Unintended Consequences: Protective State Policies and the Employment of Fathers with Criminal Records

January 2019

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WP19-04-FF

ABSTRACT

Criminal records contribute to worse employment outcomes, an association with serious implications for the collateral consequences of criminal justice involvement for families. To address these employment challenges, many states have adopted policies to regulate the use of criminal records during the hiring and licensing processes. Recent studies have questioned whether such policies exacerbate statistical discrimination. Using panel data from the Fragile Families study merged with longitudinal data on state-level policies protecting the employment of individuals with records, this study investigates the association between protective state policies and the employment of fathers both with and without criminal records. Findings indicate that state policies regulating the use of records are negatively associated with the employment of fathers with records. Consistent with statistical discrimination, this negative association is particularly strong for black fathers both with and without criminal records. Instead of mitigating inequality, these policies appear to exacerbate the mark of criminal records.

Contact with the criminal justice system is pervasive in the United States, particularly for young men of color. Nearly one in three adults in the US has a criminal record (Goggins and DeBacco 2018) and one in thirteen have a felony conviction on their record (Uggen, Manza, and Thompson 2006). These numbers disproportionately include black men, approximately one-third of whom have a felony conviction (Uggen, Manza, and Thompson 2006). In this context, criminal records are now a common attribute rather than a useful signal of an individual's dangerousness or criminality. Nevertheless, criminal records are still commonly used to justify widespread legal exclusion from employment, social participation, and civic engagement (Kohler-Hausmann 2013; Pager 2007; Wakefield and Uggen 2010).

The exclusion of individuals with records from the labor market has serious implications for intergenerational disadvantage. It is likely that the majority of these individuals are parents, as suggested by studies of the prevalence of parents in prison (Glaze and Maruschak 2010). Risk of exposure to paternal incarceration has risen dramatically since the 1980s, such that by 1990 1 in 4 black children and 1 in 25 white children experienced this event during their childhood (Wildeman 2009). This number is even higher for the children whose fathers have less than a high school education (Wildeman 2009), a population already facing declining employment prospects (Cherlin 2014; Mincy 2006; Wilson 1997). The consistently worse outcomes faced by children with incarcerated fathers, particularly for those who experienced a decline in economic resources, has prompted concerns about the intergenerational transmission of criminal justice contact and system exclusion (Wakefield and Uggen 2010; Western and Wildeman 2009; Wildeman 2009).

Inspired in part by these concerns, there has been growing interest in policy approaches to improve access to the formal economy for individuals with criminal records. As many as 65 million Americans have a criminal record that may endanger their ability to secure and retain

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employment (Rodriquez and Emsellem 2011). States are increasingly adopting policies to regulate how these records can be used during the hiring process. Although policies vary, many states and municipalities now legislate which records can be considered during hiring or prevent blanket bans against individuals with records. These policies are intended to mitigate stigma by encouraging employers to evaluate candidates' qualifications rather than past criminal justice involvement. While a laudable goal, recent studies have called into question whether such policies achieve their purpose. A growing body of work finds policies restricting employers' ability to consider criminal records may inadvertently increase discrimination against the young, low-skilled, minority men they are intended to help (Agan and Starr 2016; Doleac and Hasen 2016; Holzer, Raphael, and Stoll 2007).

The present study investigates whether state-level policies regulating the use of criminal records for hiring and licensing improve the employment of criminal justice involved fathers. Using longitudinal data on fathers' employment and criminal justice contact from the Fragile Families and Child Wellbeing Study merged with a unique panel of state-level employment policies, I test whether these protective state policies moderate the collateral consequences of criminal records for employment. Findings indicate that these policies are associated with statistical discrimination against black fathers both with and without criminal records, adding to a growing body of work suggesting that the unintended consequences for racial discrimination of such protective policies may outweigh any benefits. This paper concludes with a review of alternative policy approaches that may better address employment discrimination without triggering statistical discrimination against the most vulnerable fathers.

BACKGROUND

Criminal justice involved individuals in the US face systematic social and economic

exclusion (Hagan and Dinovitzer 1999; Wakefield and Uggen 2010). While much of the existing research has focused on incarceration, criminal justice contact is far more widespread. Nearly one-third of the adult population has a criminal record (Goggins and DeBacco 2018), and even minor criminal records can have serious implications for individuals' ability to participate in economic and social life (Lageson 2016; Uggen et al. 2014). Formerly criminal justice involved individuals, by virtue of their criminal record, can be legally excluded from housing, licensing and employment opportunities, voting, and public benefits (Legal Action Center 2004). Stigma against those with records compounds the exclusion, further restricting access to remaining resources, including employment opportunities, that aren't legally prohibited (Braman 2004; Pager, Western, and Bonikowski 2009). This dual legal and social exclusion is all encompassing, and the collateral consequences for employment, education, family formation, and civic engagement both reflect and exacerbate social inequality (Hagan and Dinovitzer 1999; Wakefield and Uggen 2010).

While the criminal justice system processes individuals, these individuals are embedded within families as parents and partners, spreading the collateral consequences of involvement more widely and raising concerns about the intergenerational transmission of inequality. The economic strain associated with criminal justice involvement has particularly serious implications for families. For fathers, the stigma of a criminal record or incarceration spell is associated with withdrawal from economic and social parenting roles (Geller et al. 2012; Geller, Garfinkel, and Western 2011; Lageson 2016; Swisher and Waller 2008; Washington, Juan, and Haskins 2018). Fathers with a history of incarceration, a particularly extreme form of criminal justice involvement, provide less formal and informal child support (Geller, Garfinkel, and Western 2011; Swisher and Waller 2008), and their children are more likely to face economic hardship and

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be enrolled in government assistance programs (DeFina and Hannon 2010; Schwartz-Soicher, Geller, and Garfinkel 2011; Sugie 2012; Sykes and Pettit 2015). Formerly incarcerated fathers' difficulty finding well-paid work is an important mechanism underpinning their children's financial hardship (Geller, Garfinkel, and Western 2011), and this hardship in turn partially accounts for these children's elevated risk of externalizing and delinquent behavior (Dwyer Emory 2018). Thus, improving the employment prospects of fathers with criminal records is likely to mitigate some of the intergenerational transmission of disadvantage and criminal justice contact. Achieving this goal, however, requires addressing a plethora of legal and social barriers.

Employment and Criminal Justice Involvement

Men with criminal records and incarceration histories have more tenuous attachments to the labor market (Visher and Kachnowski 2007; Western 2007; Western, Kling, and Weiman 2001), reflecting the reciprocal relationship between employment and criminal justice involvement in the United States. Individuals who lack stable employment are more likely to become involved in the criminal justice system or recidivate (Looney and Turner 2018; Sampson and Laub 1993; Uggen 2000); and having a criminal record in turn makes it more difficult to secure stable employment (Pager 2003; Pettit and Lyons 2009). While incarceration has particularly serious and long-lasting implications for employment and wages (Pettit and Lyons 2009; Sykes and Geller 2017), those with both felony and misdemeanor convictions who may never have experienced incarceration are also disadvantaged in the labor market relative to their peers without records (Pager 2003; Uggen et al. 2014).

Stable, well-paid, and meaningful employment is associated with lower risk of criminal justice contact. This association was identified in early life-course studies of desistance from crime (Sampson and Laub 1993) and later replicated using a wide range of data and robust

methodological approaches (Apel and Horney 2017; Denver, Siwach, and Buschway 2017; Uggen 2000). A recent study by Denver and colleagues quantified this association, linking employment with an 8.4 percentage point decline in the likelihood of re-arrest (2017). While many programs have sought to capitalize on this association through work readiness curricula (Drake, Aos, and Miller 2009), evaluations indicate these programs often fail to achieve their goals (Bushway and Apel 2012; Cook et al. 2015; Wilson, Gallagher, and MacKenzie 2000). These findings suggest that addressing skills alone is insufficient to improve the labor market outcomes of men with criminal records.

An equally large literature has found having a criminal record impairs employment prospects. Individuals with a range of criminal record types are less likely to be hired and less likely to be working (Pager 2003; Pager, Western, and Bonikowski 2009; Uggen et al. 2014; Western, Kling, and Weiman 2001). There is some variation across this range; those whose records consist of low-level misdemeanors, arrests, or old convictions face lower penalties than those with more serious or recent records (Pager, Western, and Bonikowski 2009; Uggen et al. 2014). The robustness of this relationship, however, indicates that this economic exclusion goes far beyond those with histories of incarceration or felony convictions. Some of this employment disadvantage may be attributable to individuals' family background (Looney and Turner 2018), vocational skill erosion during incarceration (Pettit and Western 2004; Western, Kling, and Weiman 2001), or ongoing criminal activity. This perspective is echoed in studies of employers, which indicate that hiring managers perceive people with records as risky hires due to potential liability for criminal behavior (Lageson, Vuolo, and Uggen 2015; Pager, Western, and Sugie 2009) and concerns over personal dishonesty (Bushway, Stoll, and Weiman 2007; Lageson, Vuolo, and Uggen 2015). A criminal record is not necessarily correlated with poor employability

(Lundquist, Pager, and Strader 2018), however, and a large body of evidence suggests that stigma also plays a consequential role in hiring decisions (Pettit and Lyons 2007).

Employers do not have unlimited discretion over hiring, as some records legally disqualify applicants from certain occupations (Holzer, Raphael, and Stoll 2007), but discriminate above and beyond these legal boundaries. The majority of employers ask about criminal records in some way during the application process, particularly those hiring for positions in low-skilled employment industries of retail, hotel, and warehouse work (Vuolo, Lageson, and Uggen 2017). Employers have a preference, not always stated but consistently demonstrated, to avoid hiring individuals with criminal records (Holzer, Raphael, and Stoll 2006, 2007; Pager and Quillian 2005). In their study of employers' use of background checks, Holzer and colleagues find ex-offenders fare worse than those in other stigmatized groups like the unemployed, irregularly employed, and welfare recipients (Holzer, Raphael, and Stoll 2006). Confirming the important role of stigma over law in these hiring decisions, applicants with criminal records are more successful when they have personal interactions with hiring managers (Pager, Western, and Sugie 2009), hiring managers have discretion to make individual judgements (Lageson et al., 2015), or employers face a limited applicant pool (D'Alessio, Stolzenberg, and Eitle 2014; Doleac and Hasen 2016).

The hiring penalty of a criminal record is particularly stark for black applicants, who face the compounding stigmas of race and record (Pager 2007; Pettit and Lyons 2007; Visher and Kachnowski 2007). Pager's groundbreaking audit study indicated that while individuals with records received about half as many callbacks for applications as those without records, the baseline callback rate for black men without records was equivalent to the penalized rate of white men with records (Pager, 2003). Subsequent studies have replicated these findings, confirming

that black men with criminal records face additional discrimination relative to their white counterparts (Holzer, Raphael, and Stoll 2007; Pager and Quillian 2005; Pager, Western, and Sugie 2009).

Policy Protections for Individuals with Records

Jurisdictions have been implementing policies to improve employment access by regulating the use of criminal records during the hiring and licensing processes. In contrast to policies that incentivize the hiring of individuals with records (Looney and Turner 2018) or enhance their job skills (Drake, Aos, and Miller 2009), these types of policies aim to ensure fair treatment by preventing employers from screening out candidates whose offenses are unrelated to the job (Avery and Hernandez 2018; Legal Action Center 2004). While there is significant variation in these policies, each regulates the type of information employers can consider during the hiring process.

Most recently, "Ban the Box" policies have gained momentum among both public and private employers. These polices specifically prohibit employers from using a checkbox on applications to ask about criminal records, and have been implemented in 150 municipalities and 31 states as of 2018 (Avery and Hernandez 2018). The first state to adopt a "Ban the Box" policy was Hawaii, which enacted a law in 1998 to prevent public or private employers from inquiring about conviction history until after an offer is made (D'Alessio, Stolzenberg, and Flexon 2015). Regulating the use of criminal records during hiring is a much older idea, however. Since 1982, Wisconsin has defined using records of arrests that did not lead to conviction or denying employment on the basis of a criminal record as employment discrimination unless substantially related to the job at hand (Legal Action Center 2004). States have applied these types of regulations to public and public contract employers, private employers, and licensing agencies

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(Doleac & Hasen, 2016; Legal Action Center, 2004). The regulation of licensing agencies at the state level is notable, as 35% of employees require a government issued license for their job, including one quarter of those with a high school degree (Kleiner and Krueger 2013). Moreover, licensing regulations provide additional economic opportunities by allowing individuals with records to apply for work in a broader range of industries (Legal Action Center 2004).

There is some evidence these policies achieve their goal of reducing discrimination against individuals with records. Evaluations of specific ban the box policies have been promising, though largely based on descriptive statistical analyses. In both Durham, NC, and Washington, DC, the implementation of local ban the box policies increased the number of applications from individuals with criminal records and resulted in a larger proportion of such individuals hired by the city (Atkinson and Lockwood 2014; Berracasa et al. 2016). In an evaluation of Hawaii's policy, D'Alessio and colleagues find that felony defendants were 57% less likely to have prior convictions after the passage of the state law (2015). Authors attribute this finding to the removal of the stigmatizing label of criminal from job applications, though they do not directly observe employment.

A growing body of work examining the association between such regulatory policies and employment has found harmful effects for black men's employment; suggesting this approach triggers statistical discrimination. While limiting employer access to records should ideally improve employment, employers are not necessarily more willing to hire individuals with records. Deprived of direct information about records, employers may instead discriminate against groups deemed likely to have records- namely young, low-skilled men from racial minorities. Teasing apart discrimination on the basis of race and criminal records is difficult, as there is significant overlap between employers willing to discriminate on both fronts (Pager, Western, and

Bonikowski 2009; Pager, Western, and Sugie 2009). Nonetheless, carefully designed studies have

linked policies regulating the use of criminal records in hiring to racial discrimination. In an audit

study done in New York City and New Jersey, Agan and Starr find that employers who asked

about criminal records before the passage of ban the box policies also discriminated more heavily

against black applicants when such questions were no longer allowed (2016). Other

methodologically rigorous studies have also found ban the box polices to increase racial

discrimination (Doleac and Hasen 2016; Vuolo, Lageson, and Uggen 2017) as employers manage

risk by preferring older, female, and white individuals (Agan and Starr 2016; Doleac and Hasen

2016). The data used in these studies are unable to identify the effects for individuals with

criminal records, but it is likely that statistical discrimination undermines any improvements in

former offenders' employment prospects.

Hypotheses

This study examines the implications of state-level employment protections for fathers

with criminal records, a group of particular interest for researchers and policymakers alike. Prior

research on similar policies, although at different jurisdictional levels and on different

populations, suggest two competing hypotheses. On the one hand, policies regulating the use of

criminal records during hiring are intended to improve access to employment by preventing

discrimination on the basis of past criminal justice involvement (Avery and Hernandez 2018;

Rodriquez and Emsellem 2011). In line with this intention, the first hypothesis posits that more

protective policies improve employment outcomes. Thus, policies should a) be associated with

higher employment among men with criminal records, and b) moderate the association between

criminal records and employment. On the other hand, a growing number of studies suggest that

regulating the use of criminal records during hiring may instead contribute to statistical

discrimination (Doleac and Hasen 2016; Stacy and Cohen 2017). Building from this research, the

second hypothesis posits that more protective policies should be associated with reduced

employment among a) black fathers with criminal records, and b) all black fathers, regardless of

criminal record.

METHODS

Data

The Fragile Families and Child Wellbeing Study (FF) is a longitudinal study following the

families of children born in 20 US cities between 1998 and 2000 (Reichman et al. 2001).

Importantly, FF includes an oversample of unmarried parents, which combined with the urban

sample have made this a foundational data source for studying the implications of criminal justice

involvement for families (Schwartz-Soicher, Geller, and Garfinkel 2011; Sykes and Geller 2017;

Turney 2017; Wildeman 2010). Both mothers and fathers were interviewed at the time of the

child's birth, with follow up interviews occurring with both parents when the child was one-,

three-, five-, nine-, and with mothers at fifteen-years-old. The present study uses father interviews

from waves 2 (one-year) through 5 (nine-year) of the study, in which fathers were asked

comprehensive questions about their criminal justice system involvement. The response rates for

fathers in these waves ranged from 74% at wave 2 to 59% at wave 5, a limitation addressed in

detail in the discussion. FF data are then merged by year and the father's state of residence at the

time of the interview with a unique dataset containing state-level longitudinal data on labor

market and criminal justice system outcomes as well as policies regulating the use of criminal

records during the hiring and licensing processes.

Data are organized as an unbalanced father-year panel. As shown in Table 1, there was

variation in the year that interviews were conducted within waves, ranging from 1999 to 2010 in

the final analytic sample. Following Sykes and Geller (2017), 6 observations were dropped from the analysis since interviews for different waves occurred within the same year. Of the 4898 families in FF, 806 fathers were not interviewed in any of the waves used in this study. Due to data limitations, fathers were dropped from the panel if they were not interviewed in wave 2 of the survey (721 fathers) or did not report their race or ethnicity (3 fathers). Observations were dropped at a particular wave, though not necessarily from the panel, if fathers did not participate in the wave (295 observations at wave 3, 513 observations at wave 4, and 909 observations at wave 5), had missing reports of criminal records or employment (32 observations), had missing state of residence or had moved either abroad or to a US territory (101 observations), reported living in Massachusetts before 2001 due to missing data for that state (64 observations), or reported living in Washington DC due to missing data on imprisonment rates (3 observations). To ensure fathers were eligible for employment, observations were excluded if fathers were incarcerated at the time of the survey (361 observations). The final analytic sample includes 10,351 observations of 3120 unique fathers who participated in one (4%), two (15%), three (27%) or four waves (54%) of the survey. Multiple imputation with chained equations was used to address item specific non-response on FF survey questions, though most variables had less than 10% missing data. Ten imputations were created, and findings presented reflect pooled estimates.

[Table 1 around here]

Measures

State Employment Policies

State employment policies are based on coding developed by the Legal Action Center for their "Roadblocks to Reentry" report to measure state policies that make securing employment more difficult for individuals with criminal records (2004, 2009). Other components of these data

have been used in previous studies to model the employment outcomes of criminal justice

involved individuals as a function of access to online records (Bushway 2004; Finlay 2008). The

original coding has been expanded for this study to include policies for all states from 1996-2014,

and reverse-coded so higher scores reflect more protective policies rather than barriers. States

were scored on the following criteria: 1) private employers, public employers, and/or licensing

agencies are not allowed to ask about or consider arrests when making hiring decisions, 2) private

employers, public employers, and/or licensing agencies are not allowed to deny jobs or fire

anyone on the basis of their criminal record rather than through an individualized determination

of qualifications. These six measures are combined into a policy index where zero indicates there

are no state policy protections in place and one indicates all six policies are in place. Findings are

also robust to alternative specifications of the policy variable, including analyzing each policy

separately and a categorical measure distinguishing states that have no, some, or all the policies in

place. The policy index is lagged by one year to ensure that exposure to the policy occurred

before the measurement of the fathers' employment, as five states changed their policies at some

point between 1999 and 2010. There is limited within-father variation in policy regime (15% of

the sample) associated with both policy changes (53% of variation) and interstate mobility (47%

of variation).

Criminal Records

At Wave 2, fathers self-report whether they had ever been stopped by police, booked or

charged with breaking the law, convicted of a crime, or incarcerated. In subsequent waves, they

are instead asked whether these kinds of contact with the criminal justice system occurred either

since the last wave or since the last interview. Using these questions, I construct a time-varying

measure of fathers' criminal justice history. Fathers are considered to have a criminal record at the

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time of the interview if they reported having been booked or charged, convicted, or incarcerated in the current or in any previous wave. Fathers with missing reports at wave 2 are excluded since their full history of criminal justice contact is undetermined.

As fathers' criminal records have not been used extensively in prior research, robustness checks were conducted using alternative measures. First, consistent with prior studies on criminal justice involved fathers in FF (Geller et al. 2012; Wildeman, Turney, and Yi 2016), a variable capturing whether either the mother or the father reports a prior incarceration is constructed. Second, to address possible measurement error associated with ambiguous criminal justice contact, fathers are defined as having a criminal record only if they report incarceration or conviction. All models are robust to these alternative specifications, and coefficients tend to be larger for these measures of more intensive criminal justice contact than those presented.

Employment

Fathers report at each wave whether they did any regular work for pay in the prior week, including work done for their own business or for a regular paycheck. Fathers who report no formal work are then asked if they are looking for a job and, if not, why. To capture fathers who are self-employed in the formal economy, following Sykes and Geller's definition of employment (2016) fathers are also coded as employed if they report that they "have a job" or "own a business." Findings were robust to excluding self-employment from this definition.

Controls

Models adjust for a set of father attributes and state-level controls that may confound the association between employment and protective policies. Father-level controls are intended to account for variables associated with fathers' risk of criminality and unemployment. These controls include fathers' household poverty and substance use at the time of the child's birth, race

and ethnicity, whether parents were married at the time of the birth, whether the father reported

incarceration before wave 2, and self-reported impulsivity at wave 2 (Cronbach's alpha .84). Time

varying measures of fathers' age, education, and whether the father reports living in a different

state than that reported in the wave 2 survey are also included. State-level controls, lagged by

one-year, adjust for state attributes associated with both economic conditions and the state

criminal justice policy regime. These controls include the state unemployment rate (BLS 2018),

local area unemployment rates, imprisonment rate (Carson and Mulako-Wangota 2018), uniform

crime reports of violent and property crime rates (FBI 2018), the political ideology of the state

house of representatives, and Gini coefficient measuring income inequality (Frank 2015) in the

fathers' state in the year prior to the interview. Models also adjust for the census region of the

father's state and the interview wave.

Analytic Strategy

To take advantage of variation in policies over time, within, and between fathers in the

panel, random effects linear probability models are used to model the association between state

policies and fathers' employment. All models are estimated using robust standard errors, which in

a random effects framework adjust for clustering at the person level, and include a control for the

wave of the survey to adjust as much as possible for variation in attrition and survey design. As a

robustness check, models were also specified using logistic regressions and multilevel mixed

effects models nesting fathers within states. Findings were consistent across these alternative

specifications (available upon request), and the linear probability models are preferred due to

parsimony and ease of interpretation (Mood 2010).

Three sets of models are estimated. First, the association between employment policies

and father employment is modeled for the subsample of fathers with criminal records at the time

of the survey. These models test whether variation in policies is associated with better employment outcomes among criminal justice involved fathers, as intended by policymakers. Second, the sample is expanded to include fathers without criminal records to test whether policies moderate the association between records and employment. Within this full sample, models first estimate the main effect of criminal records on employment and second introduce an interaction with the employment policy index. To evaluate whether these policies contribute to statistical discrimination, as suggested by prior research (Agan and Starr 2016; Doleac and Hasen 2016; Pager, Western, and Bonikowski 2009), models are stratified to examine white and black fathers separately. As previous research also indicates that statistical discrimination should be concentrated among young men (Holzer, Raphael, and Stoll 2006), models are further stratified by whether fathers were over or under 25 years of age as an additional test of this hypothesis.

Sensitivity Analyses

An exhaustive set of sensitivity analyses were conducted to test the robustness of the findings presented. In addition to the alternative modeling strategies and variable constructions noted in the previous sections, three additional sensitivity models are presented to address specific concerns. First, it is possible that fathers with criminal records move selectively to more protective states. If this is the case, associations between policies and employment may reflect the disruption of networks important for finding work. To address this possibility, the sample is restricted to fathers who have not moved states since the birth of their child. Second, the recession occurred in the middle of the time series, and the relative vulnerability of fathers with records may disproportionately affect the employability of these fathers. To guard against this confounding event, models are estimated excluding all interviews conducted after 2008. Finally, fathers who are interviewed in FF are less likely to be criminal justice involved and more attached

to their families due to differential attrition. To test whether findings are due to this select sample, the sample is expanded to include fathers who did not participate in the survey using mother reports of the employment and incarceration history. Due to data limitations, the combined report of fathers' incarceration history is used in these models.

<div align="center">FINDINGS</div>

Criminal justice contact is common among fathers in FF and goes beyond incarceration, as shown in Table 2. While the majority of fathers do not have a criminal record (6669 observations, 2123 unique individuals), 40% of these fathers had been stopped by police and 20% had contact with police since the last survey. Approximately one-third of fathers (3677 observations, 1297 unique individuals) have a criminal record. Of these fathers, only half have a history of incarceration, 60% report having a conviction, and just over half have had any criminal justice contact since the last wave. Together, this pattern suggests that many fathers with records are not criminally active and may have relatively minor offenses on their record. As expected, however, fathers with criminal records have other risk factors like a history of poverty, lower levels of education, higher rates of substance use and impulsivity, and a history of early contact incarceration.

Fathers with criminal records are also less likely to be employed than those without records (88% v. 75%). An analysis not shown indicates that the vast majority of fathers who are not currently employed (74% of fathers with records and 70% of fathers without records) report looking for work. Few fathers report leaving the labor force for caregiving or educational pursuits, and similar proportions of fathers with and without records cite disability or poor health as the primary reason. This pattern indicates that unemployment among all fathers more likely stems from unsuccessful job searches rather than intentional withdrawal from the formal

economy.

[Table 2]

Fathers lived in 46 unique states across the panel. These states vary widely with respect to their policies, as summarized in Table 3, falling on average at .37 on the scale of 0 (no protective policies) to 1 (all protective policies). These laws govern the use of arrest information by employers (33% of state years, 21% applying to both private and public employers) and licensing agencies (34% of state years), and prohibit blanket bans on individuals with records by employers (35% of state years, 12% applying to both private and public employers) or licensing agencies (48% of state years). The context of these policies also vary widely, and between 1999 and 2010 states were reported to have a wide range of employment rates, income inequality, imprisonment rates, political ideology, and crime rates.

[Table 3]

Policy Protections and Employment

The models presented in Table 4 test whether policies regulating the use of criminal records in hiring improve the employment of fathers with criminal records. Contrary to expectations, these models indicate that living in a state with protective policies in place is negatively associated with the probability fathers with criminal records are employed. As shown in the first model, fathers living in a state with all of the policies in place were 15 percentage points less likely to be employed than fathers living in a state with no protective policies. Race stratified models indicate that these findings are largely driven by the experiences of black fathers, who also constitute the majority of the FF sample. There is no association between policies and employment for white fathers with records, but black fathers with records are 19 percentage points less likely to be employed in the most protective than in the least protective states.

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[Table 4]

The models presented in Table 5 test the moderation hypothesis. These models include the full sample of fathers in the panel, modeling first the association between a criminal record and employment and second the interaction between records and protective policies. For all fathers, a criminal record is associated with a 5 percentage point lower probability of employment. Protective employment policies do moderate the association between criminal justice contact and employment, but not in the expected direction. Consistent with the previous set of models, these results indicate that the employment prospects of fathers with criminal records are worse in states with more protective policies, so much so that the main effect of a criminal record (in states with no such policies) is not significant.

The race stratified models presented in Table 5 test the hypothesis that these policies contribute to statistical discrimination against black fathers both with and without criminal records. For white fathers, having a criminal record only marginally reduces the likelihood of employment, and policies do not moderate this association. This is not the case for black fathers, however. Black fathers with records are 4 percentage points less likely to be employed than those without records, but all black fathers are sensitive to employment policies. The significant main effect of the employment policy index indicates that black fathers living in states with the most protective policies are 9 percentage points less likely to be employed than those living in the least protective regimes regardless of their criminal record status. While linear combinations of these main variables indicate black fathers with records are still less likely to be employed than those with records, the negative association with policies is not limited to these fathers and thus consistent with statistical discrimination.

[Table 5]

To further test whether statistical discrimination is driving these findings, models are further stratified by father age. Statistical discrimination predicts that the negative association between protective policies and employment should be stronger for young men, who are perceived as more likely to have criminal records. As shown in Table 6, for fathers under 25 there is a marginally significant negative association between policies and employment regardless of their criminal record status. This negative association is consistent for all young fathers, young black fathers, and to a lesser degree young white fathers, though not all coefficients reach statistical significance due to the limited sample size. The association is somewhat different for fathers over 25, for whom policies are only negatively associated with the employment of fathers with criminal records. This suggests that employers wishing to avoid hiring individuals with records might be better able to discern the status of older men, though alternative interpretations may also be at play. These models are consistent with statistical discrimination, though the limited statistical significance precludes strong conclusions.

[Table 6]

Sensitivity Analyses

Findings are remarkably robust to an exhaustive set of robustness checks and sensitivity analyses, three of which are presented in Table 7. Models restricting the sample to fathers who never moved states (first panel) - addressing concerns about selective migration- and fathers who were interviewed prior to 2008 (second panel) - addressing concerns about the US recession- are nearly identical to the main findings. The final panel addresses concerns about the selectivity of the father sample in FF by expanding the analytic sample to include mother reports of fathers lost to attrition. As mothers only reported on fathers' incarceration history, these models use the combined incarceration report instead of fathers' criminal record status. Unsurprisingly, the

coefficients associated with incarceration were both larger and more consistently significant than those associated with criminal records presented in Table 5 (11pp v. 4pp, respectively). Policies negatively moderate this association in the full sample and white sample, indicating that fathers with records are again less likely to be employed in states with more protective policies. Consistent with the previous models, however, black fathers both with and without records fare worse in states that have more protective policies in place. This figure is only marginally significant, but also represents a less stark contrast since fathers with records but no history of incarceration are also included in the comparison group. Together, these sensitivity analyses indicate the main findings are more than sample artifacts.

[Table 7]

DISCUSSION

This paper addressed two competing hypotheses: 1) that protective policies are associated with higher employment for fathers with records, and 2) that statistical discrimination would lead to a negative association between policies and the employment of men perceived as likely to be involved in the criminal justice system. Overall, these findings contribute to a growing body of work finding that policies intended to address employment discrimination by restricting the use of records during employment contribute instead to racial discrimination. Thus, policies designed to address inequality may instead magnify existing social inequalities by exacerbating the cost of a criminal record for black fathers, their families, and ultimately other black men and families in their communities who may have no direct contact with the criminal justice system.

Protective employment policies aim to level the playing field by making employers consider individuals with criminal records on a case-by-case basis. Indeed, more limited access to records and personal contact with employers have been linked to a higher probability of hiring

individuals with records (Finlay, 2008; Lageson et al., 2015; Pager, Western, & Sugie, 2009). Hypothesis 1 posits that these goals are successful, predicting that having more protective policies in place should be associated with a) higher probability of employment among men with criminal records, and b) moderation of the association between records and employment to close gaps. The findings presented in this paper, however, indicate that fathers with records are less likely to be employed in states with more protective policies, and that policies appear to exacerbate the collateral consequences of criminal records for employment. Even the most optimistic evaluations of policies regulating the use of records during hiring, however, point to increased numbers of applications as the key mechanism rather than fairer employment practices (Atkinson & Lockwood, 2014; Berracasa, Estevez, Nugent, Roesing, & Wei, 2016). While fathers in this study may indeed be applying for more jobs, there is no evidence that state level policies support fathers' ability to find employment.

The second hypothesis posits that policies regulating the use of records in employment will harm the employment of black fathers by exacerbating racial discrimination. The theory of statistical discrimination suggests that when employers have restricted access to desired information like a criminal history, they instead use heuristics to infer the likelihood of criminal activity. In the case of criminal records, employers are likely to rely on stereotypes and avoid hiring young minority men (Holzer, Raphael, and Stoll 2006). Of these stigmatized attributes, race is perhaps the most salient and disturbing axis of discrimination (Doleac and Hasen 2016; Holzer, Raphael, and Stoll 2006; Pager, Western, and Bonikowski 2009). Consistent with this hypothesis, there are strong racial differences in how policies moderate fathers' likelihood of employment. While white fathers with records face some employment disadvantages, particularly if they have a history of incarceration, for the most part their ability to find work is not sensitive

to policies protecting the use of their records in hiring or licensing. Black fathers both with and without records have an entirely different experience. Like white fathers, having a criminal record or history of incarceration was associated with a lower probability that black fathers found employment. For black fathers both with and without records, however, living in a state that regulated the use of criminal records more heavily further reduced their likelihood of employment. This finding aligns closely with research identifying population level declines in the employment of young black men after passing "Ban the Box" policies at the state or municipal level that similarly regulate the use of criminal record information in hiring (Agan and Starr 2016; Doleac and Hasen 2016; Holzer, Raphael, and Stoll 2006).

Limitations

The Fragile Families and Child Wellbeing study has the most comprehensive data available on fathers' criminal justice involvement, data that has shaped our understanding of the implications of paternal incarceration in particular for a wide range of child, family, and father outcomes (Dwyer Emory 2018; Haskins and Jacobsen 2017; Schwartz-Soicher, Geller, and Garfinkel 2011; Wildeman 2009). This data also has key limitations that shape the interpretation of these findings. It is likely that the measures of father's contact with the criminal justice system used are not completely accurate measures of criminal records. In part, this reflects ambiguity in criminal justice involvement; in practice, it is not always clear when an arrest or conviction has occurred. This ambiguity is exacerbated by the prevalence and opacity of plea-bargains (Helm and Reyna 2017). This confusion and social desirability may lead fathers to under report contact and thus be skipped out of later questions about convictions. The findings are thus likely conservative estimates due to systematically undercounting fathers with criminal records, potentially up to 20% (Geller et al., 2016). Additional information relevant to understanding how

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policies apply to fathers' criminal records is not available. Notably, fathers do not report whether convictions are felonies or misdemeanors, whether records have been sealed or expunged, or distinguish between juvenile and adult offenses. It is therefore likely that reports of criminal justice contact, while correlated, are not completely accurate proxies for criminal records. These limitations are addressed to the extent possible by using multiple definitions of criminal records as sensitivity checks, and results are robust to different specifications.

Given these limitations, findings should be interpreted in conjunction with those from other datasets evaluating these kinds of policies in different contexts. This is the first such study to look exclusively at fathers or use the Fragile Families dataset to study these kinds of policies at the individual level, and also focuses exclusively on state-level policies. Despite these innovations, the findings are consistent with previous studies on criminal justice involved fathers' employment (Sykes and Geller 2017; Pager 2007, 2003) and specific policy studies done at the municipal or state and municipal levels (Doleac and Hasen 2016; Holzer, Raphael, and Stoll 2007; Agan and Starr 2016). Thus, this study contributes to a growing body of work have used different approaches to identify employment discrimination faced by individuals with prior criminal justice involvement but warn that regulating the use of criminal records during hiring may backfire for the most marginalized populations.

Mitigating the Mark of a Criminal Record

Unlike previous research based on the evaluation of specific policies (Agan and Starr 2016; Doleac and Hasen 2016; Holzer, Raphael, and Stoll 2007), this study takes a broad approach to examine how protective state policies shape employment. This article joins with these studies, however, in finding evidence of a troubling pattern of statistical discrimination linked with policies regulating the use of criminal records during hiring. Rather than an easy

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administrative solution for the problems associated with widespread criminal justice involvement, at the state level these policies appear ineffective at best and damaging at worst. The challenges faced by criminal justice involved individuals in finding high quality employment remain a social problem in need of a solution. Securing employment is a key component of success for fathers with criminal records and those at risk for criminal justice involvement, both by improving family resources (Geller et al., 2011; Swisher & Waller, 2008) and reducing the risk of future criminal activity (Apel and Horney 2017; Denver, Siwach, and Buschway 2017; Sampson and Laub 1993; Uggen 2000). A number of alternate approaches may more effectively address barriers to securing employment for these men while balancing the realities of discriminatory employer behavior.

One approach is to allow employers to consider criminal record, but make it easier for records to be sealed, expunged, or corrected. Errors in criminal records are common but are often difficult or impossible to correct (Jacobs 2015, chap. 7; Lageson 2016), a problem compounded by the distribution of criminal records by private companies (Jacobs 2015, chap. 5; Lageson 2016). Even if records are correct, sealing and expunging them is often a difficult administrative task with ambiguous results for individuals seeking work (Stacy and Cohen 2017; Vuolo, Lageson, and Uggen 2017; Legal Action Center 2004). This approach would protect information with limited relevance for employability- such as old, minor, or incorrect records (Uggen et al. 2014)- but allow employers to take into account more serious criminal histories. States may also be able to assist individuals in signaling desistance from crime by supporting programs to develop vocational skills (Leasure and Stevens Andersen 2016; Reich 2017) or providing official certificate from the state court to signal the state is satisfied that the individual poses no risk (Leasure and Stevens Andersen 2016). This kind of signaling alone, however, may be insufficient

in many cases to overcome the stigma of a criminal record (Bushway and Apel 2012; Reich 2017).

A second approach is to address directly employer concerns about the risks of hiring individuals with criminal records, either directly or by improving accurate screening processes. Reducing employer risk could be achieved by reforming negligent hiring laws, which would shield employers from liability in the event that an ex-offender causes injury and in theory improve their willingness to consider individuals with records (Jacobs 2015, chap. 14). Accurate screening procedures could also allow employers to identify individuals whose records pose little risk. Lundquist and colleagues find evidence that a screening policy like that employed by the military can successfully integrate qualified men with records into the labor force to the benefit of men and employers alike (Lundquist, Pager, and Strader 2018). This approach is consistent with previous research indicating drug screening in the workplace decreases racial discrimination in hiring (Wozniak 2014).

Finally, actively enforcing existing antidiscrimination law regulating the use of both race and criminal records in hiring would address the discrimination identified in this and other studies directly (Spaulding et al. 2015; Stacy and Cohen 2017). This approach acknowledges that while the intent may be to avoid hiring individuals with records, in reality it is difficult to disentangle discrimination by race and by record. This argument has been tried in several legal cases dating back to the 1970s, though courts have been reluctant to explicitly tie discrimination based on records to racial discrimination despite disparate harm (Jacobs 2015, chap. 14). Nonetheless, the federal Equal Employment Opportunity Commission declared blanket bans against hiring individuals with conviction histories unlawful in 1987 and current guidelines actively discourage the use of criminal records in hiring (EEOC 1987, 2012). The ongoing challenges faced by

individuals with records, particularly black men with records, however, suggests employers are not consistently following these guidelines. This direct approach has the additional benefit of addressing the issues of statistical discrimination that effect black Americans regardless of their involvement with the criminal justice system.

It is without question that the collateral consequences of criminal justice involvement for employment are serious, with far-reaching implications for racial and intergenerational inequality. Addressing these issues, however, has proven a difficult task. While there has been great momentum behind policies restricting the use of criminal records when hiring, this study and others like it raise important questions about the unintended consequences for statistical discrimination. Rather than mitigating the mark of a criminal record, these policies may instead magnify the collateral consequences faced by criminal justice involved fathers, their families, and their communities. Future research should consider the implications of these findings for intergenerational disadvantage and continue to evaluate protective policies to identify such unintentional consequences.

REFERENCES

Agan, Amanda Y., and Sonja B. Starr. 2016. "Ban the Box, Criminal Records, and Statistical Discrimination: A Field Experiment." SSRN Scholarly Paper ID 2795795. Rochester, NY: Social Science Research Network. https://papers.ssrn.com/abstract=2795795.

Apel, Robert, and Julie Horney. 2017. "How and Why Does Work Matter? Employment Conditions, Routine Activities, and Crime Among Adult Male Offenders." *Criminology* 55 (2): 307–43.

Atkinson, Daryl V., and Kathleen Lockwood. 2014. "The Benefits of Ban the Box." The Southern Coalition for Social Justice. https://www.southerncoalition.org/wp-content/uploads/2014/10/BantheBox_WhitePaper-2.pdf.

Avery, Beth, and Phil Hernandez. 2018. "Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies." National Employment Law Project. https://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/.

Berracasa, Colenn, Alexis Estevez, Charlotte Nugent, Kelly Roesing, and Jerry Wei. 2016. "The Impact of 'Ban the Box' in the District of Columbia." Office of the District of Columbia Auditor. http://www.dcauditor.org/sites/default/files/FCRSA%20-%20Ban%20the%20Box%20Report_0.pdf.

BLS. 2018. "State Unemployment Rate." Federal Reserve Economic Data (FRED). U.S. Bureau of Labor Statistics. https://fred.stlouisfed.org.

Braman, Donald. 2004. *Doing Time on the Outside: Incarceration and Family Life in Urban America*. Ann Arbor, MI: University of Michigan Press.

Bushway, Shawn. 2004. "Labor Market Effects of Permitting Employer Access to Criminal History Records, Labor Market Effects of Permitting Employer Access to Criminal History Records." *Journal of Contemporary Criminal Justice* 20 (3): 276–91.

Bushway, Shawn, and Robert Apel. 2012. "A Signaling Perspective on Employment-Based Reentry Programming." *Criminology & Public Policy* 11 (1): 21–50.

Bushway, Shawn, Michael A. Stoll, and David F. Weiman, eds. 2007. *Barriers to Reentry?: The Labor Market for Released Prisoners in Post-Industrial America*. New York, NY: Russell Sage Foundation.

Carson, E. Ann, and Joseph Mulako-Wangota. 2018. "Imprisonment Rates of Total Jurisdiction Population." Corrections Statistical Analysis Tool (CSAT)-Prisoners. Bureau of Justice Statistics. https://www.bjs.gov/nps.

Cherlin, Andrew J. 2014. *Labor's Love Lost: The Rise and Fall of the Working-Class Family in America*. Russell Sage Foundation.

Cook, Philip J., Songman Kang, Anthony A. Braga, Jens Ludwig, and Mallory E. O'Brien. 2015. "An Experimental Evaluation of a Comprehensive Employment-Oriented Prisoner Re-Entry Program." *Journal of Quantitative Criminology* 31 (3): 355–82.

D'Alessio, Stewart J., Lisa Stolzenberg, and David Eitle. 2014. "'Last Hired, First Fired': The Effect of the Unemployment Rate on the Probability of Repeat Offending." *American Journal of Criminal Justice* 39 (1): 77–93.

D'Alessio, Stewart J., Lisa Stolzenberg, and Jamie L. Flexon. 2015. "The Effect of Hawaii's Ban The Box Law on Repeat Offending." *American Journal of Criminal Justice* 40 (2): 336–52.

DeFina, Robert H., and Lance Hannon. 2010. "The Impact of Adult Incarceration on Child Poverty: A County-Level Analysis, 1995-2007." *The Prison Journal* 90 (4): 377–96.

Denver, Megan, Garima Siwach, and Shawn Buschway. 2017. "A New Look at the Employment and Recidivism Relationship through the Lens of a Criminal Background Check." *Criminology* 55 (1): 174–204.

Doleac, Jennifer L., and Benjamin Hasen. 2016. "Does 'Ban the Box' Help or Hurt Low-Skilled Workers? Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden." *National Bureau of Economic Research*, 22469, .

Drake, Elizabeth K., Steve Aos, and Marna G. Miller. 2009. "Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State." *Victims & Offenders* 4 (2): 170–96.

Dwyer Emory, Allison. 2018. "Explaining the Consequences of Paternal Incarceration for Children's Behavioral Problems." *Family Relations* 67 (2): 302–19.

EEOC. 1987. "EEOC Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964, as Amended, 42 U.S.C. § 2000e et Seq. (1982)." Washington DC: Equal Employment Opportunity Commission (EEOC). https://www.eeoc.gov/policy/docs/convict1.html.

———. 2012. "EEOC Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964." Washington, DC: Equal Employment Opportunity Commission (EEOC).

https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

FBI. 2018. "Uniform Crime Reporting Statistics." UCR Data Online. Federal Bureau of Investigation. http://www.ucrdatatool.gov/.

Finlay, Keith. 2008. "Effect of Employer Access to Criminal History Data on the Labor Market Outcomes of Ex-Offenders and Non-Offenders." Working Paper 13935. National Bureau of Economic Research.

Frank, Mark W. 2015. "U.S. State-Level Income Inequality Data." 2015. http://www.shsu.edu/eco_mwf/inequality.html.

Geller, Amanda, Carey E. Cooper, Irwin Garfinkel, Ofira Schwartz-Soicher, and Ronald B. Mincy. 2012. "Beyond Absenteeism: Father Incarceration and Child Development." *Demography* 49 (1): 49–76.

Geller, Amanda, Irwin Garfinkel, and Bruce Western. 2011. "Paternal Incarceration and Support for Children in Fragile Families." *Demography* 48 (1): 25–47.

Glaze, Laren E., and Laura M. Maruschak. 2010. "Parents in Prison and Their Minor Children." Bureau of Justice Statistics Special Report. Washington, DC: U.S. Department of Justice. https://www.bjs.gov/content/pub/pdf/pptmc.pdf.

Goggins, Becki R., and Dennis A. DeBacco. 2018. "Survey of State Criminal History Information Systems, 2016: A Criminal Justice Information Policy Report." 251516. SEARCH, The National Consortium for Justice Information and Statistics. https://www.ncjrs.gov/pdffiles1/bjs/grants/251516.pdf.

Hagan, John, and Ronit Dinovitzer. 1999. "Collateral Consequences of Imprisonment for Children, Communities, and Prisoners." *Crime and Justice* 26: 121–62.

Haskins, Anna R., and Wade C. Jacobsen. 2017. "Schools as Surveilling Institutions? Paternal Incarceration, System Avoidance, and Parental Involvement in Schooling." *American Sociological Review* 82 (4): 657–84.

Helm, Rebecca K., and Valerie F. Reyna. 2017. "Logical but Incompetent Plea Decisions: A New Approach to Plea Bargaining Grounded in Cognitive Theory." *Psychology, Public Policy, and Law* 23 (3): 367–80.

Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2006. "Perceived Criminality, Criminal Background Checks, and the Racial Hiring Practices of Employers." *The Journal of Law and Economics* 49 (2): 451–480.

———. 2007. "The Effect of an Applicant's Criminal History on Employer Hiring Decisions and Screening Practices: Evidence from Los Angeles." In *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by Shawn Bushway, Michael A. Stoll, and David F. Weiman, 117–51. New York: Russell Sage Foundation.

Jacobs, James B. 2015. *The Eternal Criminal Record*. Harvard University Press.

Kleiner, Morris M., and Alan B. Krueger. 2013. "Analyzing the Extent and Influence of Occupational Licensing on the Labor Market." *Journal of Labor Economics* 31 (S1): S173–S202.

Kohler-Hausmann, Issa. 2013. "Misdemeanor Justice: Control without Conviction." *American Journal of Sociology* 119 (2): 351–393.

Lageson, Sarah Esther. 2016. "Found Out and Opting Out The Consequences of Online Criminal Records for Families." *The ANNALS of the American Academy of Political and Social Science* 665 (1): 127–41.

Lageson, Sarah Esther, Mike Vuolo, and Christopher Uggen. 2015. "Legal Ambiguity in Managerial Assessments of Criminal Records." *Law & Social Inquiry* 40 (1): 175–204.

Leasure, Peter, and Tia Stevens Andersen. 2016. "The Effectiveness of Certificates of Relief as Collateral Consequence Relief Mechanisms: An Experimental Study."

Legal Action Center. 2004. "After Prison: Roadblocks to Reentry. A Report on State Legal Barriers Facing People with Criminal Records." Washington, DC: Legal Action Center. https://lac.org/roadblocks-to-reentry/index.php.

———. 2009. "After Prison: Roadblocks to Reentry 2009 Update." Washington, DC: Legal Action Center.

Looney, Adam, and Nicholas Turner. 2018. "Work and Opportunity before and after Incarceration." Washington, DC: Brookings Institution, Economic Studies Center.

Lundquist, Jennifer Hickes, Devah Pager, and Eiko Strader. 2018. "Does a Criminal Past Predict Worker Performance? Evidence from One of America's Largest Employers." *Social Forces* 96 (3): 1039–68.

Mincy, Ronald B. 2006. *Black Males Left Behind*. The Urban Institute.

Mood, Carina. 2010. "Logistic Regression: Why We Cannot Do What We Think We Can Do, and What We Can Do About It." *European Sociological Review* 26 (1): 67–82.

Pager, Devah. 2003. "The Mark of a Criminal Record." *American Journal of Sociology* 108 (5): 937–75.

———. 2007. "Two Strikes and You're Out: The Intensification of Racial and Criminal Stigma." In *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by Shawn Bushway, Michael A. Stoll, and David F. Weiman, 151–73. New York: Russell Sage Foundation.

Pager, Devah, and Lincoln Quillian. 2005. "Walking the Talk? What Employers Say versus What They Do." *American Sociological Review* 70 (3): 355–380.

Pager, Devah, Bruce Western, and Bart Bonikowski. 2009. "Discrimination in a Low-Wage Labor Market: A Field Experiment." *American Sociological Review* 74 (5): 777–99.

Pager, Devah, Bruce Western, and Naomi Sugie. 2009. "Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records." *The Annals of the American Academy of Political and Social Science* 623 (1): 195–213.

Pettit, Becky, and Christopher J. Lyons. 2007. "Status and the Stigma of Incarceration: The Labor-Market Effects of Incarceration, by Race, Class, and Criminal Involvement." In *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by Shawn Bushway, Michael A. Stoll, and David F. Weiman, 203–26. New York: Russell Sage Foundation.

———. 2009. "Incarceration and the Legitimate Labor Market: Examining Age-Graded Effects on Employment and Wages." *Law & Society Review* 43 (4): 725–56.

Pettit, Becky, and Bruce Western. 2004. "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration." *American Sociological Review* 69 (2): 151–69.

Reich, Suzanne E. 2017. "An Exception to the Rule: Belief in Redeemability, Desistance Signals, and the Employer's Decision to Hire a Job Applicant with a Criminal Record." *Journal of Offender Rehabilitation* 56 (2): 110–36.

Reichman, Nancy E., Julien O. Teitler, Irwin Garfinkel, and Sara S. McLanahan. 2001. "Fragile Families: Sample and Design." *Children and Youth Services Review* 23 (4–5): 303–326.

Rodriquez, Michelle Natividad, and Maurice Emsellem. 2011. "65 Million Need Not Apply: The Case for Reforming Criminal Background Checks for Employment." National Employment Law Project. https://www.nelp.org/wp-content/uploads/2015/03/65_Million_Need_Not_Apply.pdf.

Sampson, Robert J, and Laub. 1993. *Crime in the Making : Pathways and Turning Points through Life*. Cambridge, Mass: Harvard University Press.

Schwartz-Soicher, Ofira, Amanda Geller, and Irwin Garfinkel. 2011. "The Effect of Paternal Incarceration on Material Hardship." *Social Service Review* 85 (3): 447–73.

Spaulding, Shayne, Robert I. Lerman, Harry J. Holzer, and Lauren Eyster. 2015. *Expanding Economic Opportunity for Young Men and Boys of Color through Employment and Training*. Urban Institute.

Stacy, Christina, and Mychal Cohen. 2017. "Ban the Box and Racial Discrimination: A Review of the Evidence and Policy Recommendations." Research Report. The Urban Institute. https://www.urban.org/sites/default/files/publication/88366/ban_the_box_and_racial_discrimination.pdf.

Sugie, N. F. 2012. "Punishment and Welfare: Paternal Incarceration and Families' Receipt of Public Assistance." *Social Forces* 90 (4): 1403–27.

Swisher, Raymond R., and Maureen R. Waller. 2008. "Confining Fatherhood: Incarceration and Paternal Involvement Among Nonresident White, African American, and Latino Fathers." *Journal of Family Issues* 29 (8): 1067–88.

Sykes, Bryan L., and Amanda Geller. 2017. "Mass Incarceration and the Underground Economy in America." *Fragile Families*, Working Paper:17-03-FF. https://fragilefamilies.princeton.edu/sites/fragilefamilies/files/wp17-03-ff.pdf.

Sykes, Bryan L., and Becky Pettit. 2015. "Severe Deprivation and System Inclusion among Children of Incarcerated Parents in the United States after the Great Recession." *Russell Sage Foundation Journal*, no. System Inclusion Among Children.

Turney, Kristin. 2017. "The Unequal Consequences of Mass Incarceration for Children." *Demography* 54 (1): 361–89.

Uggen, Christopher. 2000. "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism." *American Sociological Review* 65 (4): 529–46.

Uggen, Christopher, Jeff Manza, and Melissa Thompson. 2006. "Citizenship, Democracy, and the Civic Reintegration of Criminal Offenders." *The ANNALS of the American Academy of Political and Social Science* 605 (1): 281–310.

Uggen, Christopher, Mike Vuolo, Sarah Lageson, Ebony Ruhland, and Hilary K. Whitham. 2014. "The Edge of Stigma: An Experimental Audit of the Effects of Low-level Criminal Records on Employment." *Criminology* 52 (4): 627–54.

Visher, Christy A., and Vera Kachnowski. 2007. "Finding Work on the Outside: Results from the 'Returning Home' Project in Chicago." In *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by Shawn Bushway, Michael A. Stoll, and David F. Weiman, 80–114. New York: Russell Sage Foundation.

Vuolo, Mike, Sarah Lageson, and Christopher Uggen. 2017. "Criminal Record Questions in the Era of 'Ban the Box.'" *Criminology & Public Policy* 16 (1): 139–65.

Wakefield, Sara, and Christopher Uggen. 2010. "Incarceration and Stratification." *Annual Review of Sociology* 36 (1): 387–406. https://doi.org/10.1146/annurev.soc.012809.102551.

Washington, Heather M., Shao-Chiu Juan, and Anna R. Haskins. 2018. "Incapacitated Involvement: Incarceration and Fatherhood in Fragile Families at Age 9." *Journal of Family Issues* 39 (13): 3463–3486.

Western, Bruce. 2007. "Mass Imprisonment and Economic Inequality." *Social Research* 74 (2): 509–32.

Western, Bruce, Jeffrey R. Kling, and David F. Weiman. 2001. "The Labor Market Consequences of Incarceration, The Labor Market Consequences of Incarceration." *Crime & Delinquency* 47 (3): 410–27.

Western, Bruce, and Christopher Wildeman. 2009. "The Black Family and Mass Incarceration." *The ANNALS of the American Academy of Political and Social Science* 621 (1): 221–42.

Wildeman, Christopher. 2009. "Parental Imprisonment, the Prison Boom, and the Concentration of Childhood Disadvantage." *Demography* 46 (2): 265–80.

———. 2010. "Paternal Incarceration and Children's Physically Aggressive Behaviors: Evidence from the Fragile Families and Child Wellbeing Study." *Social Forces* 89 (1): 285–309.

Wildeman, Christopher, Kristin Turney, and Youngmin Yi. 2016. "Paternal Incarceration and Family Functioning: Variation across Federal, State, and Local Facilities." *The ANNALS of the American Academy of Political and Social Science* 665 (1): 80–97.

Wilson, David B., Catherine Gallagher, and Doris MacKenzie. 2000. "A Meta-Analysis of Corrections-Based Education, Location, and Work Programs for Adult Offenders, A Meta-Analysis of Corrections-Based Education, Vocation, and Work Programs for Adult Offenders." *Journal of Research in Crime and Delinquency* 37 (4): 347–68.

Wilson, William Julius. 1997. *When Work Disappears: The World of the New Urban Poor*. 1st ed. Random House.

Wozniak, Abigail K. 2014. "Discrimination and the Effects of Drug Testing on Black Employment." Working Paper 20095. National Bureau of Economic Research.

Table 1: Number of Fathers in Sample by Year and Wave

Survey Year	Wave 2	Wave 3	Wave 4	Wave 5	Total
1999	387	0	0	0	387
2000	312	0	0	0	312
2001	2,247	332	0	0	2,579
2002	9	931	0	0	940
2003	0	1,451	280	0	1,731
2004	0	0	859	0	859
2005	0	0	1,310	0	1,310
2006	0	0	37	0	37
2007	0	0	0	148	148
2008	0	0	0	663	663
2009	0	0	0	1,283	1,283
2010	0	0	0	102	102
Total	2,955	2,714	2,486	2,196	10,351

Table 2: Descriptive Statistics of Father Attributes

	No Record Mean or %	Record Mean or %	Significance of Difference
N	6674	3677	
Unique Individuals	2124	1297	
Key Variables			
Employment	88%	76%	***
Criminal Justice Involvement			
Any Criminal Justice Contact a	40%	100%	***
Ever Convicted	0%	60%	***
Ever Incarcerated	0%	52%	***
Recent Criminal Justice Contact a	21%	58%	***
Father Attributes			
Father Race			
White, non-Hispanic	26%	19%	***
black, non-Hispanic	41%	56%	***
Hispanic	29%	22%	***
Other, non-Hispanic	5%	3%	**
Poverty Level at Baseline			
Deep (<.5x FPL)	9%	14%	***
Poverty (<1x FPL)	11%	16%	***
Near Poor (<2x FPL)	21%	25%	***
Non Poor (>2x FPL)	58%	45%	***
Age (time varying)	33.05	31.66	***
Education (time varying)			
Less than High School	23%	26%	**
High School or GED	28%	37%	***
Some College or More	49%	37%	***
Married at Baseline	40%	15%	
Substance Abuse at Baseline	5%	12%	***
Early Incarceration	0%	43%	***
Impulsivity at Baseline (range 0-3)	0.89	1.09	***
Moved States since Baseline (time varying)	7%	6%	
Born in the US	78%	94%	***

*** $p<0.001$, ** $p<0.01$, * $p<0.05$. Significance tested using bivariate regressions.
a Includes stops by police not resulting in a criminal record or arrest

Table 3: Attributes of States in Sample, Lagged by One Year (N=291 unique state years)

	Mean or %	Min	Max
State Policy Scores			
Total policy score	.25	0	1
State Attributes, Lagged by One Year			
Unemployment rate	5.04	2.4	10.5
Local area unemployment rate	5.41	1.83	13.34
Imprisonment rate	460.88	126	1811
Gini coefficient	.59	.53	.71
Violent crime rate	456.97	103.7	1507.9
Property crime rate	3495.60	1932	5849.8
Political ideology of house of representatives	-.05	-1.44	1.07
Census Region			
Northeast	18%		
Midwest	22%		
South	43%		
West	18%		

Table 4: Random Effects Model of Lagged State Policies on Fathers' Employment among Fathers with Criminal Records

	All Fathers with Records		White Fathers with Records		Black Fathers with Records	
	Coefficient	SE	Coefficient	SE	Coefficient	SE
Employment Policy Index	-0.15***	0.04	-0.01	0.10	-0.19***	0.06
Father Race and Ethnicity						
black, non-Hispanic	-0.11***	0.02				
Hispanic	0.03	0.03				
Other, non-Hispanic	-0.10*	0.05				
Father impulsivity score	-0.01	0.01	0.03	0.03	-0.00	0.02
Father age	0.00	0.00	-0.01+	0.00	0.00+	0.00
Married at child's birth	0.02	0.02	0.06	0.05	0.05	0.04
Father Education						
High School or GED	0.11***	0.02	0.12+	0.07	0.13***	0.03
Some college or more	0.14***	0.02	0.11+	0.06	0.17***	0.03
Father Baseline Poverty						
Poverty (50 - 99% FPL)	0.02	0.04	-0.01	0.11	0.02	0.05
Near Poverty (100 - 199% FPL)	0.08*	0.03	0.03	0.09	0.09*	0.04
No Poverty (200% + FPL)	0.10**	0.03	0.14	0.09	0.09*	0.04
Substance use at child's birth	-0.02	0.03	-0.03	0.06	-0.02	0.04
Father baseline incarceration	-0.05**	0.02	-0.08+	0.04	-0.05*	0.03
Father born in US	-0.10**	0.03	-0.06	0.08	-0.18+	0.10
Father moved states	0.02	0.03	-0.06	0.07	0.07+	0.04
Census Region						
Midwest	-0.02	0.04	-0.21**	0.07	-0.01	0.05
South	-0.06	0.04	-0.20*	0.09	-0.06	0.06
West	-0.05	0.04	-0.05	0.09	-0.07	0.07
State Unemployment Rate (lagged)	-0.00	0.01	-0.03	0.02	0.00	0.01
State imprisonment rate (lagged)	0.00	0.00	0.00	0.00	0.00	0.00
State Gini coefficient (lagged)	-0.52	0.35	-0.48	0.74	-0.47	0.49
State violent crime rate (lagged)	0.00	0.00	-0.00	0.00	0.00	0.00
State property crime rage (lagged)	-0.00	0.00	0.00	0.00	-0.00	0.00
Local area unemployment rate (lagged)	-0.01*	0.01	-0.02	0.01	-0.02*	0.01
Political ideology of house of representatives (lagged)	0.01	0.02	-0.02	0.05	0.02	0.03
Survey Wave						
Wave 3	0.04*	0.02	0.10*	0.04	0.05	0.03
Wave 4	0.04	0.03	0.11*	0.05	0.04	0.04
Wave 5	-0.05	0.03	0.05	0.07	-0.06	0.04
Constant	1.17***	0.21	0.86***	0.03	1.07***	0.30
Observations	3,676		701		2,050	
Unique Individuals	1,297		221		738	

*** p<0.001, ** p<0.01, * p<0.05, robust standard errors. Panel data account for father-year random effects. Race variable excluded from race-stratified models.

Table 5: Random Effects Model of <u>Lagged State Policies on Employment</u>

	All Fathers				White Fathers				Black Fathers			
	Main		Moderated		Main		Moderated		Main		Moderated	
	B	SE	B	SE	B	SE	B	SE	B	SE	B	SE
Father has Criminal Record	-0.05***	0.01	-0.02	0.01	-0.04+	0.02	-0.05	0.03	-0.04*	.02	-0.02	0.02
Employment Policy Index			-0.03	0.02			0.01	0.03			-0.09*	0.04
Record X Policy Index			-0.07**	0.03			0.02	0.06			-0.05	0.05
Father Race and Ethnicity												
black, non-Hispanic	-0.09***	0.01	-0.10***	0.01								
Hispanic	0.01	0.01	0.01	0.01								
Other, non-Hispanic	-0.13***	0.03	-0.12***	0.02								
Father Impulsivity	-0.02*	0.01	-0.02*	0.01	0.00	0.02	0.00	0.02	-.03*	.01	-0.03*	0.01
Father age	-0.00*	0.00	-0.00*	0.00	-0.00*	0.00	-0.00*	0.00	-.00	.00	-0.00	0.00
Married at child's birth	0.05***	0.01	0.04***	0.01	0.04*	0.02	0.04*	0.02	07***	.02	0.07***	0.02
Father Education												
High School or GED	0.06***	0.01	0.06***	0.01	0.05	0.04	0.05	0.04	.10***	.02	0.10***	0.02
Some college or more	0.09***	0.01	0.10***	0.01	0.06+	0.05	0.06+	0.03	.15***	.02	0.15***	0.02
Father Baseline Poverty												
Poverty 50 - 99% FPL)	0.04	0.02	0.03	0.02	-0.00	0.07	-0.00	0.07	.01	.03	0.01	0.03
Near Poverty (100 - 199% FPL)	0.09***	0.02	0.09***	0.02	0.04	0.06	0.04	0.06	.08**	.03	0.08**	0.03
No Poverty (200% + FPL)	0.13***	0.02	0.11***	0.02	0.08	0.05	0.08	0.05	.11***	.03	0.11***	0.03
Substance use at child's birth	-0.01	0.02	-0.01	0.02	-0.05	0.04	-0.05	0.04	-.01	.03	-0.01	0.03
Father baseline incarceration	-0.05**	0.02	-0.05**	0.02	-0.09*	0.04	-0.09*	0.04	-.05+	.03	-0.05+	0.02
Father born in US	-0.08***	0.02	-0.07***	0.02	0.04	0.03	0.04	0.03	-.09**	.03	-0.10**	0.03
Father living in different state	-0.01	0.02	-0.00	0.02	-0.03	0.03	-0.03	0.03	.01	.03	0.01	0.03
Census Region												
Midwest	-0.04*	0.02	-0.03+	0.02	-0.06*	0.03	-0.06*	0.03	-.04	.03	-0.04	0.03
South	0.00	0.02	-0.01	0.02	-0.04	0.03	-0.04	0.03	-.00	.03	-0.04	0.04
West	-0.04	0.02	-0.03+	0.02	-0.02	0.04	-0.03	0.04	-.10*	.04	-0.08+	-0.04
State Unemployment Rate (lagged)	-0.01	0.01	-0.00	0.01	-0.00	0.01	-0.00	0.01	-.01	.01	-0.00	0.01
State imprisonment rate (lagged)	-0.00	0.00	-0.00	0.00	0.00	0.00	0.00	0.00	.00	.00	0.00	0.00
State Gini coefficient (lagged)	-0.16	0.19	-0.21	0.18	0.15	0.29	0.14	0.30	-.54+	.30	-0.48	0.30
State violent crime rate (lagged)	-0.00	0.00	-0.00	0.00	-0.00*	0.00	-0.00*	0.00	-.00	.00	-0.00	0.00
State property crime rage (lagged)	0.00***	0.00	0.00	0.00	0.00*	0.00	0.00+	0.00	.00	.00	0.00	0.00
Local area unemployment rate (lagged)	-0.01***	0.00	-0.01***	0.00	-0.01+	0.01	-0.01+	0.01	-.01*	.01	-0.01*	0.01
Political ideology (lagged)	-0.00	0.01	-0.00	0.01	-0.01	0.02	-0.01	0.02	-.02	.02	-0.01	0.02
Survey Wave												
Wave 3	0.05***	0.01	0.04***	0.01	0.04**	0.02	0.04**	0.02	.03	.02	0.03+	0.02
Wave 4	0.06***	0.01	0.05***	0.01	0.04*	0.02	0.04*	0.02	.05*	.02	0.04+	0.02
Wave 5	0.02	0.02	0.00	0.01	0.00	0.02	0.01	0.03	-.02	.03	-0.03	0.03
Constant	0.96***	0.11	1.05***	0.11	0.84***	0.17	0.83***	0.17	1.04***	.18	1.11***	0.18
Observations	10,350				2,403				4,763			
Unique Individuals	3,120				687				1,462			

*** p<0.001, ** p<0.01, * p<0.05, robust standard errors. Panel data account for father-year random effects. Race variable excluded from race-stratified models.

Table 6: Age Stratified Models

	Full Sample		White Fathers		Black Fathers	
	Under 25	Over 25	Under 25	Over 25	Under 25	Over 25
Criminal Record	-0.04	-0.03	-0.04	-0.06+	-0.06	-0.02
	(0.03)	(0.02)	(0.06)	(0.03)	(0.04)	(0.03)
Policy Index	-0.10+	-0.02	-0.13	0.00	-0.14+	-0.09+
	(0.05)	(0.03)	(0.14)	(0.04)	(0.08)	(0.05)
Record X Policy Index	-0.04	-0.08*	0.09	0.03	0.01	-0.07
	(0.06)	(0.03)	(0.14)	(0.07)	(0.09)	(0.05)
Observations	2,053	8,297	269	2,134	1,078	3,685
Unique Individuals	1,112	2,920	153	665	569	1,353

*** $p<0.001$, ** $p<0.01$, * $p<0.05$, + $p<0.10$ Robust standard error in parentheses. Models include all controls used in the previous models. Under 25 models omit born in the US variable for race-stratified models due to limited variation. Panel data account for father-year random effects.

Table 7: Sensitivity Models

		All Fathers	White Fathers	Black Fathers
Nonmoving Father Sample	Criminal Record	-0.02	-0.07*	-0.03
		(0.02)	(0.03)	(0.02)
	Employment Policy Index	-0.04	-0.02	-0.09*
		(0.03)	(0.03)	(0.05)
	Record X Policy Index	-0.07*	0.04	-0.03
		(0.03)	(0.06)	(0.05)
	Observations	9,666	2,180	4,482
	Unique Individuals	3,040	657	1,430
Pre-Recession Sample	Criminal Record	-0.01	-0.05	-0.01
		(0.02)	(0.03)	(0.02)
	Employment Policy Index	-0.03	-0.01	-0.09*
		(0.03)	(0.03)	(0.05)
	Record X Policy Index	-0.09**	0.03	-0.06
		(0.03)	(0.06)	(0.05)
	Observations	8,302	1,913	3,783
	Unique Individuals	3,099	686	1,446
Expanded Sample	Incarceration Record	-0.11***	-0.11**	-0.12***
		(0.02)	(0.04)	(0.02)
	Employment Policy Index	-0.01	0.05	-0.08+
		(0.02)	(0.04)	(0.04)
	Incarceration X Policy Index	-0.07**	-0.14+	0.00
		(0.03)	(0.08)	(0.04)
	Observations	11,346	2,535	5,341
	Unique Individuals	3,700	756	1,801

*** p<0.001, ** p<0.01, * p<0.05, +p<.01.Robust standard error in parentheses. Panel data account for father-year random effects. Models include all controls used in the previous models.