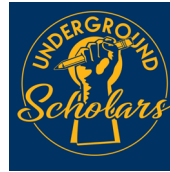


Criminal Record Stigma in the College-Educated Labor Market



Michael Cerda-Jara, Aminah Elster, and David J. Harding

Overview

It is well established that having a criminal record reduces one's job prospects, but it has previously been unclear whether having a college degree improves the likelihood that formerly incarcerated people will receive an interview after submitting a job application. To address this question, Michael Cerda-Jara and a team of other UC Berkeley students from Berkeley's Underground Scholars organization, along with UC Berkeley Professor David Harding, submitted fictitious job applications and interviewed formerly incarcerated men. This policy brief reviews this research and provides recommendations for policymakers.

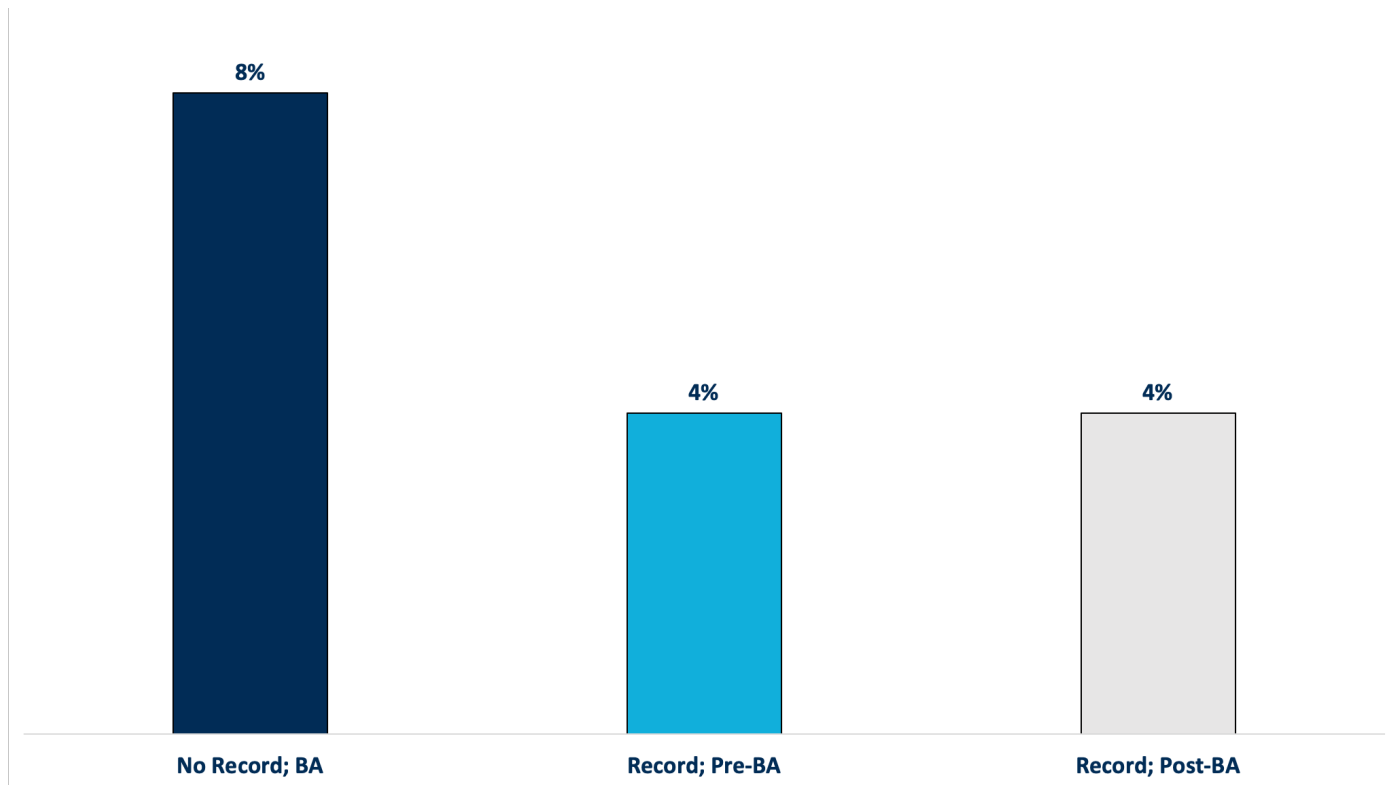
The researchers find that formerly incarcerated men who graduated from college find it difficult to be hired for jobs that require a degree, indicating that a college degree fails to eliminate criminal record stigma. The study shows that college-educated men with criminal records receive callbacks half as often as those without a record, and college-educated Black and Latino men with records are less likely to receive a callback than their white counterparts. Rather than Ban-the-Box, policymakers should consider stronger interventions to improve the job prospects of college-educated people with criminal records, including more aggressively enforcing anti-discrimination laws, banning discrimination based on a criminal record, expanding and simplifying clean slate opportunities, making certificates of rehabilitation automatic, and eliminating formal occupational licensing bans.

Background

Between 70 million and 100 million Americans have a criminal record (almost one-third of the country's population), and eight percent of all adults have a felony record.^{1,2} Those released from prisons and jails face barriers because of stigmas associated with a criminal record, especially when it comes to employment opportunities.^{3,4,5} In fact, a 2003 study revealed that for applicants with criminal records, employer callbacks are reduced by 50 percent.⁶ A 2010 report revealed that 71 percent of employers would "probably not" or "definitely not" hire a worker with a criminal record.⁷ However, these studies focus on the low-skill labor market, while over one-fourth of individuals released from prison ages 18-25 will eventually enroll in college.⁸

There are reasons to suspect that the labor market for college-educated workers may work differently than for the low-skill labor market. Employers hiring college-educated workers may be more aware of regulations and guidelines covering employment discrimination, like those set by the Equal Employment Opportunity Commission (EEOC).⁹ EEOC guidelines prohibit employers from making hiring decisions on the basis of criminal record until a conditional job offer has been made. Although the EEOC guidance aims to increase employment opportunities for people with criminal records, it is unclear if it benefits those seeking employment in the college-educated labor market. Since obtaining a college degree can require a large investment of time and money, it is critical for policymakers to understand whether

Figure A. Callback Rate by Record Type



education makes a difference for the job prospects of the formerly incarcerated. Further, since jobs that require a college degree typically offer better pay, health benefits, and better working conditions than low-skill jobs, it is important to understand whether individuals with criminal records even have access to such jobs.

Summary of Methods

In order to assess the extent of discrimination in the job search, an experiment with the following elements was conducted:

- Using a set of fictitious resumes and cover letters, 1,798 online job applications were submitted to business industry employers in the metro areas of Los Angeles, Oakland, Sacramento, San Bernardino, San Diego, and San Jose, California. The fictitious applicants included white, Black, and Latino men, some who received a bachelor’s degree and had no criminal record, some who received a bachelor’s degree before incarceration, and some who received a bachelor’s degree following incarceration.
- Twenty formerly incarcerated men with bachelor’s degrees were interviewed for the study about their

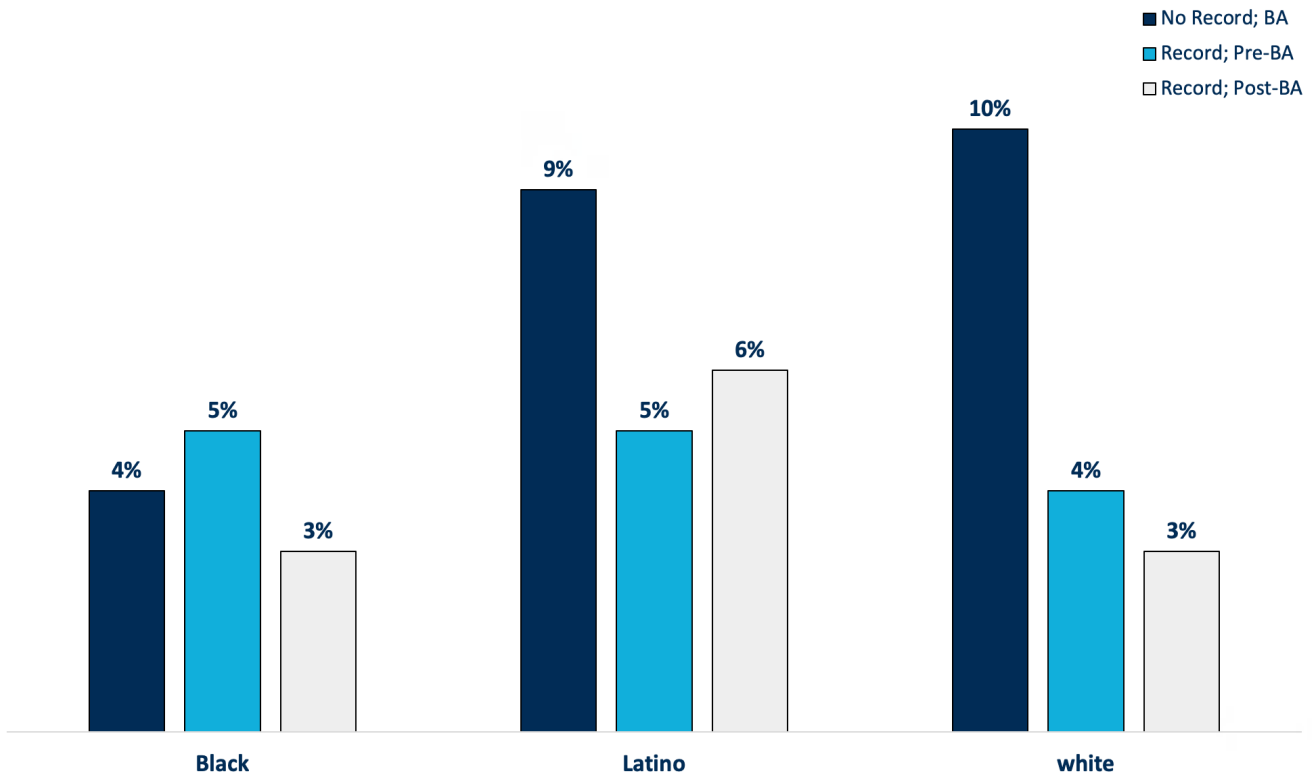
job seeking experience before and after completing their degree.

Job Application Callbacks

Results from the experiment reveal three important findings:

1. The overall callback rate is 50 percent lower for college-educated men with criminal records compared to college-educated men with no record. Therefore, among men with criminal records, a bachelor’s degree does little to eliminate criminal record stigma (see Figure A).
2. College-educated Black and Latino applicants with criminal records receive fewer callbacks than college-educated white applicants with records (see Figure B).
3. Whether the bachelor’s degree was earned before or after the criminal record has no impact on the number of callbacks received. This provides further evidence that a bachelor’s degree earned after the record does not counteract the stigma of a criminal record in the labor market.

Figure B. Success of Callbacks by Race + Record Type



Interviews with College-Educated Men with Records

The findings from the interviews demonstrate that formerly incarcerated men struggle with the following when applying to jobs:

1. **Oversharing** – People with criminal records often share their criminal history willingly. Applicants with records tend to believe that being open and honest with employers about their conviction history will increase their chances at landing a job.

“I thought honesty was the best policy. I was a different person [now], but that didn’t matter, as soon as they got to that part, I wasn’t getting any callbacks.”

2. **Omission** – People begin to hide their criminal history after many unsuccessful job applications. Applicants with records stop being open and honest about their conviction history after being turned down for a job many times.

“It took me like a month to figure out that I wasn’t gonna find work if I keep disclosing it.”

3. **Failing the Background Check** – Because applicants hide their conviction history in hopes of landing a job, some manage to get job offers. But because most jobs are dependent on the ability to pass a background check, the job offers are almost always taken away.

“I was struggling to find employment because of [the background check].”

4. **Avoidance** – Because job offers are taken away for failure to pass a background check, applicants with criminal records begin to avoid applying to jobs that advertise a background check requirement.

“I won’t even apply if [a] background check is required.”

Moving Beyond Ban-the-Box

Ban-the-Box is a policy that aims to give job applicants with criminal records a fair chance at landing a job by removing criminal history questions from job applications. The primary goal of this policy is for employers to consider the qualifications of the job candidate before making a decision based solely on criminal history. In short, Ban-the-Box aims to provide

applicants with criminal records the opportunity to get their foot in the door.

According to a report by the National Employment Law Project, 35 states and over 150 cities and counties have now adopted Ban-the-Box policies.¹⁰ However, there are some key points to address with Ban-the-Box policies. For example, a 2016 study found that Ban-the-Box actually increases racial inequalities by decreasing employment chances among Blacks when employers cannot ask about criminal records. This is because of racial discrimination stemming from stereotypes that Blacks are more likely to have a criminal record.¹¹

Since the present study was done in a state that has a Ban-the-Box policy, this study's interviews reveal another issue with Ban-the-Box – such policies may do less to secure employment for college-educated applicants with criminal records. With a college degree failing to eliminate criminal record stigma, the background check after a conditional job offer remains a key problem that current Ban-the-Box policies do not address. Getting one's foot in the door is simply not enough to level the playing field.

Policy Recommendations

To address this issue, policymakers should consider the following recommendations that go beyond Ban-the-Box to improve the employment prospects of people with criminal records:

- **Implement Anti-Discrimination Enforcement**
If a candidate's criminal record is not directly related to the responsibilities of the job, it should not be used to legally disqualify anyone. To accomplish this, the state should require employers to formally state how a candidate's criminal record would directly impact their ability to perform a specific job.
- **Ban the Consideration of Criminal Records in Hiring**
Due to disparate incarceration rates among people of color, employers are in fact engaging in racial discrimination by considering criminal records and are subject to violations of Title VII of the Civil Rights Act of 1964, exposing themselves to civil litigation.¹² Banning the consideration of criminal records in hiring would improve employment opportunities for those with criminal records and could relieve

employers from negligent hiring lawsuits related to employees with criminal records.

- **Expand and Simplify Clean Slate**
Clean Slate is a process that helps people “clean up” their criminal record through the expungement of misdemeanors and limited felony convictions. A study of criminal record expungement in Michigan found that expungement increased wages and employment and that those who were granted an expungement experienced very low crime rates.¹³ Therefore, expanding expungements and implementing an automatic process for those with any prior felony convictions who have successfully completed certain educational and vocational programs would help promote public safety in addition to improving employment prospects.
- **Implement Automatic Certificate of Rehabilitation**
A Certificate of Rehabilitation (COR) is a court order declaring that a person convicted of a felony is now rehabilitated. The COR process imposes a very lengthy period, in some cases a minimum of 20 years, before certain individuals can even apply for a COR. Other states should adopt Arizona's law, which expedites the civil rights restoration process directly after any formerly incarcerated person discharges from probation or parole. This would expedite the COR process, making it easier and more timely to counteract criminal record stigma in the search for a job.
- **Eliminate Occupational Licensing Bans**
Many occupations require applicants to possess job-related state licenses. Unfortunately, this requirement often demands that prospective employees pass a background check in order to obtain the license. Eliminating the automatic ban of formerly incarcerated people in obtaining an occupational license could improve formerly incarcerated people's ability to participate in a wide range of occupations.

By implementing these reforms, states can increase job opportunities for the formerly incarcerated.

About the Authors

Michael Cerda-Jara is a formerly incarcerated, first-generation transfer student from Newark, CA who is completing his B.A. in Sociology at the University of California, Berkeley. Michael is an Underground Scholars Initiative Student Advisory Board Member, Regents' & Chancellor's Scholarship recipient, 2018 Summer Undergraduate Research Fellow, 2018-2019 Ronald E. McNair Scholar and 2019-2020 Robert & Colleen Haas Scholar. In addition to his academics, Michael works as a Transfer Coordinator for the Berkeley Underground Scholars where he assists current community college students in applying to transfer to the University of California.

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About the Underground Scholars

Berkeley Underground Scholars, also known as BUS, creates a pathway for formerly incarcerated and system impacted individuals into higher education.

BUS challenges societal norms concerning incarcerated and formerly incarcerated people, specifically students impacted by issues of mass incarceration, imprisonment, and detainment of any kind. The goal of BUS is to bridge the popular academic theoretical discourse of mass incarceration with one that is grounded in the lived experiences of UC students and people from surrounding communities. The program aims to shift the school-to-prison pipeline to a prison-to-school pipeline using higher education as an alternative to incarceration.

The program provides students with a variety of academic and co-curricular support that are essential to achieving their academic, professional, and personal goals. Committed to current and prospective formerly and directly impacted students, BUS programs fall into three broad strategies: 1) Recruitment, 2) Retention, and 3) Advocacy and Policy.

About IRLE

The Institute for Research on Labor and Employment is an interdisciplinary institute at the University of California, Berkeley that connects world-class research with policy to improve workers' lives, communities, and society. IRLE promotes better understanding of the conditions, policies, and institutions that affect the well-being of workers and their families and communities by informing public debate with hard evidence about inequality, the economy, and the nature of work.

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