

# Breaking Down Barriers

## Experiments into Policies That Might Incentivize Employers to Hire Ex-Offenders

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### Key findings

- Our findings are based on 107 employers who responded to our survey. We obtained a response rate of 3.4 percent, which is a key limitation of this study. Employers from 34 states are included, and nearly all were from private-sector firms (97 percent). The majority of respondents were from firms with fewer than 100 employees and were largely managers or owners (58 percent) and human resource professionals (21 percent).
- With a baseline policy of a discount on a staffing agency fee set at 25 percent of the hourly wage and post-conviction certification verifying adherence to company rules or code of safe practices, 4.3 out of 10 employers would consider hiring someone with one nonviolent felony conviction.
- With the same baseline policy and a guaranteed replacement worker program, in which an agency would send a replacement worker if the ex-offender is unsuitable, that number rises to 7.3 out of 10.
- With a baseline policy of a tax credit for 25 percent of a worker's wages (up to \$2,500) after a worker has put in 120 hours and a post-conviction certification verifying adherence to company rules or code of safe practices, 5.9 out of 10 employers would consider hiring someone with one nonviolent felony conviction.
- With the same baseline policy and a 40-percent tax credit (up to \$5,000), double the current maximum value of the Work Opportunity Tax Credit for ex-felons, the number is 7.7 employers out of 10.
- With the same baseline policy and a validated work performance history, that number rises to 8.1 out of 10.

**SUMMARY** ■ The rate of criminal punishment in the United States has had far-reaching economic consequences, in large part because people with criminal records are marginalized within the labor market. According to a 2008 estimate (Rodriguez and Emsellem, 2011), 64.6 million Americans (25 percent of the population) have a criminal record, and of that group, 19.8 million have at least one felony criminal conviction (Shannon et al., 2011).<sup>1</sup> Evidence shows that people with a criminal record have substantially lower probabilities of being hired, even compared with other disadvantaged individuals—such as welfare recipients, high school dropouts, unemployed people, and those with “spotty” work histories—who do not have a criminal record (Holzer, 1996).

Given these negative economic implications, federal, state, and local officials have developed a host of policies to encourage employers to hire ex-offenders, with varying degrees of success. Examples include the “Ban the Box” policy, which delays the point in the recruitment process that criminal-background information is made available to employers; the federal Work Opportunity Tax Credit (WOTC); certificates of rehabilitation, which restore rights to convicted felons; and programs supported by Department of Labor Reintegration of Ex-Offenders grants. But all these programs to incentivize the hiring of ex-offenders have important limitations to improving ex-offender employment.

To inform policies and programs aimed at improving employment rates for ex-offenders, we conducted experiments to examine employer preferences regarding policy options targeted to incentivizing the employment of

individuals with felony criminal records. Findings from recent policy evaluations, reviews of services for ex-offenders, and interviews with human resources professionals and construction supervisors informed which policies we tested with employers.

One way to predict the hiring behavior of employers is to conduct a discrete choice experiment (Ben-Akiva and Lerman, 1985), a quantitative method in which people are asked to state their preferences regarding hypothetical goods or services—or, in this case, policies. We emailed employers a survey that began with a narrative describing a situation in which the employer is hiring for an entry-level position and has two job candidates, both of whom have the technical skills for the entry-level job and one nonviolent felony conviction, but who are each supported by different policy features. We linked one set of policy features to a tax credit and a second set to a staffing agency discount.

Each employer was asked to rank the candidates based on the employer's likelihood of advancing the candidate to the next stage of recruitment for the entry-level job.<sup>2</sup> Respondents could also opt out, thereby indicating they would not advance either candidate. Through empirical analysis of their responses (using a conditional logit model), we identified how much more likely employers would be to consider hiring an ex-offender with a particular policy feature than without (i.e., compared with a “baseline” policy package).

We also asked follow-up questions to directly assess employers' considerations when hiring workers with criminal records. One asked respondents to rank from most important to least important the following potential issues of consideration in hiring someone with at least one felony conviction:

- time since the last felony conviction
- any violent felony conviction
- how they will interact with other staff
- how they will interact with clients or customers
- workplace liability issues
- ability to get to the job on time
- whether they have the skills to get the job done.

Our findings on the relative benefit to employers of the policies studied suggest that **staffing agencies and reentry or reintegration programs** (e.g., grantees of the Department of Labor's Reentry Employment Opportunities program) could further increase the likelihood of employment for people with a criminal record if they guarantee prospective employers a replacement employee. In fact, according to our results, this

may be one of the most effective policies to incentivize employers to hire ex-offenders.

Our results also indicate that **state policymakers** should consider expanding post-conviction certification programs. Across both the tax credit and staffing agency discount experiments, employers demonstrate a clear preference for wanting to know whether an ex-offender job candidate has a consistent work history and verifiable positive employment references versus simply knowing whether the person follows company codes of conduct. Currently, post-conviction certificates that use this sort of information to verify employability are available in only a few jurisdictions, and some of the existing programs are not accessible until many years after a felony conviction (e.g., seven years after jail or prison release in California).

Another recommendation, particularly for **federal policymakers**, is to reduce the paperwork related to the WOTC. The likelihood that employers would advance someone with a nonviolent felony criminal record to the next recruitment round increased by 24 percent when they did not have to fill out the amount of paperwork currently required for the WOTC. Government agencies could also consider providing help to prepare and submit the forms.

Lastly, for all **policymakers, staffing agencies, and reentry practitioners**, ensuring reliable transportation to and from a job site for candidates with a criminal record increases the likelihood an employer will support hiring such individuals. As with reducing paperwork, the impact of this policy is more limited than many of our other tested policy features.

Importantly, we note that this report focuses on the benefits of incentivizing firms to hire people with criminal records with respect to ex-offender employment outcomes. Policymakers and other implementers would need to consider the cost of each policy, something outside the scope of this study, taking into account local contexts. There are likely a large number of variables with respect to implementation needs, target populations, and available local resources that would be worth investigating to understand the return on investment for the policies studied. A potential funding source for local, state, or tribal governments to cover costs of programs we considered is the federal “Second Chance” program, which provides funding for employment training, mentoring, substance abuse and mental health treatment, and other family-centered services to formerly incarcerated individuals (Bureau of Justice Assistance, undated).

## BACKGROUND

According to a 2008 estimate, 64.6 million Americans (25 percent of the population) have a criminal record, meaning they have been arrested for at least one misdemeanor or felony at some point in their lives (Rodriguez and Emsellem, 2011). Regarding more severe offenses, 19.8 million people have at least one felony criminal conviction (Shannon et al., 2011).

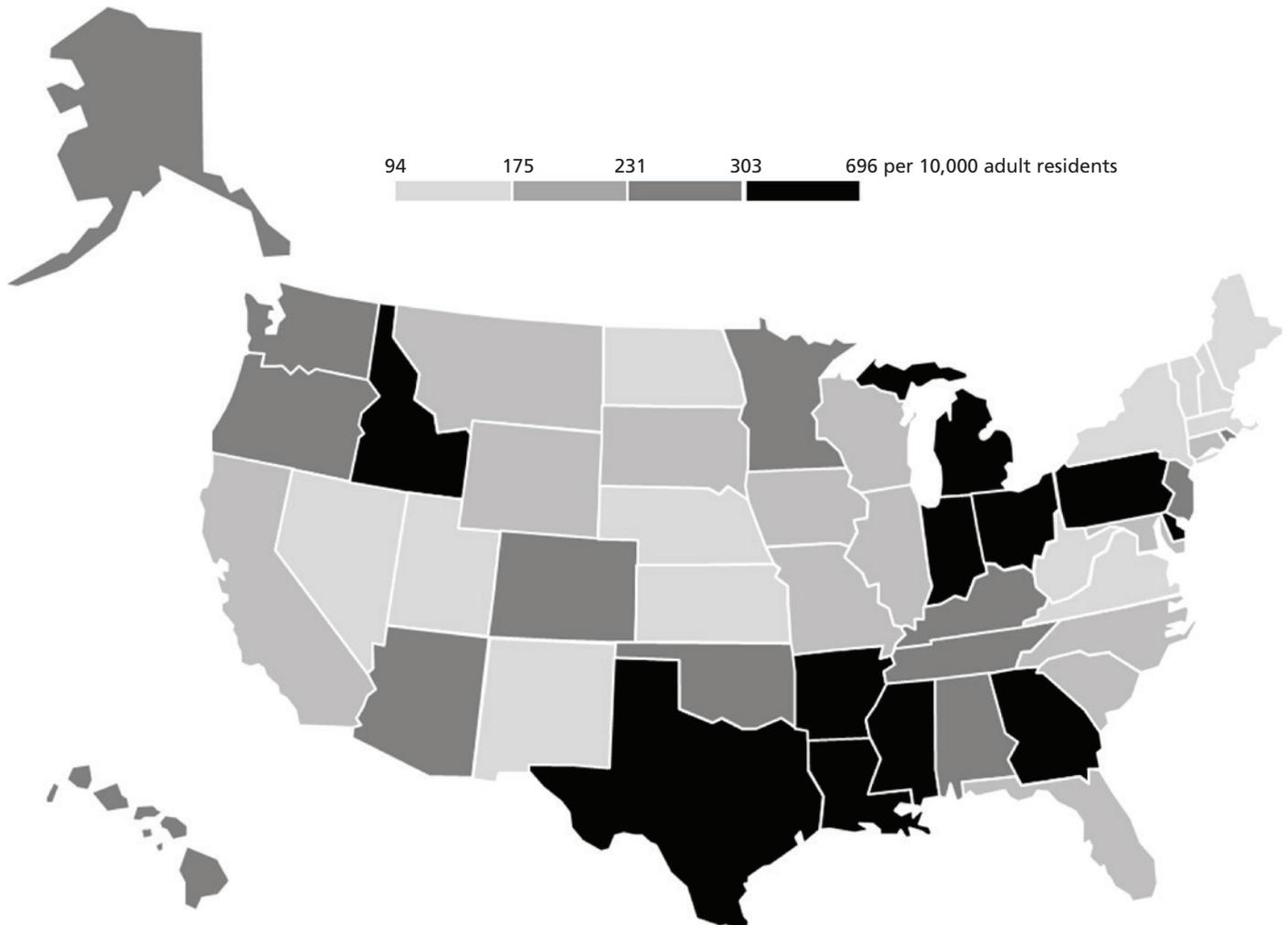
By the end of 2015, the total adult correctional supervision population—including those incarcerated in local jails, state prisons, or federal prisons and those on community supervision (probation or parole)—was nearly 6.8 million (Kaeble and Glaze, 2016). Of this population, approximately 70 percent were on community supervision. Viewed another way, 2.7 percent of U.S. adult residents (age 18 or older) are incarcerated or on community supervision. Moreover, correctional supervision

rates vary significantly from state to state (Figure 1), ranging from approximately 0.9 percent of adult residents in Maine to 7 percent of adult residents in Georgia (Kaeble et al., 2016).

## Incarceration and Labor Market Outcomes

Having a criminal record significantly reduces the likelihood of progressing in the job application process. Experiments show that individuals with a criminal record who have identical levels of competence and employability characteristics as those without a criminal record are less likely to be interviewed and hired (Pager, 2003; Pager, Western, and Sugie, 2009; Decker et al., 2015). Negative effects on labor market outcomes are especially damaging for young, low-skilled men with a criminal record who are 6 percentage points less likely to be employed and to earn between 14 and 26 percent less on

**Figure 1. Map of U.S. State Adult Correctional Supervision Systems Population, by Quartile**



SOURCE: Kaeble and Glaze, 2016.

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average than their nonoffender counterparts (Geller, Garfinkel, and Western, 2006). Such an earning differential can make ex-offenders and their households more vulnerable to negative economic shocks, further affecting their earnings and employment rates.

## The Economic Implications of Criminal Records

The economic and social implications of limited labor market opportunities for incarcerated individuals after their release may be amplified if there is a causal relationship between employment and recidivism. Indeed, arguments in favor of developing policies and training programs to improve labor market outcomes for ex-offenders often derive from the intuition that gainful employment will help previously incarcerated individuals avoid future arrest and incarceration. Evaluations of job training and transitional jobs programs for criminal offenders have generally found little to no impact on recidivism (Wilson, Gallagher, and MacKenzie, 2000; Visher, Winterfield, and Coggeshall, 2005; Redcross et al., 2012; Cook et al., 2015; Wiegand et al., 2015), though the level of employment or earnings improvement provided by these programs may have been insufficient to produce substantial effects on recidivism outcomes (for an excellent discussion, see Lattimore, Steffey, and Visher, 2010).

Given the scale of incarceration and the associated poor economic outcomes among low-income households, the high rates of incarceration in the United States could be affecting metrics used to assess economic performance of the U.S. economy, such as income inequality. Prior literature has described two of the key mechanisms by which high rates of incarceration could influence poverty in low-income households: Primary earners cannot contribute to the household during incarceration, and primary earners provide less income after release (Freeman, 1990; Clear, Rose, and Ryder, 2001; DeFina and Hannon, 2013). Meanwhile, middle- and higher-income households may have been able to take advantage of economic opportunities (e.g., financial globalization) or benefited from changes in the wage structure resulting from skill-biased technological change.

Empirically identifying how the individual-level relationship between incarceration and poor labor market outcomes translates into aggregate measures of income inequality is difficult to determine (Wildeman and Muller, 2012). However, as incarceration rates grew by 350 percent between 1978 and 2007 (Kaeble and Glaze, 2016), income inequality grew

substantially as well. Income (after federal taxes and transfers) grew by 275 percent for the top 1 percent of households and by 40–60 percent for the next 79 percent of households, but income grew by only 18 percent for the lowest quintile (Congressional Budget Office, 2011). Factors shown to affect recent income inequality growth in the United States include trade and financial globalization (Jaumotte, Lall, and Papageorgiou, 2013) and the effects of skill-biased technological change on the wage structure (Card and DiNardo, 2002).

While increasing income inequality during this period was likely the result of a multitude of factors, many of which have been studied, less attention has been given to the role that incarceration may have played in income disparities (DeFina and Hannon, 2013). Notably, it may be that incarceration is having a wider impact on the economy, and addressing labor market challenges facing this population could have far-reaching positive effects.

## Understanding Why Ex-Offenders Have Poor Labor Market Outcomes

Several theories have been proposed to explain the mechanisms driving the strong and consistent negative relationship between incarceration and labor market outcomes (Pager, 2003). On the one hand, having a criminal record is associated with lower productivity and reliability (Gottfredson and Hirschi, 1990; Grogger, 1995; Needels, 1996; Heckman, Stixrud, and Urzua, 2006; Kling, 2006; Visher, Debus-Sherrill, and Yahner, 2011), so ex-offenders may have fewer job offers and earn less because they are less-productive employees. On the other hand, ex-offenders earn less even if they have observable characteristics identical to people without a criminal record (Pager, 2003). There are two sets of economic discrimination theories to explain why firms choose not to hire ex-offenders even when they possess the necessary skills for a job (Lundberg and Startz, 1983):

1. Employers worry that their clients or employees associate ex-offender status with being a high-risk worker, so the preferences of the majority of employers, employees, and customers generate labor market gaps between equally skilled people with and without a criminal record (taste-based discrimination).
2. Employers cannot be certain about the productivity levels of prospective workers (in terms of how many goods or services they can produce or if they will steal or harm other workers or customers, thus increasing the cost of labor). So, employers use characteristics they can observe

that are correlated with productivity to determine whom to hire. A criminal record signals lower productivity, which generates the labor market gaps between ex-offenders and identically productive people without a criminal record (statistical discrimination).

In this section, we further describe these theories and the empirical evidence of which we are aware.

### *On Average, a Criminal Record Is Associated with Lower Productivity*

Some research has suggested the relationship between incarceration and labor market outcomes is not causal, but instead reflects preexisting characteristics of an individual that increase the likelihood of both incarceration and an inability to obtain and maintain a job (Gottfredson and Hirschi, 1990; Grogger, 1995; Needels, 1996; Heckman, Stixrud, and Urzua, 2006; Kling, 2006; Visher, Debus-Sherrill, and Yahner, 2011). Characteristics associated with lower productivity are more prevalent in the ex-offender population even prior to and after incarceration, which may explain why these individuals experience fewer employment opportunities and lower wages on average. Table 1 highlights some of these characteristics.

Ex-offender characteristics related to reliability are also important drivers of employers' reluctance to hire formerly incarcerated individuals (Bushway, 2004). Since hiring is costly (e.g., direct costs of training, opportunity costs of recruiting new employees), employers may place a premium on worker stability and reliability (Doleac, 2016; Holzer, Raphael, and Stoll, 2004).

Some characteristics associated with criminal justice involvement and higher absenteeism or reduced labor market attachment (and thus higher recruitment costs) include the following:

- **Recidivism:** People who have been incarcerated are more likely to be incarcerated again (Durose, Cooper, and Snyder, 2014), and thus be unable to work.
- **Residential mobility:** The formerly incarcerated are more likely to move around (Harding, Morenoff, and Herbert, 2013), which can lead to joblessness.
- **Access to transportation:** Financial implications of a criminal record or a sentence of the loss of a driver's license can limit access to transportation, and poor transportation (e.g., no vehicle, lengthy public transportation options) can lead to lower employment rates (Raphael and Rice, 2002; Gurley and Bruce, 2005; Lichtenwalter, Koeske, and Sales, 2006; Baum, 2009; Chamberlain, Boggess, and Powers, 2016).

### *Taste-Based Discrimination Theory: How Stigma Leads to Poor Labor Market Outcomes*

Statistics show that individuals with a criminal record have lower productivity on average, but it is not the case that everyone with a criminal record has low productivity. One explanation for why technically qualified people with a criminal record have poor economic outcomes is that employers have a "taste" for certain groups over others, so even highly qualified people with a criminal record may have difficulties being hired, a theory known as taste-based discrimination (Becker, 2010).

**Table 1. Characteristics Common Among the Ex-Offender Population**

Characteristic	Description
Less education and job experience	<ul style="list-style-type: none"> <li>• Members of this population have lower levels of education and job experience, even prior to incarceration, than nonoffenders (Freeman, 1992; Uggen, Wakefield, and Western, 2005)</li> <li>• Labor market absences resulting from incarceration may lead to additional depreciation of human capital, further reducing individuals' productivity (Becker, 1975)</li> </ul>
Poor health	<ul style="list-style-type: none"> <li>• Ex-offenders have higher rates of physical or mental health problems (Petersilia, 2000; James and Glaze, 2006; Morgan et al., 2010)</li> <li>• Ex-offenders have higher rates of substance use disorders (Fazel, Bains, and Doll, 2006; Chandler, Fletcher, and Volkow, 2009)</li> <li>• Ex-offenders have higher rates of comorbidities, specifically substance use disorders and serious mental illness (National Research Council and Institute of Medicine, 2013)</li> </ul>
Poor social skills	<ul style="list-style-type: none"> <li>• Incarceration can deteriorate social skills needed for the labor market or lead to the dissolution of a social network connected to legitimate job prospects (Hagan, 1993)</li> </ul>

In this conceptualization of labor market discrimination, the preferences or biases of employers are fixed and concentrated among a subgroup of employers—e.g., “felon-unfriendly industries.” Because it is relatively costly to pursue jobs in felon-unfriendly industries, Fryer and Levitt (2004) recommend that ex-offenders avoid these employers and only seek jobs with more-accepting hiring policies.

### **Signaling Theory: Criminal Records Send Signals That Can Result in Poor Labor Market Outcomes**

Again, not everyone with a criminal record has low productivity, yet experiments show that individuals with a criminal record are less likely to be interviewed and hired than applicants who have identical levels of competence and employability characteristics but no criminal record (Pager, 2003). Therefore, there is something beyond the correlation between a criminal record and productive characteristics that influences employment of ex-offenders.

One theory, statistical discrimination, explains how a criminal record is a signal of poor productivity and reliability that employers making hiring determinations apply to everyone with a criminal record, regardless of whether it is accurate for an individual or not. Because it is challenging for recruiters to know who will be productive and reliable, they may rely on low-cost signals (Spence, 1973), such as a history of previous incarceration. Thus, any person with a criminal record will be treated as if he or she has low productivity, leading to poorer economic outcomes for the group as a whole.

Indeed, evidence shows that limiting criminal record information available to employers may lead to significantly worse outcomes for low-skilled, minority job candidates, regardless of their criminal history (Agan and Starr, 2016; Doleac and Hansen, 2016; Shoag and Veuger, 2016). This result suggests that employers rely on statistical generalizations when making hiring decisions; namely, they assume that low-skilled minorities are more likely to have a criminal record and a criminal record is associated with lower productivity. This would indicate that there is a market for productivity information; changes in policy or firms that could fill this gap may help to correct this market inefficiency.

While it might seem that referencing past employers should fill this information gap, research shows most employers do not provide information beyond dates of employment and job titles (Verkerke, 1998; Cooper, 2001; Finkin and Dau-Schmidt, 2009; Long, 2015). In a 2004 member survey by the Society for Human Resource Management, 53 percent of human resource

professionals indicated they refused to provide *any* information on a former employee for fear of litigation (Society for Human Resource Management, 2005). Therefore, other policies may be needed to help correct this market inefficiency.

### **Policies That Aim to Promote Employment of Ex-Offenders**

The empirical evidence that ex-offenders earn less because they have characteristics associated with lower productivity and reliability would imply that their employment and earnings could plausibly be improved through

- increased provision of services to ex-offenders that treat mental health and substance use problems
- increased educational attainment or work qualifications
- improved social or communication skills
- provision of labor market intermediaries to assist in matching ex-offenders with employers.

While many of these services exist, their effectiveness depends on whether information about an ex-offender’s attributes is made available to employers, whether perceptions of employers align with the information provided, and to what extent employers evaluate this information while sorting workers when hiring.

Therefore, rather than focusing on building the skills of ex-offenders, some policies are designed to address employers’ concerns by directly offsetting actual or perceived costs of employing an ex-offender (Work Opportunity Tax Credit, the Federal Bonding Program [undated]),<sup>3</sup> other policies focus on improving the signaling ability of ex-offenders seeking employment (Ban the Box), and some policies may do both (certificates of rehabilitation). We describe some of the existing employment-related policies targeting these mechanisms.

### **Work Opportunity Tax Credit**

The WOTC, introduced in 1996, is a federal tax credit available to for-profit employers who hire workers from certain populations that have historically faced substantial barriers to employment, including “ex-felons” per the official language. Companies are generally eligible to receive a tax credit of up to \$2,400 for each new individual they hire who has a felony conviction or prison release date within one year of being hired. State Employment Security agencies are responsible for certifying whether a new hire meets the WOTC eligibility requirements (Scott, 2013). The exact size of the tax credit is a

function of the wages paid to the employee during the first year of employment and the number of hours worked (U.S. Department of Labor, 2017). For the employer to receive the subsidy, the employee must receive wages for at least 120 hours of work (for a 25-percent wage subsidy up to \$1,500 maximum; 400 hours for a 40-percent wage subsidy up to \$2,400 maximum), and the credit is granted only for the first year of employment. The majority of credits are issued to firms in the top fifth percentile of the firm size distribution, with a disproportionate share issued to temporary help agencies (Hamersma, 2014). In fiscal year 2013, nearly 1.6 million WOTC certifications were issued, of which 2.7 percent went to ex-felons (U.S. Department of Labor, 2014).

The WOTC for hiring ex-felons is designed to improve this group's employment prospects by compensating employers for the perceived risk or perceived lower productivity of this population. To our knowledge, no study has evaluated the effects of the WOTC for ex-offenders specifically, but existing evidence generally shows that the subsidy program has limited impact on increasing employment or earnings for disadvantaged workers (Hamersma, 2003; Hamersma, 2008; Hamersma and Heinrich, 2008). Reasons cited for the limited effects on labor market outcomes include:

- **Awareness:** The majority of employers are unaware of the tax credit's availability (Brisman, 2004; Fahey, Roberts, and Engel, 2006).
- **Reliability:** Because the WOTC was established as a temporary provision of the Internal Revenue Code, the program must be reauthorized annually by Congress (Scott, 2013) and the provision's frequent expiration and relatively short extensions mean the tax credit is often unavailable to employers and financial compensation is not always guaranteed (Taboada, 2016).
- **Incentive amount:** The financial incentives may not be sufficient to compensate employers for both the perceived costs of hiring an ex-felon and the administrative costs associated with completing and processing the requisite paperwork to receive the tax credit (Hamersma, 2011). Indeed, one study evaluating the effects of a tax credit expansion for disabled veterans found increasing the tax credit to \$4,800 (twice the amount employers can receive for hiring an ex-felon) increased veterans' employment rate by 2 percentage points (Heaton, 2012). Therefore, we might expect that the incentive amount would need to increase to have a meaningful effect on ex-felons' employment rates.

## Ban the Box

Recent years have seen a rapid expansion in state and local adoption of "Ban the Box" (BTB) policies, which are intended to limit employers' use of information about criminal history in making hiring decisions. Since Hawaii first implemented a BTB policy in 1998, 28 states (and local jurisdictions) have adopted similar legislation. While the specific designs of these policies vary across states, they all serve to ban employers from asking job applicants about criminal records until late in the hiring process.

By delaying employers' ability to use a job applicant's criminal history as a signal of low employability, BTB policies aim to encourage ex-offenders to apply for positions (Hlavka, Wheelock, and Cossyleon, 2015) and to increase the likelihood that they are selected for a job interview, providing them with an opportunity to mitigate discrimination through face-to-face contact and, in turn, improve their employment outcomes (Altonji and Pierret, 2001). One study conducted in Honolulu County found Hawaii's BTB significantly reduced recidivism among ex-felons (D'Alessio, Stolzenberg, and Flexon, 2015), suggesting such policies present large potential benefits.

But recent research suggests there are negative unintended consequences associated with BTB policies. Evidence shows that employers in states with such policies are less likely to hire black and Hispanic males with low skill sets because these groups have relatively higher criminal conviction rates than whites (Agan and Starr, 2017; Doleac and Hansen, 2016). For more on this, see the "Unintended Consequences" box.

### Unintended Consequences of BTB

One potential negative unintended consequence of the BTB policy stems from employers wanting information about criminal history early in the recruitment process. Because the BTB policy prevents them from having it, they make inferences based on observable characteristics associated with having a criminal record and screen out job candidates accordingly.

Because recruiting is costly, employers may rely largely on imperfect but readily observable information to help determine whom to hire. Because BTB policies delay information-gathering on criminal records, employers may use other observable characteristics associated with criminal justice involvement—such as age, gender, and race—to infer criminal records and not interview people possessing such characteristics.

## ***Certificates of Rehabilitation, Good Conduct, Relief, or Employability***

A certificate of rehabilitation (CoR) is a judicial order in which, typically, a court determines that an individual has shown exemplary behavior and declares them judicially rehabilitated. Eleven states offer some type of certificate.<sup>4</sup> CoRs vary across jurisdictions, as states differ in their levels of protection, eligibility criteria, and procedures for the certificate. Examples of the types of eligibility criteria include no pending cases and no subsequent felony convictions. There are a number of other more subjective factors that judges consider, including family life, conduct while in prison, and employment and schooling. The CoRs can (1) allow access to state or business licensing, (2) automatically apply an individual for governor's pardon, and/or (3) protect employers from negligent hiring claims—which have the intended benefits of improving individuals' economic and social well-being.

We might expect that allowing individuals to earn trade licenses and receive pardons would result in improved employment outcomes. We are aware of one experimental evaluation of the impact of CoRs on labor market outcomes using the Ohio Certificate of Qualification of Employment, which an individual with a felony conviction can apply for in Ohio one year after release or during all periods of supervision after release. Leasure and Andersen (2016) studied the impact of the Ohio certificate using an audit (or experimental-correspondence) approach by sending three sets of fictitious résumés that all had the same professional characteristics except that one set did not indicate a criminal record, a second set indicated a felony drug conviction and the Ohio CoR, and a last set indicated the same criminal record but did not have an Ohio CoR. The authors found that call-back rates for individuals with a felony drug conviction and a CoR (25.4 percent) were not statistically different from individuals without a criminal record (29.0 percent). The call-back rates of these two groups were significantly better than the group with the same criminal record and no CoR (9.8 percent). A related study by Denver, Siwach, and Bushway (2017) in New York found that provisionally hired individuals with criminal records who received a background check clearance had a statistically significant lower likelihood of a subsequent arrest up to three years after their last arrest.<sup>5</sup>

While positive results were found in Ohio, there are concerns about how useful CoRs are in other jurisdictions where the criteria to obtain a certificate are more restrictive (American Bar Association, 2007). For example, in California, an

individual cannot apply for a certificate until seven years after release. However, the first few years after release can have long-term negative impacts on ex-offenders' labor market opportunities, and thus may represent the time period when ex-offenders need the most help.

## ***Transportation Services***

There has been a relatively recent discussion that limited access to transportation may have negative economic consequences for the ex-offender population. Auto ownership has been shown to increase employment rates (Raphael and Rice, 2002; Lichtenwalter, Koeske, and Sales, 2006; Baum, 2009), and a criminal conviction may limit access to transportation because of the financial implications of a criminal record or because of a sentence that includes the loss of a driver's license (Samuels and Mukamal, 2004). Loss of driving privileges may be of particular importance for influencing labor market outcomes by limiting the geographic area for employment opportunities, restricting employment from certain occupations in which a driver's license is a requirement, or creating challenges for commuting (Chamberlain, Boggess, and Powers, 2016).

To help prevent the negative employment consequences associated with this issue, there are some employment and training programs for ex-offenders that include a transportation component. For example, one construction training probation program includes transportation to help support completion of classes (Breton, 2015). We are not aware of any evaluations that study the employment or earnings impact of providing steady transportation for people with criminal records.

## ***Staffing Guarantee and Warranty Replacement Workers***

Although not a policy designed for ex-offenders specifically, some staffing agencies offer a warranty to their business clients under which the staffing agency will send a replacement employee if a new employee is incompetent or unsuitable for the job (American Staffing Association and National Association of Personnel Services, 2005). Usually, there is a stated time frame in which the company must identify whether an employee is a not a good fit and request a replacement (e.g., 24 business hours). Furthermore, staffing agencies tend to indicate that the business does not have to pay the staffing agency fee for the employee who did not work out. Businesses may find this service important for minimizing costs and

maximizing production. We are not aware of any evaluations determining the impact of this service on employment rates.

## HOW WE STUDIED THE POLICY PREFERENCES OF EMPLOYERS

To identify policies that could increase employment rates of workers with criminal records, we conducted two policy experiments using a survey-based, modified-discrete choice experiment approach.<sup>6</sup> We chose two scenarios—a tax credit and a staffing agency—because employers are already familiar with both and doing so allowed us to explore public (tax credit) and private (staffing agency) options. Furthermore, while staffing agencies are one way that employers recruit new employees, some staffing agencies will hire ex-felons,<sup>7</sup> though many will not (Rodriguez and Emsellem, 2011). Thus, we decided using a staffing agency would be an interesting setting to test employers' preferences within our experimental design.

While the policy features studied in the experiments are largely hypothetical, they are based on the federal WOTC; local and state BTB laws; services of probation, parole, and re-entry programs; and services of employment or staffing agencies. We also asked employers two follow-up questions about their primary concerns regarding hiring felony ex-offenders and their views on how useful previous work performance information would be when considering the hiring of ex-offenders. In this chapter, we provide more details of the survey procedure, contents of the survey, and characteristics of the respondents.

## Survey Design and Procedure

### Survey Development

We began by developing an initial list of policy features based on existing policies as already described, and previous survey literature focusing on employers' preferences (Albright and Denq, 1996; Giguere and Dundes, 2002; Holzer, Raphael, and Stoll, 2004; Graffam, Shinkfield, and Hardcastle, 2008; Lukies, Graffam, and Shinkfield, 2011; Lageson, Vuolo, and Uggen, 2015). Then, as suggested by Coast et al. (2012), we revised the list through prestudies and pretests. The final survey includes two survey-based experiments (six questions within each experiment) and a set of follow-up questions regarding professional considerations when hiring ex-offenders and previous experience hiring ex-offenders.<sup>8</sup> We provide specific details

of this process in a separate technical appendix available online (Hunt et al., 2017).

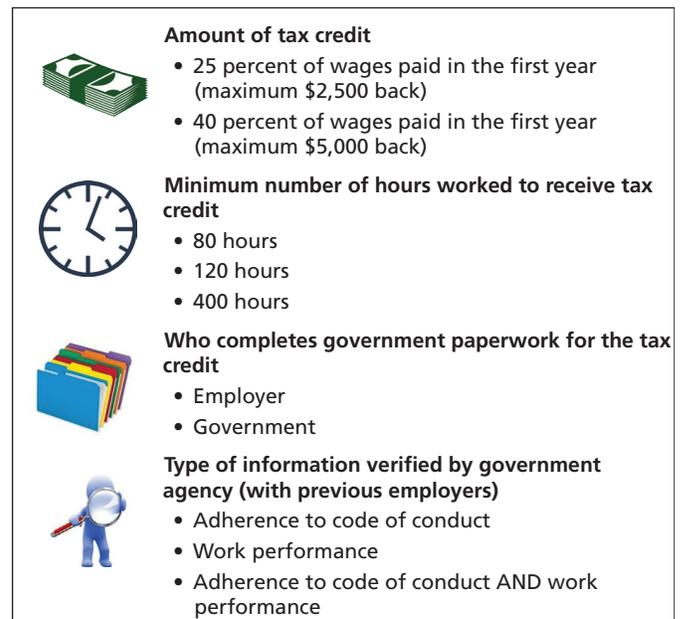
### Details of the Survey-Based Experiment Questions

In the first experiment, for the tax credit, we started with a written narrative about an employer recruiting for an entry-level job with two candidates of interest, each with the technical skills to do the job and a nonviolent felony conviction. (To see an illustration of what was shown to respondents, see Figure A.1 in the online appendix). The narrative explained that government employment agencies offer a tax credit to employers for hiring people with criminal records and that the candidates of interest are associated with different government agencies in terms of

- the amount of the tax incentive
- the type of information verified by the government agency providing the tax incentive (i.e., employer-provided information on past work performance and/or adherence to code of conduct)
- the minimum number of work hours required to receive the tax credit
- the government paperwork for the tax credit.

The policy features could take on one of the values shown in the bullets in Figure 2.

**Figure 2. Amounts of Each Feature Tested for Staffing Agency Experiment**



Employers were asked to rank the two candidates based on their likelihood to advance the candidate to the next stage of recruitment for the entry-level job;<sup>9</sup> respondents could also opt out and thus indicate they would not advance either candidate.<sup>10</sup>

The second experiment started with a similar narrative about an employer recruiting for an entry-level job and two of their staffing agencies each proposing a candidate with the same technical skills needed for the job and one nonviolent felony conviction. However, the agencies of the candidates differ in terms of

- the amount of a cost discount offered for use of staffing agency services
- staffing agency provision of consistent transportation to and from the workplace
- a guaranteed replacement worker by the staffing agency if the candidate is not a good fit
- the type of information from previous employers verified by the staffing agency (i.e., work performance and adherence to code of conduct).<sup>11</sup>

The policy features could take on one of the values shown in Figure 3. Again, employers were asked to rank the two candidates or opt out. For an illustration of what was shown to respondents, see Figure A.2 in the online appendix.

As described earlier, these policy features shown in Figures 2 and 3 were chosen based on a review of the literature, actual policies, and pretests. With respect to the tax credit, the

amounts of the tax credit and minimum hours worked were based on the WOTC. We test a lower level of minimum hours worked than the policy currently allows, and higher maximum credit amounts. The idea of including verification of work experience and adherence to code of conduct from previous employers was based on:

- known challenges obtaining performance assessments from previous employers (Finkin and Dau-Schmidt, 2009; Long, 2015)
- implications of findings from BTB evaluations (Agan and Starr, 2017; Doleac and Hansen, 2016)
- questions around the effectiveness of CoRs.

The paperwork feature was based on interviews with human resource professionals, who noted that administrative burden associated with the WOTC could be an important barrier to program take-up. For the staffing agency experiment, the amount of the discount is similar to the tax credit amounts, and the concept of staffing agencies providing transportation for ex-offenders is limited but we are aware of one example (Martin, 2016). Guaranteed replacement policies are a fairly standard policy (American Staffing Association and National Association of Personnel Services, 2005), and pretest interviews with supervisors in the construction field suggested this could be a valuable policy for this context; however, we are not aware of any study that considers this policy to mitigate actual or perceived risks to employers that hire an ex-offender.

We asked the post-conviction certification question in both contexts because there has been a question raised in several academic and policy circles about whether employers value a certification performed by a government agency more, less, or the same as a private firm. While the context of our study would not allow us to directly explore that question, we could test whether the post-conviction certificate was valued as highly as other policy features provided by each of those stakeholders.

### Follow-Up Survey Questions

We asked two follow-up questions to directly assess employers' considerations when hiring workers with criminal records. The first was whether respondents agreed or disagreed with the following statement: "People with felony records will get more job offers if they can provide detailed information about their previous work performance." Responses were on a 5-point Likert scale of: strongly agree, agree, neutral, disagree, or strongly disagree.

**Figure 3. Amounts of Each Feature Tested for Staffing Agency Experiment**

	<p><b>Amount of fee discount</b></p> <ul style="list-style-type: none"> <li>• 25 percent off employee's hourly rate (typically \$200/month worked)</li> <li>• 50 percent off employee's hourly rate (typically \$400/month worked)</li> </ul>
	<p><b>Transportation to/from job site</b></p> <ul style="list-style-type: none"> <li>• No</li> <li>• Yes</li> </ul>
	<p><b>Guaranteed replacement</b></p> <ul style="list-style-type: none"> <li>• No guarantee</li> <li>• If not a good fit: not billed and replacement sent in 5 days</li> <li>• If not a good fit: not billed and replacement sent in 1 day</li> </ul>
	<p><b>Type of information verified by government agency (with previous employers)</b></p> <ul style="list-style-type: none"> <li>• Adherence to code of conduct</li> <li>• Work performance</li> <li>• Adherence to code of conduct AND work performance</li> </ul>

The second follow-up question asked respondents to rank from most important to least important the following potential issues of consideration in hiring someone with at least one felony conviction:

- time since the last felony conviction
- any violent felony conviction
- how they will interact with other staff
- how they will interact with clients or customers
- workplace liability issues
- ability to get to the job on time
- whether they have the skills to get the job done.

This list was developed to ensure some overlap with the items we were testing in the experiment. We developed it by drawing from prior surveys or interviews of employers (Albright and Denq, 1996; Giguere and Dundes, 2002; Holzer, Raphael, and Stoll, 2004; Graffam, Shinkfield, and Hardcastle, 2008; Lukies, Graffam, and Shinkfield, 2011; Lageson, Vuolo, and Uggen, 2015) and the pretest interviews with human resources professionals and construction supervisors and executives overseeing large public and private construction projects.

## Analysis

We use the choices of employers in the survey-based experiments to estimate the probability that employers would choose a job candidate with particular sets of policy features (by applying a conditional logit).<sup>12</sup> Specifically, for each policy feature of the tax credit experiment, we compute the predicted probability of an employer selecting a candidate with that policy feature while all the other policy features are set at “baseline values.” The following are the baseline values: The tax credit is worth 25 percent of the worker’s wage (up to \$2,500), the employee must work at least 120 hours, the company must fill out the paperwork, and the government agency verifies the potential employee’s previous code of conduct and safety with previous employers. We perform an analogous analysis based on the results from the staffing agency experiment. The baseline values for the staffing agency experiment are: There is a fee discount of 25 percent of the worker’s wage, the agency does not offer a replacement if the candidate is not a suitable fit, there is no transportation provision, and the government agency verifies the potential employee’s previous code of conduct and safety with previous employers. In essence, we estimate how much more likely employers are to consider hiring an ex-offender with a particular policy feature than without (in the “baseline” policy package).

For the follow-up questions, we present the proportion of employers ranking each item (from most important to least important, or strongly agree to strongly disagree).

## Study Participants

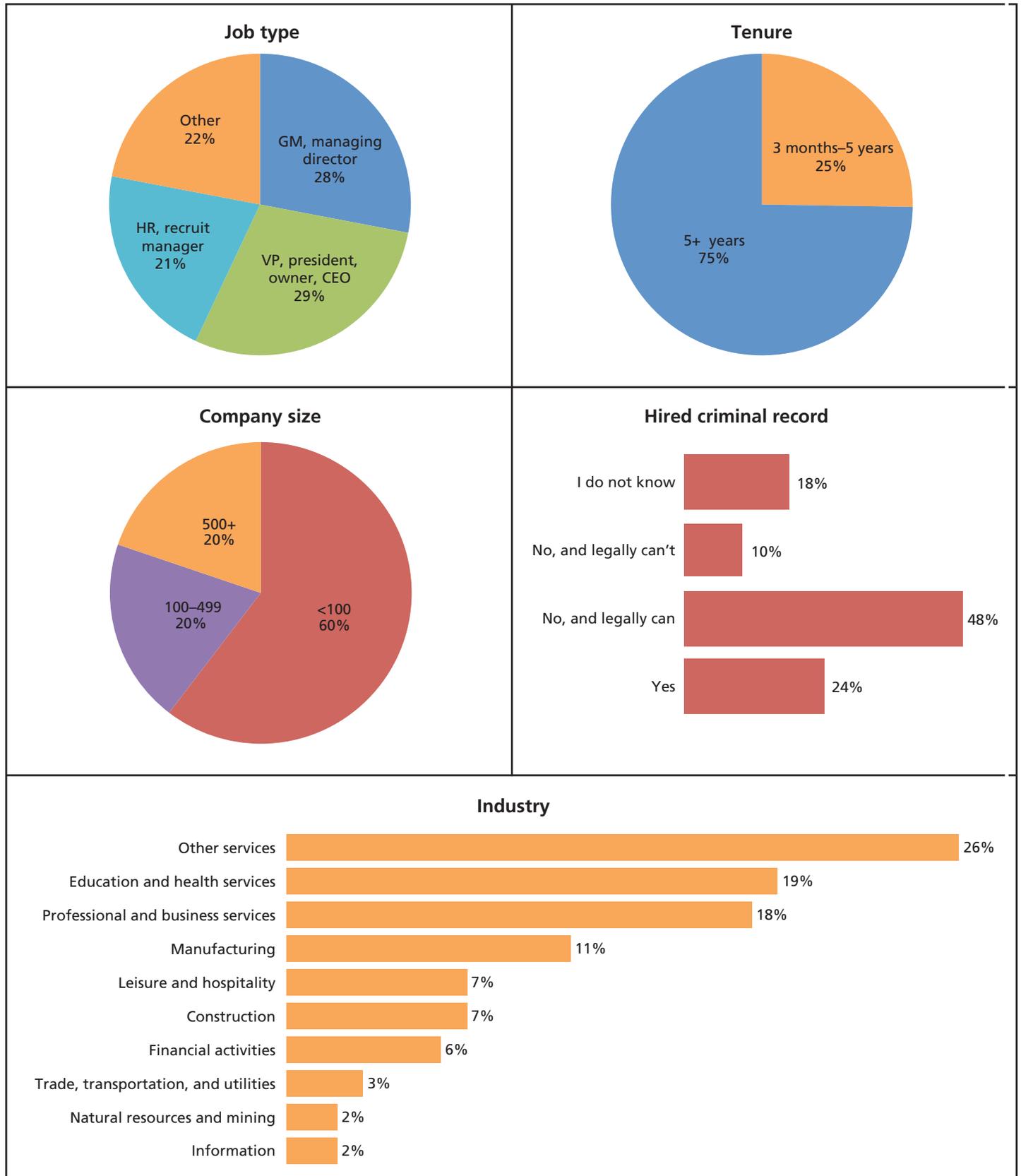
From June through August of 2017, RAND emailed the survey to private-sector firms almost exclusively (97 percent). Our recruitment sample was drawn from a listing of employees purchased from Hoover’s, Inc., a business research company with information on firms across the country. To obtain a nationally representative sample of employers (in terms of establishment size and industry) from Hoover’s database, we used Bureau of Labor Statistics data from the first quarter in the 2015 Quarterly Census of Employment and Wages (2016) to stratify the Hoover’s sample. Within these strata, we randomly selected employees designated by Hoover’s as working in managerial human resource or supervisor positions to contact for the survey. For further details on the sampling strategy, see the online appendix.

We received 107 completed responses, for a response rate of 3.4 percent. This response rate warrants further discussion because nonresponse bias may be an important limitation of this study. We tested whether nonresponders differed from responders in terms of industry-establishment size in our database and found almost no differences.<sup>13</sup> Although they do not differ in terms of these characteristics, there may be other observable characteristics (that we did not collect) and unobservable characteristics that differ between the groups. For instance, one possibility is that respondents had stronger positive or negative attitudes regarding ex-offenders than did nonresponders, and were thus more motivated to complete our survey. If responders had more-negative views of ex-offenders, our results are biased toward opting out of hiring offenders. Conversely, if responders had more-positive views of ex-offenders, our results are biased against opting out of hiring offenders.

Figure 4 provides details on respondents who completed the survey. In addition to the characteristics indicated in the figure, respondents represented different parts of the country. Approximately 10 percent of respondents were from firms in California, followed by:

- 6.5 percent each from Florida, New York, Ohio, and Pennsylvania
- 5.6 percent each from Georgia, Illinois, and Texas
- 4.7 percent from Oregon
- 3.7 percent from Tennessee

Figure 4. Characteristics of Respondents and Their Companies



- 2.8 percent each from Colorado, Indiana, Maryland, Massachusetts, and North Carolina
- 1.9 percent each from Alaska, Louisiana, Michigan, Minnesota, Missouri, New Jersey, and Washington D.C.
- Less than 1 percent each from Arizona, Kansas, Maine, Mississippi, Nebraska, New Hampshire, South Dakota, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Our sample largely represents the national average in terms of establishment size for each industry sector (using the North American Industry Classification System [NAICS] code, two-digit level [Office of Management and Budget, 2012]). However, there are industry-establishment sizes that are overrepresented (all establishment sizes of “other services”) or underrepresented (“professional and business services” with 100–499 employees; all establishment sizes of “trade, transportation, and utilities”) in our data compared with the national average. For details on representativeness, see the online appendix.

## STUDY FINDINGS

### Staffing Agency Experiment: What Policy Features Improve the Likelihood of Ex-Offenders Being Hired?

Table 2 shows estimates of employer preferences for a staffing agency’s “baseline package” and their preferences when we change the package along one dimension for a nonviolent, felony ex-offender job candidate with the technical skills for an entry-level job. The second column of the table shows the predicted probabilities from the analysis (i.e., the likelihood of an employer hiring a job candidate with the policy package). The third column translates this result into more-practical terms—the number of employers out of ten who would consider hiring a candidate with these policy features (given the alternatives).

The first row of Table 2 indicates that the baseline staffing agency package (derived from the choices offered):

- does not provide transportation
- does not offer a replacement if the candidate is not a suitable fit
- verifies only that previous employers did not find the candidate in violation of any company code of conduct or safe practices
- offers a 25-percent discount (where the percent is based on the hourly wage) for ex-offender candidates.

Our results indicate that if a job candidate with the necessary skills and a nonviolent felony conviction used this baseline staffing agency, approximately four out of ten employers (42.9 percent) would forward the candidate on to the next recruitment round; the remaining employers would not (i.e., 57.1 percent would opt out).

Approximately seven out of ten employers would consider hiring a candidate if, in addition to the baseline package, there was also a guaranteed replacement worker program (65.6 percent) or a certified work performance history (72.5 percent). Therefore, employers are 69.0 percent more likely to consider hiring the job candidate with a staffing agency that has a baseline policy and a guaranteed replacement worker program; 52.9 percent more likely with a baseline policy and certified work performance history.

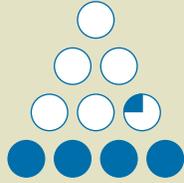
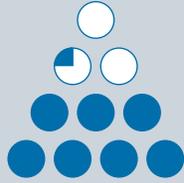
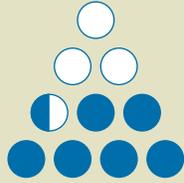
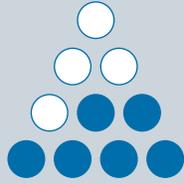
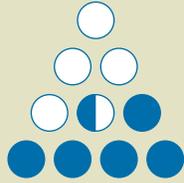
Six in ten employers would advance a candidate with this professional and criminal background if the candidate used a staffing agency with a 50-percent off discount instead of a 25-percent off discount. The other four out of ten employers would opt out (e.g., wait for other candidates). This implies that employers valued each of two policy features: (1) access to a consistent work history and verifiable positive work performance and (2) a guaranteed replacement worker within five days if the initial candidate turns out to be unsuitable—a cost savings of more than \$200 per month per worker. Results indicate that there was no statistically significant difference to employers if a replacement was sent within five days or one day.

Last, approximately five to six out of ten employers (57.3 percent) said they would forward the candidate on to the next recruitment round if they had secure, consistent transportation. Therefore, by adding a consistent transportation service to the baseline service, a candidate with this background (e.g., sufficient skills, criminal record) would be forwarded on by one additional employer out of ten. Compared with a candidate with the baseline policy package support, a candidate with transportation was 34.5 percent more likely to be considered for the job than an equally qualified candidate without transportation.

### How Much More Do Employers Prefer a Replacement Guarantee Over Money?

As shown in Table 2, the most valuable policy feature of the staffing agency experiment was a replacement worker (if the initial candidate was not a suitable fit). To put the value of this policy feature in perspective, Table 3 compares the preferences of employers asked to choose between two candidates

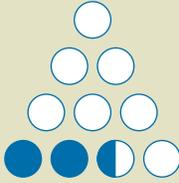
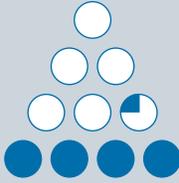
**Table 2. Results of Employers’ Policy Preferences for Staffing Agency Packages**

Policy Variable	Predicted Probability of Considering Hiring the Candidate (%)	Number of Employers Out of 10 Who Would Consider Hiring the Candidate
<b>Baseline policy #1</b> <ul style="list-style-type: none"> <li>Discount on staffing agency fee: 25% of hourly wage</li> <li>Post-conviction certification verifies adherence to company rules or code of safe practices</li> </ul>	42.9	 <p>4.3</p>
Baseline #1 + a guaranteed replacement worker program	72.5	 <p>7.3</p>
Baseline #1 + validate work performance history	65.6	 <p>6.6</p>
Baseline #1 + increase staffing agency fee discount (to 50% of worker’s hourly wage)	60.5	 <p>6.0</p>
Baseline #1 + consistent transportation	57.3	 <p>5.7</p>

with similar backgrounds using two different staffing agencies. For example, two candidates who are similarly skilled for the job and have one nonviolent felony conviction are using staffing agencies with different policy packages (i.e., one agency has a replacement guarantee and the other has a greater cost discount). These two candidates go to ten

different employers. Our results show that nearly half of the employers (42.7 percent) would select the person with the agency replacement guarantee, roughly two employers would choose the person with the better cost discount (24.8 percent), and the remaining three would choose neither candidate (32.5 percent). Therefore, the candidate with the replacement

**Table 3. Replacement Guarantee Versus Greater Discount**

Policy Variable	Predicted Probability of Considering Hiring the Candidate (%)	Number of Employers Out of 10 Who Would Consider Hiring the Candidate
Baseline #1 + increase staffing agency fee discount (to 50% of worker's hourly wage)	24.8	 2.5
Baseline #1 + a guaranteed replacement worker program	42.7	 4.3

NOTE: The remaining 32.5 percent of employers would not forward either candidate to the next recruitment round (i.e., the employer chose to opt out).

guarantee is 72.2 percent more likely to be considered for a job than a candidate without the guarantee. Or, perhaps more importantly, the candidate with a guarantee is more likely to be considered for the job (i.e., 42.7 percent of employers advance the candidate compared with 32.4 of employers who opt out), whereas candidates without a guarantee are more likely to be passed over by employers (i.e., 32.5 of employers opt out and 24.8 percent of employers would consider hiring the candidate).

### Tax Credit Experiment: What Policy Features Improve the Likelihood of Ex-Offenders Being Hired?

Table 4 shows estimates of employer preferences for a “baseline package” of a tax credit and their preferences when the package changes along one dimension for a nonviolent, felony ex-offender job candidate who has the technical skills for an entry-level job. The baseline tax credit,<sup>14</sup> derived from the choices offered, features the following:

- Employers receive a tax credit equal to 25 percent of wages paid to ex-offenders (up to \$2,500) who work for a minimum of 120 hours.
- The government does not prepare and submit the forms required for the employer to receive the tax credit.

- The government agency verifies only that previous employers did not find this candidate in violation of any company code of conduct or safe practices.

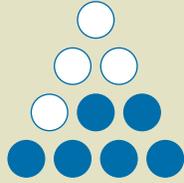
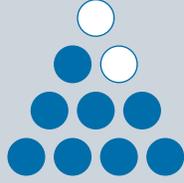
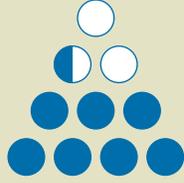
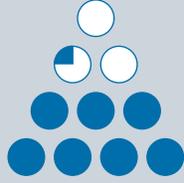
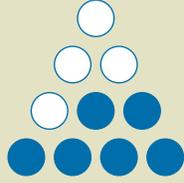
Our results show that if a job candidate with the necessary skills and a nonviolent felony conviction was supported by this tax credit, approximately six out of ten employers (59.1 percent) would forward the candidate on to the next recruitment round.

Approximately eight out of ten employers (80.7 percent) would advance the candidate if they had the baseline tax credit with a post-conviction certificate that provides consistent work history and verifiable positive employment references. A candidate was 36.5 percent more likely to be considered for the job if a government agency verified work performance.

Roughly seven to eight in ten employers (77.1 percent) would select a candidate with this professional and criminal background to advance to the next recruitment round if a tax incentive were 40 percent of wages paid up to \$5,000 (with a minimum of 120 hours worked). Compared with a candidate that had the baseline policy package support, a candidate was 30.4 percent more likely to be considered for the job if they were supported by a greater tax incentive.

If, in addition to the baseline policy package, a government agency offered the service of preparing and submitting all required forms for the employer to receive the tax incentive,<sup>15</sup> approximately seven out of ten employers (73.1 percent)

**Table 4. Results of Employers’ Policy Preferences for Tax Credit Policy Packages**

Policy Variable	Predicted Probability of Considering Hiring the Candidate (%)	Number of Employers Out of 10 Who Would Consider Hiring the Candidate
<b>Baseline policy #2</b> <ul style="list-style-type: none"> <li>• Tax credit of 25% of worker’s wages (up to \$2,500)</li> <li>• Works at least 120 hours to receive tax credit</li> <li>• Post-conviction certification verifies adherence to company rules or code of safe practices</li> </ul>	59.1	 5.9
Baseline #2 + validate work performance history	80.7	 8.1
Baseline #2 + increase tax credit (to 40% of worker’s hourly wage up to \$5,000)	77.1	 7.7
Baseline #2 + eliminate paperwork	73.1	 7.3
Baseline #2 + reduce minimum hours (from 120 to 80)	62.2 <sup>a</sup>	 6.2 <sup>a</sup>

<sup>a</sup>Not statistically different from the Baseline Policy Package.

would forward the candidate on to the next recruitment round. Therefore, by adding a feature in which the employer does not have to fill out the forms, a candidate with this background (i.e., similar skills and criminal record) would

be considered for hiring by slightly more than one additional employer.

Decreasing the minimum number of hours the employee must work before the employer can receive the tax credit had

no statistically significant effect on employers. Even if it was easier in the sense that employers had to retain someone for only 80 hours (ten days full-time) instead of 120 hours before they qualified for the tax credit, employers were not more or less incentivized to select the candidate to move to the next recruitment round.

### How Much More Do Employers Prefer a Positive Work History Than Money?

As shown in Table 4, the most valuable feature of the government tax credit experiment was for a government agency to provide a post-conviction certificate that verifies consistent, positive employment history. To understand employers' preferences between this policy and amount of money of the tax credit, Table 5 compares employer preferences when choosing between two candidates supported by different tax credits: One offers more money; the other provides a post-conviction certificate of verified positive work history. Our results show that if these two candidates were being considered by ten employers, approximately four to five (43.8 percent) employers would select the person with the work history post-conviction certificate, three to four employers would choose the person with the better tax incentive (35.2 percent), and the remaining two would choose neither of these candidates (21.0 percent). Therefore,

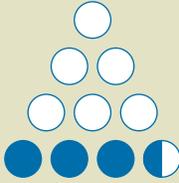
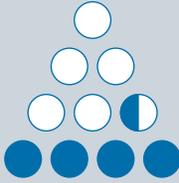
the candidate with validated work performance is 24.4 percent more likely to be considered for a job than the other candidate.

Our first follow-up question also related to work history. We asked respondents whether they agreed with the following statement: "People with felony records will get more job offers if they can provide detailed information about their previous work performance." Most respondents answered that they agreed or strongly agreed (47.6 percent and 41.0 percent, respectively), with very few stating they disagreed or strongly disagreed (1.9 percent and 2.9 percent, respectively), and the remainder replying that they were neutral (6.7 percent).

### Employers' Primary Concerns Are Violent Convictions and Low Skills

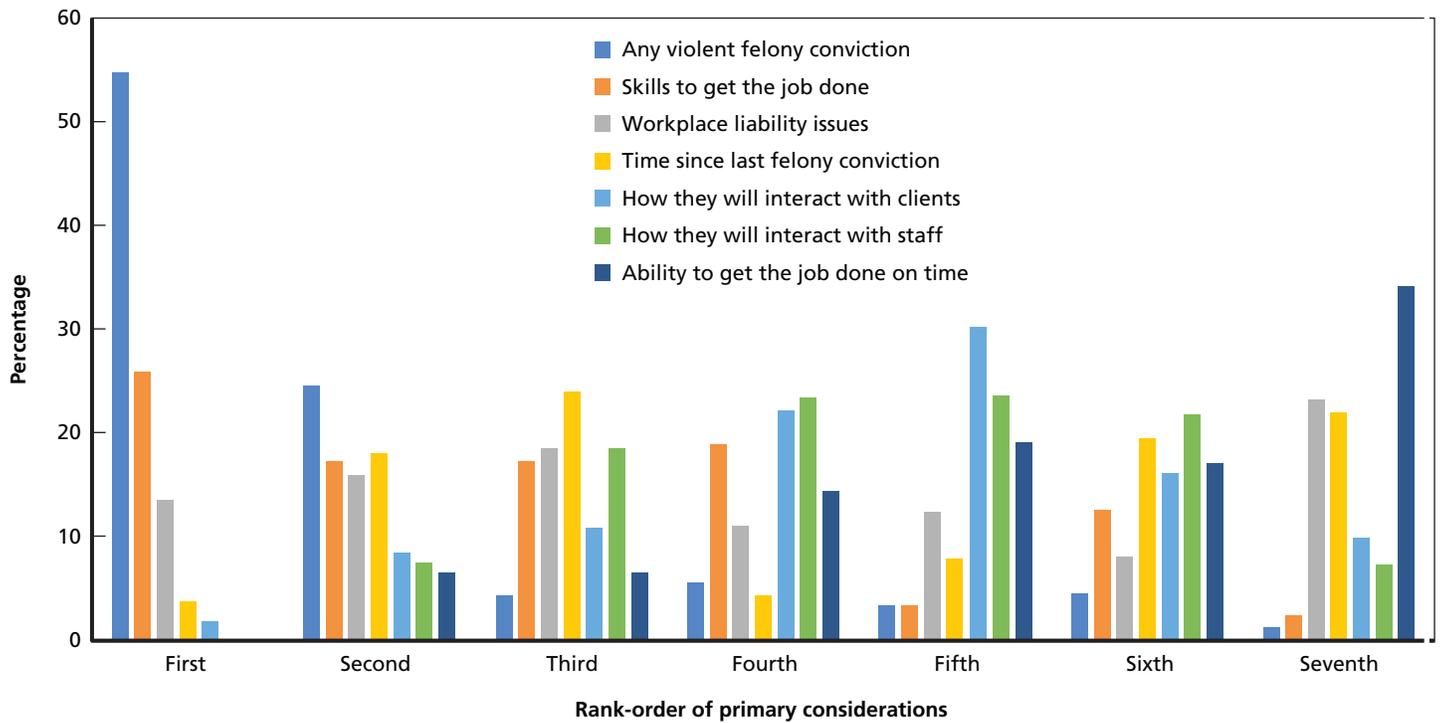
Employers were also directly asked to rank their primary issues of consideration when hiring someone with at least one felony conviction. Figure 5 presents the proportion of employers ranking each item from most (first) important to least (seventh) important (for detailed statistics, see Table A.7 in the online appendix). The top-cited concern was "any violent felony conviction," which was chosen as the most important issue by 53.3 percent of respondents and as the second most important issue by 24.5 percent of respondents. While this may partially reflect concerns related to negligent hiring liability,

**Table 5. How Much Do Employers Value Certified Work History of a Post-Conviction Certificate?**

Policy Variable	Predicted Probability of Considering Hiring the Candidate (%)	Number of Employers Out of 10 Who Would Consider Hiring the Candidate
Baseline #2 + increase tax credit (to 40% of worker's hourly wage)	35.2	 3.5
Baseline #2 + validate work performance history	43.8	 4.4

NOTE: The remaining 21.0% of employers would not forward either candidate on to the next recruitment round (i.e., the employer chose to opt out).

**Figure 5. Primary Considerations in Hiring Felony Ex-Offenders**



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workplace liability was presented as a separate option in the ranking system. And, in fact, rankings for workplace liability concerns were much more diverse, with almost 30 percent of respondents citing this as their first or second most important concern but 23 percent citing it as their least important concern among the options presented. Therefore, there are other reasons that violence is of concern to employers. One possibility is that employers may be seen as irresponsible for hiring someone with a violent past. Another possibility that would be consistent with our results is that they simply receive so many qualified applications that a felony violent conviction is a good reason to weed out an application.

Another primary concern stated by employers was “skills to get the job done,” which was ranked as the first or second most important issue to consider by 45.4 percent of respondents. While it is obvious employers seek productive workers, it was not clear how high up the list this item would be reported. Indeed, our results differ from some previous research in which the most common concerns reported by employers are negligent hiring liability, safety (i.e., risk to staff or customers), and lack of social skills (Albright and Denq, 1996; Giguere and Dundes, 2002; Holzer, Raphael, and Stoll, 2004; Graffam, Shinkfield, and Hardcastle, 2008; Lukies, Graffam, and Shinkfield, 2011; Lageson, Vuolo, and Uggen,

2015). These items appeared relatively lower in the ranking than skills.

## HOW DO OUR RESULTS GENERALIZE TO THE WIDER CRIMINAL JUSTICE POPULATION?

Our experimental findings were based on someone with one *nonviolent* felony on their record. The most recent data available, from 2009, indicates that 40 percent of felony defendants do not have any prior felony convictions.<sup>16</sup> Of the defendants with a nonviolent felony charge (property, drug, and public order<sup>17</sup>), 24–57 percent had no prior felony convictions, depending on the charge (Reaves, 2013). Individuals with no prior felony convictions tended to be younger (18 to 29 years of age). Therefore, it is likely that our results are relevant for a substantial proportion of ex-felons who are young adults.

Given the finding from the follow-up question that violent convictions are most employers’ primary concern, it is not likely that our experimental results generalize to the population of workers with violent felony records. This is important because people with violent felony convictions likely face particularly large challenges when seeking employment. In addition, our results are not based on people with multiple prior convictions;

again, this may be important given the difficulties those individuals may have in obtaining a job.

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## RECOMMENDATIONS

When ex-offenders experience poor economic outcomes, they are more likely to engage in criminal activity, which further impacts their job and earnings growth (Cook, 1975; Ehrlich, 1996; Gould, Weinberg, and Mustard, 2002; Weiman, 2007; Wakefield and Uggen, 2010). Designing policies to improve the economic outcomes of ex-offenders could have far-reaching benefits, but it is not an easy task. While such policies as BTB have produced some benefits, they have also resulted in some unintended negative labor market consequences. Providing more information from previous employers might remedy the problem, yet it is well recognized that employers fear defamation suits and related claims so they provide little more than job titles and dates. Offering money through tax credits, such as the federal WOTC, could help, but statistics show that employers have not responded much to this incentive, either. This leaves stakeholders asking: What can we do?

This report provides evidence from survey-based experiments with employers to understand the relative benefits of policy options for hiring people with a nonviolent felony criminal conviction. Our results are broadly representative of firms across the country in terms of industry sectors at the two-digit level (Office of Management and Budget, 2012) and company size; however, the midsized (100–499 employees) “professional and business services” industry and all firms in the “trade, transportation, and utilities” industry are underrepresented, and “other services” are overrepresented. Furthermore, we had a response rate of only 3.4 percent. Tests show that in terms of industry and company size, the employers who participated in this study are similar to those who did not respond to our request to participate. However, we could still have a select group of employers who are more or less likely to consider hiring ex-felons than employers generally across the United States.

When considering the recommendations we provide, it is important to remember that we considered only the relative benefits to employers—stakeholders would need information about the costs of implementing these policies. There are likely a large number of variables with respect to implementation needs, target populations, and available local resources that would be worth investigating to understand the return on investment for the policies studied. A potential funding

source for local, state, or tribal governments to cover costs of programs we considered is the federal Second Chance program, which provides funding for employment training, mentoring, substance abuse and mental health treatment, and other family-centered services to formerly incarcerated individuals.<sup>18</sup> There are several categories of funding through the Second Chance Act, and the most relevant categories for programs explored in our study are likely to be Demonstration grants (funding for government agencies to plan and implement comprehensive strategies that address the challenges faced by individuals returning to their communities after incarceration) and Smart Probation grants (funding for government agencies to implement evidence-based supervision strategies to improve outcomes for probationers). More specifically, these grants can provide funding for “job readiness and placement services” strategies, which align with our recommendations (Bureau of Justice Assistance, undated).

### Programming Recommendations for Policymakers, Staffing Agencies, and Reentry or Community Supervision Agencies

Our study identified strong employer concerns regarding job candidates with a violent felony conviction. It is important to note that the following recommendations are based on workers with criminal records who have one nonviolent felony on their record (and that this group tends to be mostly young adults). The following recommendations may be of use to policymakers, practitioners, and private-sector agencies working to improve employment outcomes for ex-offenders.

#### *Urge Ex-Offenders to Use Staffing Agencies That Guarantee Replacement Workers When Initial Candidates Are Not a Good Fit*

Having a suitable replacement sent within a week was worth twice as much as decreasing staffing agency fees. The reason may simply be that the direct costs of an unsuitable employee (in productivity losses and recruiting someone else) are greater than the staffing agency cost savings amount we tested. Furthermore, there may also be indirect costs associated with vacancies (e.g., stress, disruption).

These type of guarantees are already a feature of staffing agencies around the country (American Staffing Association and National Association of Personnel Services, 2005). Given

how well it performed in our experiment compared with other policies, however, there may be a need for a stronger effort by policymakers and reentry professionals to encourage ex-offenders to use staffing agencies with this policy. It may help mitigate the employers' concerns regarding productivity and reliability issues associated with a criminal record.

### ***States Should Identify Ways to Provide Employers with Previous Work Performance***

Across both experiments, employers demonstrated a clear preference for wanting to know more about whether the candidate has a consistent work history and verifiable positive employment references. Indeed, the issue of not being able to acquire information from previous employers is well recognized among employers, as indicated in Long (2015, p. 721): “[I]t is almost an article of faith among those who advise employers that it is simply too risky to provide another employer a detailed employment reference of a former employee.”

While the inability of employers to obtain information may affect all workers generally, skilled or qualified ex-felons may especially benefit from potential employers' accessing their previous work performance given the stigma and/or signaling problems of having a criminal record.

Our results indicate policymakers should focus on ways to provide recruiters with information on work performance, rather than simply adherence to former companies' rules of conduct. This recommendation may also extend to what reentry agencies, job placement programs, and other stakeholders (e.g., probation agents) tell their clients: It might seem as though employers are worried only about whether ex-offenders will conduct themselves in a safe manner or be courteous to staff and customers, but they want more details about a person's work performance.

### ***Combine Job Placement Support with Other Ex-Offender Employment Incentives***

Related to the previous recommendation, states and cities should consider the complementarity of policies that support ex-offenders. One example of this might be job placement programs, such as transitional employment, and CoRs or guaranteed replacement workers. A recent randomized control trial of multiple cities implementing an enhanced transitional jobs demonstration funded by the U.S. Department of Labor shows that these programs can lead to employment for ex-offenders

who would otherwise not be working (Redcross, Barden, and Bloom, 2016). However, the evidence is currently mixed on the employment effectiveness of these programs (Dutta-Gupta et al. 2016), particularly over the longer term.

One way of helping ex-offenders into diverse transitional employment options (which may help some people stay employed longer), is to offer private-sector employers guaranteed replacement workers, who may not have a criminal record. Employers may be more willing to take the risk (or what they perceive as a risk) of being a part of a transitional employment program for ex-offenders if they can have a suitable replacement sent within five days (should the ex-offender employee turn out not to be a good fit). In practice, this could require a transitional employment program to partner with staffing agencies, for example.

One way to help transitional employment workers with a criminal record as they move out of transitional employment and into the wider labor market may be to verify their previous work performance for new employers through a certification of rehabilitation.

### ***Government Agencies Should Reduce Employers' Paperwork Burden for Receiving a Tax Credit***

One way to improve the chances of someone with a criminal record getting hired is to reduce the amount of paperwork that employers have to fill out to receive tax credit incentives. While it is not clear how much this would cost the government, one method of implementing this reduced administrative burden to employers explored in this research was to have a government employment agency prepare and submit the forms.

### ***Employment Agencies, Probation or Parole Agencies, and Re-Entry Programs Should Work to Secure Transportation to Job Sites***

As our study found, ensuring reliable transportation to help ex-offenders get to their jobs is valuable to employers, although less so than other incentives. Given that previous research has also demonstrated a need for transportation among this population, we suggest that relevant stakeholders—e.g., U.S. Department of Labor's Reentry Employment Opportunities program grantees, staffing agencies—could develop a job-transportation program for their clients (Martin, 2016).

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## RECOMMENDATIONS FOR FUTURE RESEARCH

Our research was a first step in our analyses of employers' preferences for policies aimed at improving ex-offender labor market outcomes. Although beyond the scope of this report, policymakers and practitioners need to know how much it costs to implement the policy features in this study so that they can compare the costs and benefits of these and other policy options. A cost-benefit or cost-effectiveness analysis would help stakeholders understand the return on investment on these policies and make better-informed decisions.

Furthermore, future research could advance our understanding of the relative benefits of policy features across employers by examining whether there are differences in employer preferences across types of employers in terms of industry ("felony friendly" industries, such as construction, versus "non-felon-friendly" industries), establishment size, who is involved in the hiring (e.g., human resources professionals compared with managers or owners), and self-report of whether they can legally hire a felon. This would allow policymakers, staffing agencies, and reentry agencies to target policy or program features toward employers to maximize employment of people with criminal records.

An important limitation of this research is that we used a stated-preference approach so employers did not have to "live with" the decisions they made. We used this approach because it was a feasible, cost-effective, and reliable way to predict future demand for such policy features. Further research is needed to determine whether the hypothetical policy features that employers indicate they value highly—guaranteed replacement workers, certification of previous work performance, and, to a lesser extent, transportation and reduced paperwork—would indeed increase employment of technically qualified people with a nonviolent felony criminal record.

What this study cannot explain is why employers valued the verification of performance and a guaranteed replacement worker as they did. Understanding the behaviors driving these preferences would be useful for knowing how to most efficiently support the matching of employers with suitable employees with criminal records. Although beyond the scope of this study, in a future analysis, we could, for example, use responses to follow-up questions to assess whether there is a link between the stated primary concerns of employers with hiring ex-felons and their responses within the experiment.<sup>19</sup>

## NOTES

<sup>1</sup> More-serious offenses are categorized as a felony. Less-serious offenses are misdemeanors.

<sup>2</sup> Because some cities and states have laws that do not allow employers to ask candidates about criminal record before the interview period and not all respondents can make the final hiring decision, we used the language “select the candidate for the next recruitment round.”

<sup>3</sup> Another example of this is the Federal Bonding Program (undated), but we did not include this in our testing.

<sup>4</sup> The states offering CoRs are Alabama, Arizona, California, Connecticut, Hawaii, Illinois, Iowa, New Jersey, New York, North Carolina, and Ohio.

<sup>5</sup> The final decision for clearance was based on recommendations from previous employers or evidence of completing a rehabilitation or reentry program.

<sup>6</sup> The method was modified-discrete in the sense that respondents ranked options, rather than selecting just one.

<sup>7</sup> See, for example, the Help for Felons website (undated).

<sup>8</sup> Respondents were offered \$15 for completing the survey, which they could accept as an Amazon egift code or donate to one of three charities (Cancer Research Institute, Children’s Defense Fund, or Goodwill).

<sup>9</sup> Because some cities and states have laws that do not allow employers to ask candidates about their criminal records before the interview period but participants had to know the candidates had a criminal history, we used the language “select the candidate for the next recruitment round.”

<sup>10</sup> By opting out, the employer would rather wait for other applicants than hire either of the candidates presented, for example.

<sup>11</sup> One question might be how a government verification of previous work performance would occur under a tax credit. For example, it could be a new structure in which ex-offenders apply to a government agency to be able to offer prospective employers a tax credit. The agency could require the individual to “pass” a post-conviction employability assessment to be eligible to offer prospective employers a tax credit.

<sup>12</sup> We use the magnitudes of conditional logit regression coefficient estimates, shown in the online appendix, to determine the predicted probabilities using the “asprvalue” command in STATA 13.1.

<sup>13</sup> Of the 30 industry-establishment size strata, a Chi squared test finds a difference in only two: Education and Health with 2–99 employees, and Professional Services with 2–99 employees.

<sup>14</sup> We note that the percentage of wages and the minimum hours worked are similar to the actual current levels of the WOTC; the maximum amount of \$2,500 is greater than the current maximum of \$1,500.

<sup>15</sup> The amount of paperwork used in this study was the actual amount required of the WOTC: IRS Form, Employment & Training Form, Pre-Screening Notice, Certification Request, and New Hire Eligibility/Verification Form.

<sup>16</sup> Seventeen percent have nonfelony convictions only and 43 percent have at least one prior felony conviction.

<sup>17</sup> *Property* offenses include burglary, larceny/theft, forgery, fraud, and others. *Drug* offenses include trafficking, manufacturing, and others. *Public-order* offenses include unlawful sale of weapons, driving-related crimes, and others.

<sup>18</sup> The Bureau of Justice Assistance awards grants serving adults to reduce recidivism and improve outcomes for people returning from state and federal prisons and local jails. The program funded \$68 million in the FY 2017 omnibus spending bill (Bureau of Justice Assistance, undated).

<sup>19</sup> Ideally, we could follow up with respondents and ask them why they responded as they did; however, we did not include this as an option in our application to the RAND Institutional Review Board.

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## About This Report

In the summer of 2017, the RAND Corporation conducted a series of survey-based experiments with large and small employers in a variety of industries across the country. The aim was to better understand the relative attractiveness of policies that could incentivize employers to hire people with nonviolent felony criminal records. The policy features that were considered included verifying performance and rules of conduct with previous employers, increasing the federal tax credit, reducing the minimum hour requirement of the federal tax credit, reducing the burden of filling out tax credit paperwork, guaranteeing replacement of a new hire, and discounting staffing agency costs.

This study should be of interest to legislators designing and funding policies and programs for the reentry or reintegration of ex-offenders. Professionals involved in reentry programs, as well as probation and parole agency officers, should find the results of interest because we provide details about the program features that likely increase the employment rates of their clients. Finally, employers—particularly human resource professionals and business managers or owners—and employment agencies may find the results interesting because we present policy recommendations that could facilitate their recruitment of qualified job candidates. The research protocols employed in this study were approved by the RAND Institutional Review Board.

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One important stage of this study involved testing our survey instruments with professionals in human resources and the construction industry. These individuals provided detailed, thoughtful suggestions that allowed us to test relevant policies for employers around the country. We want to thank Heon Hahm and Teresa McLemore of RAND, as well as construction supervisors and executives for offering their time and expertise. We would also like to extend special thanks to the participants of the 2017 Western Economic Association International conference for their helpful suggestions, and to Professor Jennifer Doleac of the University of Virginia's Frank Batten School of Leadership and Public Policy for comments on an earlier version of this report. Finally, we appreciate the valuable insights we received from two anonymous reviewers. We addressed their constructive critiques as part of RAND's rigorous quality assurance process to improve the quality of this report.

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