stigma of their past can severely limit the opportunities for legitimate

From Stigma to Stratification

The empirical literature on stigma provides tremendous insight concerning category-based expectations, evaluations, and judgments. Based on the results of carefully designed experiments, we can begin to understand the ways in which subtle cognitive distortions can have substantial impact on interpersonal evaluations. But it is precisely the localized nature of this research—typically focused on small-group interactions—which limits the scope of its insight. The emphasis on the formation and impact of individual-level perceptions neglects consideration of the broader consequences of these processes. In fact it is the collective impact of stigma—the sum of millions of micro-level interactions—which is of greatest concern. It is at the aggregate level that we see how the sum of these micro-processes results in categorical exclusion and the perpetuation of inequality on the basis of (ascribed) group membership.

Consider further that the effects of stigma can be felt across multiple domains. While this discussion has focused primarily on the effects of race and criminal record on employment opportunities, there are numerous additional contexts in which these stigmas also result in severe disadvantage. In the case of racial discrimination, previous audit studies have documented substantial disparities in the context of housing searches (Yinger, 1995), car sales (Ayres & Siegelman, 1995), hailing taxis (Ridley et al., 1989), applications for insurance (Wissoker et al., 1998), home mortgages (Turner & Skidmore, 1999), in addition to several pre-existing audits of employment searches (Cross et al., 1990; Turner et al., 1991; Bendick et al., 1994). While the existing body of audit

employment. As we see in the audit study, even the most articulate and well-qualified “ex-offenders” have

research investigates what are only a few of the nearly infinite domains of social life, it demonstrates the wide range of contexts in which race profoundly limits opportunity. Consider how each of these everyday interactions accumulate across the lifecourse in the form of sequential and additive disadvantage. For blacks, everyday life achievements take longer, require more effort, and cost more.

Similarly, in the case of ex-offenders, the stigma of a criminal record can have serious consequences in a wide range of social domains, including restrictions on housing and political participation (Hellegers, 1999; Travis et al., 2001; Uggen & Manza, 2002), and the disruption of family and community networks (Edin, 2001; Western & McLanahan, 2001; Hagan & Dinovitzer, 1999). I discuss these themes more thoroughly in the concluding chapter. The vast numbers of individuals returning from prison each year implies that these effects are not restricted to a small number of unfortunate individuals. Rather, the emergence of a criminal underclass seems imminent, with the opportunities of millions of citizens becoming defined by their master status as offender.

The magnitude of these effects, across the population and across domains of social life, demonstrates the power of stigma. As individuals come to be identified by some salient marking, their identity, their opportunities, and their outcomes can be heavily influenced. Likewise, as these patterns are produced and reproduced across the population, the group as a whole becomes increasingly relegated to subordinate standing. Though the empirical research in this manuscript—as in most research related to stigma and stereotypes—concentrates on micro-level interactions, the implications are far greater-reaching. The disadvantage experienced in singular interactions or by unique

tremendous difficulty finding work.

individuals are by definition part of the larger disadvantage faced by the stigmatized group. As these groups increase in size (particularly as in the case of ex-offenders), their subordinate role in the stratification order becomes more pronounced.

**Chapter 8. Conclusion:
Bigger Problems and Possible Solutions**

Conclusion: Bigger Problems and Possible Solutions

No American institution has grown more rapidly over the past three decades than the criminal justice system. Expanding to roughly seven times its original size, the penal system now holds more than two million individuals in custody, with an additional 4.6 million under the supervision of probation or parole (Bureau of Justice Statistics, 2001a). Given that 95 percent of inmates will eventually be released, with more than half a million returning each year, questions of prisoner reentry and, in particular, labor market reintegration have become of central concern. No longer a peripheral institution, the criminal justice system has become a dominant presence in the lives of young disadvantaged men, playing a key role in the sorting and stratifying of labor market opportunities.

The Mark of a Criminal Record

The primary goal of this manuscript has been to assess the impact of incarceration on the employment outcomes of black and white job seekers. Prior attempts to investigate these issues have generally relied upon longitudinal survey data to estimate the employment and earnings of individuals following release from prison. While these analyses provide useful estimates of the aggregate effects of incarceration on labor market outcomes, the problems of selection inherent to survey research leave the findings vulnerable to serious criticism. There are many plausible reasons to expect that the types of individuals who are sentenced to prison would have had poor employment outcomes even in the absence

of incarceration. It is difficult, using survey data, to conclusively demonstrate any causal effect of incarceration on subsequent outcomes.

The present research provides a direct test of incarceration as a causal mechanism. Employing an experimental audit approach, this method allows us to bracket the complicated web of characteristics that affect an applicant's chances in real job searches, to focus on the specific causal impact of a criminal record. Indeed, the results of the audit study provide clear evidence for the dramatic impact of a criminal record on employment opportunities. Employers seem to use the information as a screening mechanism, weeding out undesirable candidates at the very start of the hiring process. As a result, ex-offenders are one-half to one-third as likely to receive initial consideration from employers relative to equivalent applicants without criminal records.

The results of this study provide evidence for the powerful effect of a criminal record; and yet, there are several reasons to believe the estimates from this study understate the full consequences of incarceration on employment outcomes. First, many features of the present study design represent a 'best-case scenario' for ex-offenders: testers were bright, articulate college students with effective styles of self-presentation. Given that typical ex-offenders have less advanced interpersonal and academic credentials, their true employment probabilities are likely to be lower than what was estimated here. Much of the ex-offender population suffers from multiple overlapping disadvantages, including low educational attainment, unstable work histories, and poor interpersonal skills, in addition to the burden of criminal stigma (Travis et al., 2001). The job prospects for these individuals, in the absence of serious job training and placement assistance, are likely to be far worse than what has been reported here.

Second, this study focuses on only one mechanism by which incarceration affects subsequent employment outcomes; namely, the effects of criminal stigma. It is also the case that incarceration can result in the substantial decay in human capital and/or decline in psychological well-being through time out of the labor market and prolonged exposure to the institutional climate of the prison. Though some inmates are able to use their time in prison to acquire a GED and/or participate in job training programs, a majority of inmates spend much of their time idle or involved in activities that have little relevance to building job skills (Mincy, 1994; Travis et al., 2001). Add to this an institutional culture of brutal violence and psychological degradation and the impact of incarceration becomes even more severe (Parenti, 1999). A true estimate of the consequences of incarceration, therefore, must also take into account the transformative effects of prisons and their subsequent impact on the employment prospects of those coming out.

The Mark of Race

The issue of incarceration cannot be fully addressed without a discussion of race. At any given time, nearly 10 percent of young black men between the ages of 25 and 29 are behind bars; roughly a third are under criminal justice supervision (Bureau of Justice Statistics, 2001a). The disproportionate representation of blacks in prison, therefore, implies that any negative effects of incarceration will be felt most strongly in the black population. In designing this project, the inclusion of race as a variable was intended to serve as a complement to the main effects of a criminal record, to explore possibility of an interaction. And yet, the results of this study demonstrate that the effects of race alone remain a powerful barrier to entry-level employment. Black testers presenting identical

credentials to their white counterparts received call-backs from employers at less than half the rate of whites. Perhaps most striking, the results show that even blacks without a criminal record fare no better—and perhaps worse—than do whites with criminal records. That the impact of race could be as large or larger than that of a criminal record is shocking to many of us who see direct racial discrimination as a force in decline. In fact, over the past ten years affirmative action has come under attack across the country on the grounds that race no longer represents a major barrier to employment (e.g., D'Souza, 1995; Steele, 1991). Several universities have been forced to eliminate all forms of racial preferences from their admissions process, leading to substantial declines in minority enrollment (Tienda et al., 2002). It is likely that the University of Michigan case will reach the U.S. Supreme Court next year, where the fate of affirmative action will be decided once and for all. If the findings of the audit study in Milwaukee have any bearing on hiring practices in the rest of the country, the end of affirmative action would be devastating for the millions of African-Americans who continue to face severe barriers to opportunity on the basis of their race.

Beyond the main effects of race, there is also some indication that blacks with criminal records face an added disadvantage, a finding which remains becomes stronger and statistically significant when analyzed separately among suburban employers or those with whom testers had extensive personal contact. These results are suggestive of a “two strikes and you’re out” mentality among employers, who view the combination of race and criminal record as an indicator of serious trouble. Future research using larger sample sizes will be needed to confirm the reliability of these findings.

Employer Preferences: Method Matters

The headliner findings from this study concern the dramatic effects of race and criminal record on hiring outcomes. These findings can be thought of as the “revealed preferences” of employers, or the behaviors which demonstrate employers’ underlying attitudes about various types of workers. But employers were also given the opportunity to express their preferences directly, on a survey conducted after the audit study had been completed. As discussed in Chapter 6, these “expressed preferences” provide a very different picture of employers’ likely reactions to the kind of applicant presented in the audit study. While employers were not shy about reporting an aversion to applicants convicted of violent or property crimes, more than 60 percent reported a favorable likelihood of hiring an individual with a prior felony drug conviction. These results are at sharp odds with the 17 and 5 percent of employers who actually responded to the white and black testers with felony drug convictions in the audit study. Even more noteworthy, the estimates of racial differences from the survey, even though obtained through indirect rather than direct comparisons, dramatically understated the influence of race on actual hiring decisions. In Chapter 6, I discussed several possible explanations for these discrepancies between the survey and the audit. Though it is not possible to conclusively determine the source of these differences, the important conclusion from this comparison is that method matters. The view we would take from the survey alone is a benign picture of the obstacles to employment for drug offenders and even less differentiation on the basis of race; based on the audit study, however, we see this not to be true. The common reliance on survey data for information about employer practices and preferences is thus called into question with the comparisons presented here. Of course,

replication of the present findings would provide useful validation of the results (and of the reliability of both attitude and behavior measures); nevertheless, the results of this study suggest a large disconnect between survey measures and those of behavioral studies, a finding which is common to previous literature (see Deutscher, 1966; Wicker, 1969; and Schuman & Johnson, 1976 for reviews). The moral of the story: researchers should exert great caution in interpreting survey results as indicators of actual behavioral probabilities. While surveys may tell us a great deal of useful information about the ways employers think and feel, they are poor predictors of how they act.

Overall this manuscript demonstrates the massive barriers to employment faced by blacks and ex-offenders at the point of hire. The effects of race confirm the results of earlier studies, and point to the enduring disadvantages faced by blacks in the search for employment. The effects of a criminal record point to a new mechanism of stratification, one which has only recently gained attention. Though some contemporary research has presented aggregate associations between incarceration and labor market outcomes, this study provides conclusive evidence for the causal relationship between a criminal record and employment opportunities. Mere contact with the criminal justice system—in the absence of any transformative or selective effects—severely limits subsequent job prospects. The mark of a criminal record indeed represents a powerful barrier to employment.

The present manuscript has focused its attention on labor market outcomes. It is important to acknowledge, however, that the consequences of incarceration are not limited to employment outcomes alone. In fact, the collateral consequences of incarceration extend to many other domains, with implications for the well-being of

individuals, families, communities, and society. Though a full analysis of each of these domains is well beyond the scope of the present investigation, in the following discussion I highlight some the primary issues raised in these areas. For a true estimate of the social costs of incarceration, these are the potential damages that must be accounted for.

Collateral Consequences

The experience of incarceration represents a great deal more than a period of incapacitation; it can also include the loss of certain civil liberties, the disruption of family ties, the loss of work and permanent housing, and an aggregate impact on neighborhoods and communities. In order to fully appreciate the total consequences of incarceration, one must also consider its effects on this wider array of outcomes. Below I provide a brief overview of these broader consequences of incarceration; it is the task of future research to more fully investigate the nature and scope of each of these domains.

Political Participation: In all but four states, prisoners convicted of felonies lose the right to vote (Uggen & Manza, 2002). In more than 30 states they can reapply only when they are off parole, while, in 12 states, a felony results in disenfranchisement for life. Given the massive rise in the numbers of prisoners over the past three decades, trends in felony disenfranchisement can have serious implications for real political outcomes. According to Uggen & Manza (2001), given trends in voter turnout, political affiliations, and felony convictions, several significant gubernatorial, congressional, presidential elections over the past three decades may have turned out differently had felons retained

their ability to vote. The expansion of the criminal justice system may thus have significant consequences for the political outcomes of major democratic elections.

Beyond the general impact of felony disenfranchisement, the consequences of these policies for black political participation are particularly severe. While two percent of adults throughout the country do not have the right to vote, within the black community the figure is 13 percent (Human Rights Watch, 1996). In seven states, fully one quarter of black men have permanently lost the right to vote (Human Rights Watch, 1996). As black suffrage is gradually undermined by the high rates of felony convictions among blacks and their subsequent loss of vote, the balance of power becomes shifted further in favor of the white majority. The democratic principles of this country become inadvertently compromised when such a substantial segment of our population loses its political voice.

Family Welfare: The large number of men and the rapidly increasing number of women in prison can have severe consequences for the families they leave behind.¹¹⁷ Two-thirds of incarcerated women and more than one-half of incarcerated men are the parents of children less than 18 years of age (Bureau of Justice Statistics, 2000c). These numbers translate into more than 1.5 million children that have a parent who is incarcerated (Travis et al., 2001), representing two percent of all children and seven percent of black children (Bureau of Justice Statistics, 2000c). The destabilizing effects of incarceration on the family are indeed a serious concern (Western & McLanahan, 2001; Hagan & Dinovitzer, 1999). While certainly in some cases incarceration involves the removal of

an abusive parent whose absence improves the family's overall well-being (Widom, 1994), the balance of evidence suggests that in more cases, incarceration results in the loss of an important breadwinner, caretaker, or both (Hagan & Dinovitzer, 1999; Hairston, 1998).¹¹⁸ Future research will be needed to assess the long-term consequences of incarceration for children who grow up in families with one or more parents behind bars.

Housing: The problem of housing is perhaps one of the biggest challenges for ex-inmates immediately following release. Individuals typically leave prison without enough money for a downpayment, making it difficult to secure long-term stability. Further, many landlords require references and criminal history information from prospective tenants, thus excluding many ex-offenders from private housing markets (Travis et al., 2001). Unfortunately, securing public housing is also problematic for ex-offenders. According to federal housing policies, all public housing authorities, Section 8 providers, and federally assisted housing programs are permitted, and in some cases required, to deny housing to individuals that have prior criminal convictions (Legal Action Center, 2001). The guidelines for denying or revoking public housing are fairly broad, including the criminal activity of non-residential family members as grounds for removal (Hellegers, 1996). The difficulties in obtaining permanent housing lead many offenders to seek temporary shelter: Those who can stay with families; others end up in homeless shelters or on the street. According a report by the California Department of

¹¹⁷ The number of women per capita in correctional institutions has increased by nearly 50 percent since 1990, compared with a 27 percent per capita increase for men (Bureau of Justice Statistics, 1999b).

Corrections, on any given day 10 percent of the state's parolees are homeless; in San Francisco and Los Angeles, this number ranges between 30 and 50 percent (California Department of Corrections, 1997). Given the enormous instability facing ex-inmates upon return, it is no surprise that recidivism rates are so high; the opportunities to settle down and find work are severely constrained when the problems of housing remain unresolved.

Neighborhood Stability: The population of inmates is far from a random sample of the country's residents; rather, a disproportionate number of inmates come from a limited range of states, counties, and neighborhoods. Of inmates released in 1998, just under half came from one of five states; nearly a quarter came from California alone (Travis et al., 2001).¹¹⁹ These concentrations are further reflected at the local level: In Cleveland, Ohio, just three percent of the county's block groups accounted for twenty percent of the state's prisoners (Lynch & Sabol, 2001). In Brooklyn, eleven percent of the city blocks held 50 percent of its parolees (Cadora & Swartz, 1999). The high concentration of individuals leaving for and returning from prison can have a substantial impact on the community's capacity for less coercive means of social control (Rose & Clear, 1998; Tonry, 1995). In fact, while some removal of criminals from a community has beneficial effects on neighborhood stability, recent research argues that, beyond a tipping point, high rates of population removal and return can lead to higher crime rates due to a weakening of ties among residents and reduced social control (Lynch & Sabol, 2000;

¹¹⁸ Though only 44 percent of incarcerated fathers lived with their children prior to incarceration, most contributed some combination of income, child care, and social support (Bureau of Justice Statistics, 2000c; Hairston, 1998).

¹¹⁹ California represents 12 percent of the total U.S. population.

Clear et al., 2000; Moore, 1996). The communities most affected by high levels of incarceration and ex-offender absorption are often those already struggling with serious problems of joblessness, single-parent families, and poverty. The churning of residents, mostly young men, between prison and home can further undermine the already tenuous social order that exists within these neighborhoods.

The collateral consequences of mass incarceration thus extend far beyond the realm of employment. The impact on political participation, family welfare, housing, and neighborhood stability demonstrate the vast number of social domains affected by the high and rising number of individuals behind bars. Taken together, the consequences of incarceration sum to a great cost to society; it is unclear that the relative benefits of incapacitating criminals can outweigh these enormous cost to individuals, families, and communities.

Indeed, there are signs that policy makers and the public are rethinking the cost-benefit ratios of incarceration, and that there is gaining momentum for alternative approaches to dealing with crime. In the remainder of this chapter, I discuss this changing of tide, and the ways in which we might envision a future of fewer prisons.

Public and Political Opinions on Crime and Punishment

Over much of the past three decades, the expansion of the criminal justice system received wide-spread support from politicians and the public, with concern over crime consistently representing one of the major policy issues of the 80s and 90s (Beckett, 1997). The nearly universal call for stricter enforcement and harsher penalties largely

-muted consideration of viable alternatives to incarceration. In more recent years, however, there appears some indication of a turning of tides. After a decade of falling crime rates and an expanding economy, public sentiment appears to softening its stance, emphasizing longer-range solutions to the problems of crime and delinquency. As a few key examples:

- Between 1990 and 2001, the percentage of Americans who say that there was more crime than there was a year ago dropped from 84 percent to 41 percent (with a corresponding increase in those who say there was less crime than a year ago from 5 to 43 percent) (Gallup Poll, cited in Bureau of Justice Statistics, 2002).
- Between 1990 and 2000, the percent of individuals who believed that more money should be spent “attacking the social and economic problems that lead to crime through better education and training” versus “detering crime by improving law enforcement with more prisons, police, and judges” increased from 57 to 68 percent, while the number favoring more law enforcement fell from 36 to 27 percent (Gallup Poll, cited in Bureau of Justice Statistics, 2002).
- In 2001, over half of all Americans believed that drug use should be treated as a disease rather than a crime (relative to 35 percent who believed it should be treated as a crime, and 10 percent indicating it should be treated as both) (Gallup Poll, cited in Bureau of Justice Statistics, 2002).
- In 2002, three-fourths of Americans approved of sentencing non-violent offenders to probation or treatment instead of to prison (Hart Associates, 2002).
- In 2002, a majority of Americans favored the elimination of mandatory sentencing laws and the return of discretion to judges (Hart Associates, 2002).

These trends suggest a new willingness to rethink crime control strategies, focusing on more effective prevention and treatment rather than stricter enforcement. If public sentiment becomes reflected in politician’s platforms, we may see a slowing of prison growth and perhaps even a gradual decarceration. Certainly the general public appears ready for such a change.

Fortunately, as the economy slows and states face tightening budgets, legislators are also looking for more cost-effective ways of managing crime. Many states have adopted—or are considering—new legislation to revise or reverse mandatory sentencing laws passed in the early 90s. Likewise, some states are considering alternatives to incarceration for low-level offenders or parole violators, relying more heavily on intensive community supervision and/or treatment programs. Over the past year, states across the country have made significant changes in their sentencing policies¹²⁰:

- Connecticut, Indiana, Arkansas, Utah, and North Dakota have each partially or fully eliminated mandatory sentencing laws adopted in the 1990s which imposed lengthy prison sentences without the possibility of parole;
- Iowa passed a similar law increasing the amount of discretion available to judges in sentencing decisions for certain drug and property crimes previously regulated by mandatory sentences;
- Mississippi passed a law for first-time nonviolent offenders, allowing them to become eligible for parole after serving 25 percent of their sentence (as opposed to the 85 percent required by a law passed in 1994);
- West Virginia is investing in the development of alternatives to incarceration, providing for more intensive community supervision through probation as opposed to prison;
- Louisiana, the state with the highest per capita incarceration rate in the country, has eliminated its mandatory sentencing laws for certain crimes including drug possession;
- California and Arizona passed voter initiatives which mandate treatment (instead of prison) for first- and second-time offenders convicted of drug possession, with similar initiatives being introduced in Florida, Ohio, and Michigan;
- Texas has made changes to its parole policies creating alternative sanctions for parole violators;

¹²⁰ Reports on state-level legislative changes come from the following sources: New York Times, 9/2/01; Wall Street Journal, 2/13/02; The Sun, 5/21/02.

- North Carolina has reduced mandatory sentences for non-violent and drug offenders; Oregon, Alabama, Georgia, New Mexico, and Idaho are all similar considering changes to their criminal laws; and,
- New York, which has symbolized the model of 'zero-tolerance' policies for drug offenders since the early 1970s, is considering a plan by governor Pataki to repeal the long-standing Rockefeller drug laws.

If sustained, these changes could have long-term effects on the rate of incarceration and on the total number of individuals behind bars. Recall from the first chapter that the introduction of mandatory sentencing laws resulted in more than a 50 percent increase in the likelihood of incarceration following a conviction and a 40 percent increase in the average length of sentences (Blumstein & Beck, 1999). The reduction or elimination of these laws could have equally consequential effects in the opposite direction. It may well be that the 30 year expansion of the criminal justice system has finally run its course.

Alternatives to Incarceration

As states move away from a strong reliance on imprisonment, there has been a renewed emphasis on finding alternatives to incarceration that contribute to public safety. Many states are experimenting with programs with an emphasis on restorative justice, community service, treatment, and intensive community supervision. Evaluations of these programs have found that certain alternatives to incarceration can in fact have sustained positive effects. Indeed, despite the pessimistic reviews of prison rehabilitation from the early 1970s, there is more recent evidence to suggest that well-targeted programs can have lasting effects on drug abuse, employment, and recidivism (Prendergast et al., 1995; Petersilia, 1999; Gaes et al., 1999).

Delaware, for example, has established an intensive three-part program for inmates nearing the time of their release. The program consists of an in-prison therapeutic component during which inmates confront substance abuse issues; a work-release component where inmates work in the community while continuing to live at the correctional facility and to participate in treatment; and an after-care component, lasting up to six months, during which ex-inmates are required to remain drug- and alcohol-free and to attend individual and group counseling. After completing the program, participants are also required to return once a month to serve as a role model for current participants for up to an additional six months. A controlled evaluation of this program has shown strong and lasting effects for recidivism and drug relapse. As shown in Table 8.1, 77 percent of inmates who completed the full program remained arrest-free 18 months later, relative to between 43 and 57 percent of those who completed partial or no treatment. Likewise, 47 percent of those who completed the full program remained drug-free 18 months later, relative to between 16 and 31 percent of those with partial or no treatment.

Table 8.1. Results from the Delaware Key-Crest Program

	% No Arrest at 18 Months	% Drug Free at 18 Months
Treatment Group		
Full program participation	77	47
In-prison treatment only	43	22
Work-release only	57	31
Control Group	46	16

Reproduced from Travis et al., 2001.

These results provide strong support for the notion that well-targeted, sustained interventions can complement, and in some cases replace, incarceration with more lasting

positive results. Similar stories of successful interventions have been reported by Prendergast et al. (1995), Petersilia (1999), and Gaes et al. (1999). Even the most serious offenders have been shown to respond to intensive forms of treatment and community supervision (Gaes et al., 1999). If federal and state governments are willing to invest in the development and evaluation of prison alternatives, the long-term costs of crime and incarceration could be substantially reduced. In fact, even if prison alternatives have only marginal gains, they are likely to be more cost-effective than our current spending priorities. According to Richard Freeman, "Given annual direct expenditures of \$10,000 per prisoner and total expenditures (including capital outlays) of \$20,000, the costs of the criminal justice system, the loss of potentially productive citizens, as well as costs of crime to victims, my reading of the evidence is that virtually any program—be it schooling, crime prevention, or rehabilitation—that has even marginal success in making crime less attractive and legitimate work more rewarding for disadvantaged youths is likely to have a sizeable social payoff" (Freeman, 1991:220). Indeed, given the social and financial costs of our current crime control policies, virtually any alternative with potential viability is likely to result in a worthwhile investment.

Conclusion

The results presented in this manuscript provide strong evidence of the damaging effects of incarceration. Across a wide range of occupations and industries, ex-offenders are systematically excluded from entry-level job openings on the basis of their criminal record. And while this study has focused on the consequences for ex-offenders themselves, there are also substantial social costs implied by these results. Finding

steady, quality employment is one of the strongest predictors of desistance from crime (Uggen, 2001), and yet incarceration itself reduces the opportunities for ex-offenders to find work. This negative feedback loop suggests that our “crime control” policies may in fact exacerbate the very conditions which lead to crime in the first place.

The findings from other research suggest that the consequences of incarceration are by no means limited to the economic sphere. In fact, the effects of incarceration can be felt in virtually every social domain, including politics, the family, and neighborhood communities. Certainly in many cases incarceration represents just one additional burden among a broader constellation of disadvantage; but it is not clear that this one additional state-imposed burden is sufficiently justified by compensating benefits to society. The appropriate resolution of this trade-off remains to be resolved in academic and policy discussions; as the evidence grows for the harmful consequences of incarceration, however, it will be increasingly difficult to justify further expansion of the criminal justice system.

Recent trends in public opinion and crime policy suggest a hopeful direction for the future. With the public favoring investments in prevention and rehabilitation and state officials seeking ways of reducing costs, there may well be sufficient momentum for gradual decarceration. And yet, this is by no means a clear path to the future. The downturn in the economy has also been associated with an increase in crime over the past two years, with the homicide rates in certain major cities increasing for the first time in a decade.¹²¹ If the economy continues to falter, we can expect to see continued rising

¹²¹ For example, homicide rates have doubled in Boston over the past two years, after falling steadily since 1990 (New York Times, 7/13/02).

crime rates. Once again, therefore, we may return to a scenario in which the immediate containment of crime becomes a top policy priority, while discussions of alternatives, treatment, and prevention efforts are pushed aside. The long-term trends in crime and punishment remain to be seen. In 1971, just before the massive prison expansion began, prison historian David Rothman proclaimed, "We have been gradually escaping from institutional responses and one can foresee the period when incarceration will be used still more rarely than it is today" (Rothman, 1971:295). Perhaps now, three decades later, his prediction will come true.

Epilogue: Implications for Stratification Research

The purpose of this manuscript has been to document not only the specific disadvantage associated with a criminal record but to consider the broader role of incarceration as an emerging mechanism of stratification. Joining the ranks of other major institutions of stratification, the criminal justice system has situated itself as a dominant channel to the lower tiers of the social hierarchy. In the following discussion, I seek to place incarceration within the broader framework of inequality research, tracing the common and unique features of this growing institution relative to other modes of stratification.¹²²

As a central focus of their work, stratification researchers investigate the processes by which individuals are distributed across status hierarchies. The mechanisms by which this allocation process takes place include a range of formal and informal selection criteria. The following discussion presents a broad typology of stratification systems, representing the central mechanisms that shape the distribution of inequality. While this discussion does not presume to capture all relevant forms of stratification, it presents an overview of several key dimensions that differentiate dominant regimes of stratification. In developing this typology, I invoke Weber's preliminary distinction between positive and negative privilege.¹²³ This categorization highlights the contrast between mechanisms which enable advantage versus those that impose constraints, relative to the normative baseline of equal opportunity. Specifically, I focus on four primary modes of stratification: positive ascription, negative ascription, positive

¹²² This discussion does not represent an exhaustive examination of relevant literature, but rather a preliminary exposition of incarceration within the context of existing theories of stratification.

¹²³ Weber introduced the distinction between "positive" and "negative" forms of stratification in a rough outline included in *Economy and Society* (pp.302-307). Here he distinguishes between positively and

credentialing, and negative credentialing (Table E1). Within each category, I discuss the relevant source of differentiation, the mechanisms by which inequalities are generated, and the degree of moral legitimacy. By analyzing these dimensions across systems of allocation, we can begin to understand the distinctive features of incarceration as an institution of stratification.

Table E1. Typology of Stratification

Mode of Stratification	Source of Differentiation	Mechanism	Moral Legitimacy
Positive Ascription	Social designation	Social advantage, Social status	Medium/high
Negative Ascription	Social designation	Social disadvantage, Social stigma	Low
Positive Credentialing	Formal designation	Legal/formal opportunities, Social status	High
Negative Credentialing	Formal designation	Legal/formal constraints, Social stigma	High

Positive Ascription

The mechanisms of stratification that operate through ascribed group membership have been the subject of a long history of stratification research. Inequalities on the basis of race, gender, class of origin, national origin, and a wide range of other group memberships represent central determinants of stratification hierarchies. Typically we think of ascription only in its negative form: Mechanisms of ascription are seen as those imposing disadvantages relative to a category viewed as the norm, such as whites, males, the middle class. Indeed, ascription based on race, gender, and other stigmatizing characteristics fits this model. It is important, however, to acknowledge the sources of

negatively privileged property classes (e.g., land owners versus slaves) and between positively and

stratification which operate through positive ascription as well. The inheritance of wealth, for example, is an ascriptive characteristic with significant implications for the social advantages which accrue to relevant beneficiaries. Legacies, which facilitate admission to elite educational institutions, likewise fall under the category of stratification termed here 'positive ascription.' Positive forms of ascription enable access to privileged resources and high social standing on the basis of birth rights and elite group membership.

Though ascriptive modes of stratification in the past (and in other societies) have been regulated by official categorization (e.g., the feudal lord, the Brahmin caste, blacks under Jim Crow), contemporary forms of ascription typically operate through social designation. While these characteristics can nevertheless evoke real material (dis)advantages, such categories are rarely formalized as markers of inequality. Rather, social mechanisms of reproduction regulate the preservation of privilege, with initial advantages facilitating subsequent achievements.

Though legacies and "silver spooned" children have been the subject of increased social scrutiny in recent years, privileges based on positive ascription retain relatively high levels of moral legitimacy. As evidenced by the recent political debate over what has been termed the "death tax," few Americans question the right of individuals to inherit the full wealth accumulation of their parents. Moral protest is reserved for the mechanisms of *disadvantage*, as if the two represent fully independent sources of inequality.

negatively privileged commercial classes (e.g., entrepreneurs versus laborers).

Negative Ascription

Negative ascription refers to those assigned characteristics which impose a burden or constraint. Race (black), gender (female), and class (poverty) each represent ascriptive characteristics which limit access to opportunity and represent a dominant form of social disadvantage. Though recent years has seen a decline in the use of ascribed group membership to determine placement in many domains of stratification (e.g., educational attainment, occupational placement, earnings, etc.), there nevertheless remains substantial social and economic differentiation on the basis of these characteristics. These durable forms of inequality are among the most powerful markers of stratification, as they remain immutable characteristics throughout an individual's lifetime.

Societies vary in the extent to which they use particular ascribed characteristics as the bases of stratification. This variation cross-nationally and over time demonstrates the fundamentally social process by which certain characteristics become designated as relevant social markers. Despite the arbitrary basis for ascriptive hierarchies, these characteristics nevertheless have powerful consequences for the opportunities and outcomes of group members. Characteristics which acquire a negative social valence can be broadly generalized, resulting in the wholesale devaluation of group members. As described in chapter seven, the physical markings of race or other assigned characteristics form the basis of stigma, triggering a wide range of negative attributions and diminished prospects.

Though processes of stratification based on ascribed group membership are among the oldest and most pervasive sources of inequality, the past forty years in this country has witnessed a major shift toward norms of equality, with processes of negative

ascription having increasingly questionable moral legitimacy. While there remain many social and occupational sectors that maintain strong racial or gender preferences, in most domains of public life it has becoming increasingly unacceptable to use negative categorical membership as the overt basis for allocating social goods.

Positive Credentialing

The appropriate contrast to the discussion of ascribed characteristics is one of achieved characteristics. In the present analysis, I focus on credentials as the category of achieved characteristics with the most powerful influence on stratification. By nature of their official certification by the state or other authoritative entities, credentials embody a formal legitimation of social standing.

The mechanisms of stratification which operate through positive credentialing are the standard fare of stratification research. Positive credentialing refers to the acquisition of a formal status which affords access to restricted status positions. Educational attainment and professional licensure, for example, represent two forms of positive credentials which determine the placement of individuals within the stratification hierarchy, providing access to coveted positions and advantaged status. Different from the social designation underlying ascribed forms of stratification, positive credentials attain their influence through a process of formal certification. Though background characteristics certainly affect the achievement of positive credentials, they are not bound by the fixed properties of ascription. Indeed, with respect to educational and professional attainment, there is a substantial degree of intra- and inter-generational mobility (Sorensen & Grusky, 1996; Featherman & Hauser, 1976).

The primary mechanism by which positive credentials exert influence is through the formal protection of privileged positions. Educational attainment, for example, provides access to a wide range of occupations that accept applicants only with particular educational credentials. Likewise, medical and legal occupations, among others, require specific professional licensure, in addition to mandatory educational credentials for individuals who wish to practice in these fields. These formalized ports of entry directly shape the allocation of individuals across the stratification hierarchy by limiting access only to those with appropriate credentials (Collins, 1979).

There is substantial disagreement over the extent to which credentials certify an individual's actual abilities or accomplishments rather than merely legitimating his/her existing behavioral or personality traits. In the case of educational attainment, for example, the acquisition of human capital represents the explicit emphasis, while some argue that cultural knowledge and dispositions matter as much or more for educational success (Bourdieu, 1977). Likewise, there remains debate over whether credentials solely assist information flows (by certifying particular skills or experiences) or whether they represent independent gatekeepers of privilege, accessed through the monopolization of opportunities (Collins, 1979). While I will not enter a prolonged debate on this question, it seems safe to say that positive credentials provide an upward boost, net of the underlying skills or achievements by which they were attained.

In addition to the formal opportunities afforded by positive credentials, these status markers also provide access to a wide range of social privileges. Individuals with high levels of educational attainment or high occupational standing have access to social networks and informal opportunities that can reinforce or enhance their existing

advantage. The effects of positive credentials, therefore, work through both formal and informal channels, each with important consequences for stratification.

Processes of stratification based on positive credentialing tend to have high moral legitimacy, as they operate through what is perceived to be largely meritocratic processes of allocation. Individual effort and achievement—however facilitated by existing advantages—are seen as the most just basis on which to allocate social and economic rewards. Official certification based on uniform criteria, therefore, is favored over the arbitrary system of stratification by ascribed group membership.

Negative Credentialing

Typically stratification researchers do not assign a valence to the concept of 'credential.' The term has almost exclusively referred to formal attributes that enhance opportunities, as described above. By contrast, I find it useful here to differentiate between positive and negative credentials, highlighting a fundamental difference between the two: positive credentials enable opportunities; negative credentials impose constraints.

Similar to positive credentials, negative credentials are acquired through formal designation whereby agents acting in an official capacity certify membership. But unlike positive credentials, negative credentials single out their bearers for discrimination or exclusion from key domains of social life. A prison record represents an archetypal example of negative credentialing. Though resulting in large part from an individual's behavior, it is the state who decides which individuals are convicted and which are sent to prison. The negative credential of a prison record then plays a key role in shaping stratification by generating a criminal class with restricted rights and privileges. As

discussed in the previous chapter, individuals with criminal records face unique constraints in their options for employment, housing, political participation, among other stratification outcomes. Though states vary in the duration for which a criminal record forms the legal basis for exclusion (from less than a year to a full lifetime), the aggregate consequences across social domains and across the population of ex-offenders are immense.

In addition to the formal or legal constraints on opportunity, negative credentials have further social costs. Like many ascribed group memberships, negative credentials confer a stigma upon their bearers, adding informal constraints to those imposed by the state. As discussed in chapter seven, a criminal record can have profound consequences for the immediate and long-term experiences of ex-offenders, shaping their interactions, their expectations, and their opportunities.

Unlike ascribed forms of stigma, however, negative credentials maintain a high degree of moral legitimacy. Because a prison record results at least in part from an individual's voluntary decision to commit crime, the assignment of this negative credential appears fully warranted. Though prison inmates are disproportionately poor and disproportionately black, a criminal record serves to differentiate between the "good poor" and the "good blacks" from those who have succumbed to the temptation of illicit activity. In this way, the process of negative credentialing provides official certification for the undeserving underclass.

Theoretically, it is important to consider the role of negative credentials in the current stratification regime. The certification of an individual's transgressions in the form of an official social (and political) status represents a new mode of differentiation,

distinct from the more common forms of stratification discussed above. To the extent that we believe delinquency or criminal activity represents a stable underlying character trait—in the way we believe that high achievement in school represents a stable underlying skill base—the credentialing process effectively recognizes individuals headed for trouble, appropriately blocking access to social arenas in which their presence could be disruptive. On the other hand, if the credential itself exacerbates negative outcomes—as the audit study seemed to indicate—this mechanism may do more than merely sort and certify. The negative credential can in itself produce new forms of durable inequality.

Shifting Rules, Common Outcomes

As a society, we are moving toward a stratification regime whereby key opportunities and resources are allocated on the basis of formally designated status positions. Instead of relying on ascribed markers to determine social status, individuals are increasingly sorted by formal institutions of stratification: schools, jobs, and, more recently, prisons. Generally stratification based on formal credentials has high legitimacy because credentials are viewed as more objective, reasoned bases for allocating social rewards. Interestingly, however, it is not clear that this radical change in the mechanisms of allocation will have much significance for the composition of status holders. Some question, for example, whether positive credentialing does anything more than legitimate existing inequalities by providing “objective” designation of an individual’s merit while relying on ascriptive characteristics to assign these designations (Bourdieu, 1977; Hout, Raftery, & Bell, 1993). Likewise, one could argue that negative credentialing serves a

similar purpose: By providing official designation of an individual's criminal character, it becomes possible to invoke a morally legitimate rationale for marginalizing the already socially disadvantaged. Thus even as the rules change, the outcomes may remain the same.

At this point in history, it is impossible to tell whether the massive presence of incarceration in today's stratification system represents a unique anomaly of the late 20th century, or part of a larger movement toward a system of stratification based on the official certification of individual character and competence. In many people's eyes, the criminal justice system represents an effective tool for identifying and segregating the objectionable elements of society. Whether this process will continue to form the basis of emerging social cleavages remains to be seen.

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