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Employment Barriers Facing Ex-Offenders

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INTRODUCTION

Over 600,000 people are now being released from prisons each year. Many suffer from a variety of serious difficulties as they attempt to reenter society. Among the most challenging situations they face is that of reentry into the labor market. Employment rates and earnings of ex-offenders are low by almost any standard—though in most cases they were fairly low even before these (mostly) men were incarcerated. Low employment rates seem closely related to the very high recidivism rates observed among those released from prison.

Why are the employment and earnings of ex-offenders so low? What barriers do they face in gaining employment and in achieving earnings that are sufficient to live on independently? To what extent are these barriers based on their own characteristics and attitudes, as opposed to those of employers? Are there policies that are likely to reduce these barriers, and thereby improve employment and earnings among ex-offenders?

We review these issues in this paper. We begin by reviewing some evidence on the employment and earnings of ex-offenders. We then consider the barriers that appear to limit their employment opportunities—first on the *supply* side (i.e., their own characteristics and attitudes), and then on the *demand* side (i.e., those of employers) of the labor market. We also consider some potentially positive factors that will influence the employment prospects of ex-offenders over the next few decades—particularly, the growing tightness of the labor market that most economists expect in the future due to the impending retirements of the “baby boomers” generation. Finally, we review a range of policies that might reduce some of the barriers faced by ex-offenders in the labor market.

EMPLOYMENT AND EARNINGS AMONG EX-OFFENDERS

The availability of data on the employment and earnings of ex-offenders is quite limited. Most surveys of individuals that are used by social scientists to study the labor market do not specify previous offender status as a question; and, even if they did, responses to such questions might be untrustworthy. Among those surveys that do contain such information, the 1979 cohort of the National Longitudinal Survey of Youth (NLSY79) is perhaps the best-known and most

widely analyzed.¹ Using these data, Freeman (1992) estimates that employment rates in any week averaged about 60% during the 1980s among all young men who had previously been incarcerated, and only about 45% among young black men. These estimates are about 20–25 percentage points lower than those of young men more broadly in the NLSY data.

Given the limited availability of survey data on this issue, researchers have increasingly turned to state-level administrative data. In particular, quarterly data on employment and earnings from Unemployment Insurance (UI) records can be merged with data on the prison population. This enables the researcher to infer employment and earnings both before and after the spell of incarceration has occurred. These approaches have been used in earlier work by Grogger (1995) for the state of California, and more recently by Tyler and Kling (2002) and Pettit (2002) using data from the states of Florida and Washington respectively. They find employment rates considerably lower than those reported earlier—generally about .30–.35 in the recent data (and about .50 earlier)—even though one might expect quarterly employment rates for adult men to be higher than weekly rates for younger men and youth.² The average quarterly earnings of ex-offenders observed in these data are also quite low, ranging roughly from \$1,000 to \$2,000 in current dollars.³ Apparently, self-reported employment and earnings in survey data contain a good deal more information about informal jobs that are not reported to the state and not covered by UI or income taxes.⁴

Of course, the relatively low employment and earnings reported even in survey data for ex-offenders might reflect their own weak labor market characteristics and behaviors, rather than the effects of incarceration per se. Thus, most studies of the latter try to compare employment and earnings of ex-offenders with those observed before incarceration, and/or to samples of

¹ The NLSY79 cohort consisted of over 10,000 youth between the ages of 14 and 21 in 1979 who were followed for nearly 20 years. A new cohort of youth (ages 12 through 16) was chosen in 1997 and have now been followed for several years, though most remain too young for comparison with the earlier cohort on this dimension.

² Quarterly employment rates should be higher than traditional estimates of employment, which are based on the time of the survey or the previous week, since the former count any person with any work activity over a 3-month period as being employed. In addition, employment rates for adults are consistently higher than those of youth.

³ Grogger's estimate of quarterly earnings—\$1182 in 1980 dollars—is for a sample that is mostly white and somewhat older than those observed in more recent data. His sample also mixes pre- and post-incarceration episodes in the labor market. Pettit's sample from the state of Washington is also more heavily white than current national estimates would suggest.

⁴ The widely reported pre-incarceration employment rates of about 65%, based on Bureau of Justice Statistics surveys of current inmates, are self-reported and no doubt include much informal or part-time work activity that does not show up in the UI data.

unskilled men who appear to be relatively comparable to offenders, in terms of education and other demographic characteristics.

Using a variety of data sources and techniques, most studies find that employment and/or earnings are reduced by a spell of incarceration, relative to what they would be in its absence. In particular, earnings are reduced by anywhere from 10–30% by a spell of incarceration in these studies, while employment losses are generally smaller but can also be as high as 20–30% in some studies.⁵ Furthermore, whether or not these estimates of loss are biased upwards or downwards has been disputed as well.⁶

BARRIERS TO SUCCESS AMONG EX-OFFENDERS IN THE LABOR MARKET

What are the factors that limit employment and earnings among ex-offenders? Below we separate factors that operate on the supply side of the labor market - through the attitudes, characteristics and behaviors of the individuals themselves—from those that operate on the demand side—through the attitudes and behaviors of employers, and the characteristics of jobs they seek to fill.

Supply-Side Barriers

Ex-offenders have a variety of characteristics that greatly limit their employability and earnings capacities. These include:

- Limited education and cognitive skills;
- Limited work experience;

⁵ These estimates are reviewed in Kling et al. (2000). Freeman's estimates of employment loss represent the high end of these estimates, while other studies show large effects on earnings if not employment.

⁶ These estimates of loss may be upward biased because individuals who were incarcerated have many personal characteristics, not always observable in the data, that might lead them to have poor employment and earnings even in the absence of the incarceration. On the other hand, survey-based estimates might be made on data where self-reported incarceration is measured with considerable error, which could cause downward biases in the effects of incarceration. If high rates of incarceration cause employers to avoid hiring young men who do not have criminal records (but whom they suspect of having had such activity), this would also lead to downward biases in the effects of incarceration. Biases attributable to the non-reporting of casual employment both before and after incarceration could go in either direction.

- Substance abuse and other physical/mental health problems.

For instance, about 70% of offenders and ex-offenders are high school dropouts (Travis et al., 2001; Freeman, 1992). According to at least one study, about half are “functionally illiterate” (Hirsch et al., 2002). Prior to incarceration, the employment rates of those involved in criminal activities are certainly not trivial in any sense, but they generally lag well behind those of other young men—even those who had similarly limited skills and also lived in poor inner-city neighborhoods.⁷ As a consequence, the work experience that they had accumulated prior to incarceration was generally well below what it might have been in the absence of their participation in crime. On top of that, the (often multiple) periods of time they have spent incarcerated have impeded them from gaining any additional private sector experience, and no doubt help erode whatever job skills, positive work habits or connections to employers they might have had beforehand.⁸ Thus, if and when they do attempt to reenter the labor market after incarceration, the poor skills and very limited work experience that they bring with them limits both employability and earnings potential.⁹

In addition, a large fraction of these men suffer from substance abuse and other health problems. For instance, about three-fourths have had substance abuse problems; 2–3% have AIDS or are HIV-positive; 18% have hepatitis C; and 15–20% report emotional disorders (Travis et al., Hirsch et al., op. cit.). Among the small fraction of ex-offenders who are women, large numbers suffer from depression and/or past sexual abuse.¹⁰ All of these factors limit employability because they limit the basic “job-readiness” that employers almost universally seek as a pre-condition for employment, as we note below.

Besides these skill and health-related problems, most ex-offenders are minorities—nearly half are African-American, and nearly a fifth are Latino or Asian. To the extent that minorities continue to suffer labor market discrimination, this will further impede the ability of ex-offenders

⁷ See Viscusi (1986) for estimates of employment activity among youth who were involved in crime and those who were not, based on self-reported data (NLYS79) with adjustments for likely biases due to self-reporting.

⁸ Labor economists frequently refer to this as the “depreciation” of human capital that occurs with a spell of employment inactivity. This could occur because particular skills deteriorate when they are not used, and also because other factors (such as work habits or references from employers and acquaintances) weaken as well.

⁹ Earlier estimates of the extent to which lack of youth employment activity “scars” workers later in life (e.g., Ellwood, 1982; Meyer and Wise, 1982) found fairly small estimates, primarily on future wages rather than employment. The more recent work on ex-offenders, especially those who are minorities, suggests that these scars are more serious for these groups.

to gain employment or earn higher wages. Indeed, the evidence we cite below suggests that African-American men continue to face significant discrimination relative to all other groups at the hiring stage.¹¹

Furthermore, most return to low-income and predominantly minority communities that have relatively few unskilled jobs, and to peer groups who presumably provide relatively few contacts to the world of legitimate work. Thus, both “spatial mismatch” effects on employment and weak networks and contacts will continue to their employment difficulties.¹² These difficulties are reinforced by parole restrictions that often require these men to live in the same communities from which they came, and by laws that prohibit ex-offenders in some states from obtaining driver’s licenses.

In addition to the “barriers” these individuals face—over which they presumably have little control—the attitudes and choices that they make may also limit their employment outcomes. For instance, it is likely that a large number of these men might be able to find some kind of work if they search long enough, but at jobs that pay very low wages and provide few benefits or chances for upward mobility. In these circumstances, many ex-offenders may simply choose to forego these employment options, in favor of illegal opportunities or more casual work.¹³ Alternatively, they may accept these jobs temporarily, but may not retain them for very long.¹⁴ Their attachments to the legitimate labor market might be quite tenuous over the longer term—both as a result of these relatively unappealing options, or perhaps because of their own estrangement over several years from the world of work.¹⁵

¹⁰ See Hirsch et al. for these estimates.

¹¹ Recent evidence suggests that, when test scores are included as controls, the black-white gap in wages becomes insignificant, which might imply an absence of labor market discrimination. However, significant racial gaps in employment still remain, even after including these controls (Johnson and Neal, 1998). See also Holzer (1996).

¹² See Ihlanfeldt and Sjoquist (1998) and Stoll et al. (2000) for recent evidence on “spatial mismatch,” and Holzer (1987) for evidence on informal contacts.

¹³ This implies that labor supply among these young men is relatively *elastic*, or sensitive to the market wage; and that *reservation wages* (i.e., the lowest market wages acceptable) of these men are higher than what they are offered in the labor market in many cases, perhaps because illegal earnings provide an appealing alternative. See Holzer (1986), Grogger (1997) and Freeman (2000).

¹⁴ For evidence on job retention rates among less-skilled workers and their relationship to wages see Parsons (1986) and, more recently, Holzer and Lalonde (2000).

¹⁵ See Wilson (1996) and Anderson (2002).

Thus, the limited employment outcomes that ex-offenders experience will at least partly reflect “barriers,” perhaps compounded by their own attitudes towards and responses to these circumstances.

Demand-Side Barriers

The barriers faced by ex-offenders because of their very limited skills, poor health, and race or area of residence often reflect a “mismatch” between these characteristics and those sought by employers on the demand side of the labor market. We can also consider two kinds of barriers generated by employers: those relating to the general personal characteristics of ex-offenders vs. those that are explicitly related to their ex-offender status.

For instance, the poor skills and work experience of most ex-offenders generally conflict with the skills and credentials sought by employers, even when trying to fill relative unskilled jobs. Holzer (1996) notes that, in central-city labor markets, fewer than 5% of unskilled jobs (i.e., those that do not require college diplomas) require no high school diplomas, work experience, or other relevant skills. Even where little formal skill is required, basic “job readiness” is almost universally sought by employers. This personal quality involves the employer’s expectation that the worker will show up every day and on time, will work hard and take some responsibility, will be generally trustworthy, etc. In fact, recent work on welfare recipients in the labor market (Holzer and Stoll, 2001) indicates that their success in employment, once hired, often depends crucially on these types of variables.¹⁶ Unfortunately, those with substance abuse and/or other health problems (both physical or emotional) are the least likely to be job-ready, and will likely face few job offers or high discharge rates upon being hired.¹⁷

In addition to these factors, the race/gender and geographic locations of potential job applicants also affect employer tendencies to hire and/or retain workers. For instance, Holzer (1996) shows very clearly that African-American men are the least likely job applicants to receive offers; while Holzer et al. (2000) show that suburban establishments receive fewer black

¹⁶ For instance, the primary source of weak employment stability of current or former welfare recipients was frequent absenteeism, often related to health problems.

¹⁷ To the extent that employers perform drug tests before hiring, many of these individuals will fail to gain employment. To the extent that many do not, their performance and therefore retention will likely be impaired. For a good discussion of “soft skill” issues at the workplace more broadly see Moss and Tilly (2001).

applicants than others and offer those applicants jobs at lower rates than do central-city establishments.¹⁸ Since much new job growth occurs in suburban areas, the ability of black men to access these jobs will be limited as well.

So ex-offenders will have some difficulty obtaining job offers from employers even in the absence of their criminal records. But the fact that they have criminal records will then further limit what is available to them, as most employers are very reluctant to hire those with such records.

Why do most employers hesitate to hire those with criminal records? To start, certain occupations are legally closed to individuals with felony convictions under state and, in some cases, federal law (Hahn 1991). Examples include jobs requiring contact with children, certain health services occupations, and employment with firms providing security services. In addition, employers may place a premium on the trustworthiness of employees, especially when the ability to monitor employee performance is imperfect. Jobs that require significant customer contact or the handling of cash or expensive merchandise will require dependable, honest employees. To the extent that past criminal activity signals something less, employers may take such information into account when making hiring decisions.

Furthermore, in many states employers can be held liable for the criminal actions of their employees under the theory of negligent hiring. Legally, negligence is premised on the idea that one who breaches a duty of care to others in an organization or to the public is legally liable for any damages that result (Glynn 1988). Under the theory of negligent hiring, employers may be liable for the risk created by exposing the public and their employees to potentially dangerous individuals. As articulated by Bushway (1996), “..employers who know, or should have known, that an employee has had a history of criminal behavior may be liable for the employee’s criminal or tortuous acts.” Thus, employers may be exposed to punitive damages as well as liability for loss, pain, and suffering as a result of negligent hiring.¹⁹ Employers have lost 72

¹⁸ See also Kirschenman and Neckerman (1991).

¹⁹ Craig (1987) cites several examples where employers were held responsible for the criminal acts of their employees under the theory of negligent hiring, including judgments against the owner of a taxi company and a security services firm for sexual assaults committed by employees. In one cited instance involving a sexual assault committed by an apartment manager, the owner of an apartment complex was found negligent for not taking into account gaps in the manager’s work history in the hiring decision. More recent examples are found in Connerley et al., (2001). In one instance, a home health hiring agency was found negligent for not conducting a criminal

percent of negligent hiring cases with an average settlement of more than \$1.6 million (Connerley, et al. 2001).²⁰ The high probability of losing coupled with the magnitude of settlement awards suggest that fear of litigation may substantially deter employers from hiring applicants with criminal history records.

The ability of employers to avoid hiring ex-offenders will depend on their access to criminal history record information. Information on arrest, conviction, and time served for non-federal offenses are compiled by the state where the offense occurred. Each state and the District of Columbia maintains a central repository where this information is housed and from which criminal history information is disseminated. All law enforcement agencies within a state are required to report arrest and disposition information to the central repository for all serious offenses (U.S. Department of Justice 1999). The information in the repository is the source used to generate rap sheets for law enforcement officials and the source for criminal history records for non-criminal justice purposes.

In its most recent review of state privacy and security legislation, the U.S. Department of Justice concludes that criminal history record information is increasingly becoming more available to non-criminal justice users, although the degree of openness varies from state to state (U.S. Department of Justice 1999). Nearly all states make a distinction between arrest records and conviction records. In general, states are less likely to freely disseminate information on arrest records, especially arrests for cases that are still open or have occurred within the previous year. States tend to place fewer restrictions on non-criminal justice access to conviction records. Currently, 23 states have some form of public access or freedom of information statutes that pertain to some aspect of criminal history record information.^{21,22} And the growing availability of

background check while hiring an aide in a home health care program who murdered a quadriplegic he was caring for and the patient's mother. The aide had in fact six larceny-related convictions.

²⁰ Although as of this writing we found no data on the number of negligent hiring suits, anecdotal evidence suggests that the number of such suits is increasing. Furthermore, it is argued that the possible increase in such suits is attributable to several factors including that under negligent hiring theory employers could be held liable for actions taken by employees who are off the job, the amount of compensation awarded in negligent hiring cases may be higher than in other cases, the statute of limitations for negligent hiring claims is longer than for other claims, and that evidence of prior acts of negligence of the employee may be introduced in negligent hiring cases (Extejt and Bockanic, 1991).

²¹ In addition to the greater openness of state repositories, several services have emerged that perform nationwide criminal history record reviews for small fees. An internet search of the term "criminal history record" will turn up several companies who will perform nation-wide criminal background checks (allegedly accounting for offenses in

this information over the internet, usually from private firms and at very low cost (e.g., \$10–15 per person), makes it increasingly easy for employers to access these data (Holzer et al., 2003a).

Given the availability of criminal history records, employers are likely to check the criminal backgrounds of potential employees. Certainly, the extent to which they do so depends on their aversion to ex-offenders, for all the reasons we discussed. In addition, the propensity to check the backgrounds of applicants is likely to be related to the size of the local ex-offender population as a proportion of the local labor force. This proportion varies from state to state due to inter-state differences in sentencing and other criminal justice policies.

To be sure, employers can try to avoid hiring ex-offenders even without background checks by screening job applicants on the basis of characteristics that seem to predict previous criminal activity. For example, if employers believe that African-Americans, welfare recipients, or workers with unaccounted-for breaks in their employment histories are more likely to have past criminal convictions, employers might “statistically discriminate” against such individuals.²³ While imperfect information will clearly lead to instances of “false-positive” and “false-negative” assessments of previous criminality, basing employment decisions on such discriminatory rules of thumb may minimize the likelihood of hiring ex-offenders.

Thus, the ability of ex-offenders to obtain job offers from employers will depend both on how averse employers are to hiring them and whether or not they actually check criminal backgrounds.²⁴ In our previous work, we have documented stated employer preferences towards

all 50 states) for as little as \$15. In addition, well-known security services firms such as Pinkerton offer basic and extensive background checks for employers as well as other non-criminal justice clients.

²² All of this suggests that criminal history records are potentially available to non-criminal justice users, but whether the employer can legally access and consider such information in making hiring decisions is another matter. A 1976 Supreme Court decision ruled that arrest and prior conviction records are public given that the initial source of information was from public records (Bushway 1996). Hence, it is not a privacy right violation for non-criminal justice employees to access criminal history records. Moreover, as noted above, who can access records and the extent of information available (for example, arrests and prior convictions versus prior conviction only) is determined by individual states (U.S. Department of Justice 1999). For most jobs, though, the Equal Employment Opportunities Commission guidelines prohibit “blanket exclusions” of applicants with criminal records. However, employers can consider criminal histories so long as the severity of the offense is related to the applicant’s ability to effectively perform the job and so long as the employer considers the time lapsed since offending in coming to a decision (Bushway 1996).

²³ Economists define statistical discrimination as cases where employers have difficulty distinguishing the relevant attributes of individuals, so they judge applicants differently based on their memberships in groups whom they believe to be more or less-skilled, *on average*.

²⁴ Alternatively, they might simply ask job applicants about whether or not they have criminal records, though responses to these questions are frequently not truthful.

the hiring of ex-offenders and their tendencies to check criminal background using data from a series of employer surveys administered in various large metropolitan areas between 1992 and 2001.²⁵ Among our findings are the following:

- Employers are much more averse to hiring ex-offenders than they are towards any other disadvantaged group, such as welfare recipients;
- Employers vary in their stated willingness to hire ex-offenders according to the characteristics of their establishments and the jobs they are seeking to fill;
- They also vary according to the offense committed by the offender and whether any meaningful work experience has been obtained since release; and
- Employer tendency to check backgrounds is far from universal, but has risen over the previous decade.

For instance, over 90% of employers surveyed are willing to consider filling their most recent job vacancy with a welfare recipient, while only about 40% are willing to consider doing so with an ex-offender. Willingness to hire ex-offenders is greater for jobs in construction or manufacturing than in retail trade and the service sector, and is strongly influenced by the extent to which a variety of tasks are required on the job—especially contact with customers. Employer reluctance is greatest when the offense in question was a violent one and least when it was a non-violent drug offense. The tendency of employers to check criminal records (“sometimes” or “always”) in Los Angeles rose from under 50% in 1993–94 to over 60% in 2001, consistent with the growing ease and low cost of accessing these data that we cited above.

But do these employer attitudes and behaviors really affect whom they hire? Some strong evidence on this question has recently been provided by Devah Pager (2002), who conducted an audit study of roughly 200 employers in Milwaukee. In her study, Pager generated four groups of male job applicants with virtually identical educational and work experience credentials: white

²⁵ Our initial survey of employers was administered to over 3000 employers in Atlanta, Boston, Detroit, and Los Angeles in 1992–94. Another round of surveys was administered in several midwestern areas plus Los Angeles in 1997–99. Our more recent survey of employers was administered in Los Angeles in 2001. See Holzer et al. (2002, 2002a and 2003a).

non-offenders, white offenders, black non-offenders, and black offenders. Offenders were said to have been incarcerated for 18 months for a non-violent drug sale.²⁶

The results of Pager's study are very striking. For one thing, black non-offenders generated fewer than half as many offers as white non-offenders—14 percent vs. 34 percent respectively. Furthermore, within each racial group offenders received fewer offers than non-offenders. White offenders received only half as many offers as their non-offenders counterparts—34 percent vs. 17 percent; while blacks offenders received two-thirds fewer offers—14 percent vs. 5 percent.

Thus, race and ex-offender status seem to interact in powerful ways in reducing the job market opportunities of black men with criminal records, with black offenders receiving less than one-seventh the number of offers received by white non-offenders with comparable skills and experience. This is consistent with what has been observed in ethnographic work with employers (e.g., Kirschenman and Neckerman, 1991; Moss and Tilly, 2001), where they discuss their fears of violence among black men relative to other groups of applicants. Furthermore, these results were obtained under a set of circumstances that are relatively more positive for blacks and/or ex-offenders than is typically observed—e.g., a very tight labor market, a state with antidiscrimination statutes with regards to offender status, and a metropolitan area where employers seem to be more favorably disposed towards offenders than elsewhere. The skills that were attributed to these men were also more positive than is usually observed among offenders, while the non-violent drug offenses which they allegedly had committed were less serious (and less threatening to employers) than are many other offenses.^{27 28}

Thus, outcomes in other areas or time periods and for more typical offenders are likely to be considerably less advantageous for ex-offenders, especially minorities, than even the severe

²⁶ Those allegedly not incarcerated were given six months extra work experience. All applicants were given high school diplomas.

²⁷ For instance, the state of Wisconsin forbids employers from considering criminal records if they are not relevant to the work performed on the job. Unemployment there was roughly 3% at the time that the study was being conducted. Employer attitudes towards ex-offenders in Milwaukee during that period, as observed in our employer surveys, were more positive than those observed in any other metropolitan area (Holzer et al., 2002). The fact that these men all had high school diplomas and were guilty only of non-violent drug offenses also makes them relatively more appealing than the typical ex-offender who might apply for work.

²⁸ The effect of the criminal record on blacks in Pager's study might also be understated if employers who don't check criminal backgrounds assumed that some of the black men without such records might really have them. This might also help to account for the very large gap in hiring between white and black non-criminals that she observed.

results observed in Pager’s work. With enough job search in the right sectors of the labor market, many of these men might still be able to find work—though mostly at wages that will not induce most to remain attached to the regular labor market over the long term.

SOME POTENTIALLY POSITIVE FACTORS

The data cited above suggest some fairly severe barriers to employment facing many ex-offenders, especially those who are African-American. Furthermore, as time goes on, the sectors of the economy where employers are most likely to hire ex-offenders—i.e., blue-collar jobs in construction/manufacturing and/or those with little customer contact—are becoming scarcer, suggesting that employment opportunities for these individuals might continue to diminish.

On the other hand, there are some potentially positive developments as well. Perhaps the most important of these is the fact that, as the baby boomers retire, *the labor market over the next few decades is likely to be very tight*. This will be particularly true for jobs requiring education and other cognitive skills, but it will likely be true even at the bottom of the skill spectrum (D’Amico and Judy, 1997; Ellwood, 2001). In such a labor market, employers will be looking to tap new sources of labor, as their more traditional sources become insufficient to meet their needs.

To some extent, this was true during the boom of the late 1990s. Employers complained vociferously about their inability to hire/retain even unskilled workers during that time period, with 80% reporting either that it was either “very difficult” or “somewhat difficult” to find such workers (Holzer, 1999). As a result, they were increasingly willing to hire welfare recipients, immigrants, minorities, and those without high school diplomas or recent work experience.²⁹

Unfortunately, there is not much evidence that employer attitudes towards ex-offenders changed greatly during this period, as they remained the least trustworthy group in the eyes of employers.³⁰ But the longer the boom went on, the more it seemed that other sources of unskilled

²⁹ See Holzer et al. (2003).

³⁰ Ibid. Only in Milwaukee did employers seem more favorably disposed to ex-offenders than elsewhere, though it was impossible to tell the extent to which this was due to the tight labor markets of that period or other attitudinal/legal factors, as we discuss above.

workers were more or less exhausted. By the year 2000—which was the last year of very tight markets before the current recession began—anecdotal evidence suggested that an increasing number of employers were becoming open to hiring from this group. Organizations such as the Welfare-to-Work Partnership and America Works, which had previously focused their efforts almost exclusively on placing welfare recipients in the labor market, began to work on behalf of the population of ex-offenders as well.

Survey evidence also suggests that employers might be more open to working with these individuals under the right circumstances. For instance, many employers express more interest in hiring ex-offenders when they are told of potential services from intermediary agencies (Welfare-to-Work Partnership, 2000). As we noted earlier, when employers hear that the offenses in many cases are non-violent and perhaps only drug-related—as so many were during the 1990s—and that the individual has been drug-free and has gained some meaningful work experience in the interim, their interest seems to rise as well (Holzer et al., 2003a). This is particularly likely to be the case during periods of tight labor markets—when small- and medium-sized employers are struggling to attract and retain workers, and when many are trying to adapt to new recruitment techniques (such as those now available on the Internet) that do not necessarily solve their problems (Autor, 2001; Freeman, 2002).

On the other hand, for the services of intermediaries to be effective, they have to convince employers that this is an effective recruitment and retention strategy for them, and one that will serve their business needs. Indeed, intermediary agencies like the Center for Employment Opportunity (CEO) in New York or the Safer Foundation in Chicago that work exclusively with ex-offenders understand this point very clearly, and screen or train their workers extensively before trying to place them in the private sector. Efforts to improve retention among those placed are ongoing as well.

Perhaps had the previous boom gone on for another few years, these efforts would have made greater headway. But with the return to a sustained period of labor market tightness over the next decade or two, the opportunities to gain some ground for ex-offenders will hopefully return as well.

POLICY RECOMMENDATIONS

A variety of efforts can also be undertaken by policymakers to reduce the labor market barriers that ex-offenders face, thereby improving their employment and earnings opportunities. Such efforts might include the following:

- Making it easier for employers to hire prisoners while they are still incarcerated;
- Reviewing legal barriers to employment of ex-offenders and perhaps regulating the quality of public information on criminal history;
- Providing greater funding for the efforts of intermediary agencies to link recently released offenders with the labor market;
- Expanding funding and/or outreach efforts for bonds or tax credits to employers who hire them; and
- Expanding financial incentives for ex-offenders (and other low-income men) to accept and retain low-wage employment.

In their paper for this volume, Rob Atkinson and Knut Rostad (2003) have noted the regulatory barriers that currently limit private sector employment for inmates. Whatever questions might exist about appropriate levels of compensation for inmates who do such work and who should bear the security costs associated with providing this employment, previous research (e.g., Saylor and Gaes, 1996) strongly suggests that allowing more such work would improve the employment prospects of inmates upon release. Survey evidence cited above reinforces the viewpoint that employers are more open to hiring ex-offenders with some recent work experience, especially if there are signs that their performance was satisfactory. Thus, legal efforts to reduce the barriers faced by employers who want to hire inmates are probably welcome, provided that appropriate safeguards remain in place.³¹

The laws that limit the employment of offenders vary a lot across states. Some no doubt have reasonable justifications and reflect legitimate precautions that need to be taken to ensure public safety and property protection; but others may be more punitive in nature (Hirsch, op.

³¹ See also Freeman (1999), Levitt (1999) and Marshall (1999).

cit.). Some review of these laws at the state or federal level may thus be appropriate, perhaps by a national commission that could recommend some reforms.

Separately from the issue of the laws is the extent to which information on criminal backgrounds is publicly available. While many advocates would prefer to limit its general availability, we believe that such information can play some potentially important roles. For one thing, employers who check criminal backgrounds tend to hire *more* black men than those who don't (Holzer et al., 2002). Apparently, access to information on criminal backgrounds seems to reduce the “statistical discrimination” that employers engage in against black male applicants when they don't have the explicit information on individuals that they need to make these decisions accurately.

Furthermore, it seems clear that the right information to employers might even reduce their aversion to hiring men that have these records. For instance, employers who don't want to hire offenders might reconsider if they know that the offense in question was non-violent and drug-related, or that the person in question has been “clean” and has gained some reasonable training or work experience in the meantime.

On the other hand, legitimate questions remain about the accuracy of the information that can be obtained by private internet-based companies. Those that use information on *arrests* need to be very clearly distinguished from those using *convictions*. Given the importance of this information to employers, the public has a strong interest in ensuring some “quality control” over whatever is disseminated.

The efforts by intermediary agencies to link ex-offenders to the labor market currently encompass a wide range of activities, including: case management services, substance abuse treatment, education or training activities (especially on “soft skills” or those related to the needs of specific employers), assistance with the collection of necessary documentation for employment (such as social security cards), paid transitional work experience (in some cases), job placement assistance, and post employment supports (such as transportation, job coaching, services to employers, etc.).

These services should be particularly helpful in overcoming many of the barriers described earlier. For instance, education and training, even though limited, can help prepare ex-offenders for the world of work and also meet the particular skill needs that employers seek.

Transitional work experience (for 3–6 months) should not only provide some general work-readiness skills but also signal to employers their ability to hold a job and meet basic standards of responsibility. Job placement assistance and transportation support can help bridge the geographic and informational divide that often separates residences in poor minority neighborhoods from centers of job growth in downtown or outlying suburban areas. And a variety of other supports might help reduce the isolation and alienation from the world of work that many ex-offenders feel.

Are these efforts cost-effective? This issue is discussed at greater length in Shawn Bushway’s paper (2003). Some of the services mentioned above, especially training or transitional work, are certainly more costly than others, and require more careful evaluation. But the evidence to date supports at least some expansion of these efforts, while we continue to study them.³²

The federal “bonding” program currently provides insurance of up to \$5000 for any liabilities that might be incurred by employers who hire ex-offenders. But these bonds could be funded at higher levels and made much more accessible to the employer community. Employer interest in and “takeup” of the bonds is very limited—indeed, purchases of bonds have actually declined over the past few decades, despite the enormous increase in the number of ex-offenders in the population.³³ But, with greater funding and greater activity on the part of intermediary agencies to reduce the paperwork burden and other costs to employers, employer demand for these bonds and for ex-offenders more broadly might rise as well.³⁴

Similarly, employer takeup of the Work Opportunity Tax Credit available to those employers who hire ex-offenders and other disadvantaged workers is quite low. Even when it is used, there is always some question about whether the credit constitutes a windfall to employers who would have hired the same workers anyway, or whether they generate any net new employment for the covered groups. But recent evidence (Katz, 1998; Bartik, 2001) suggests that targeted tax credits for the disadvantaged can raise their employment, especially when combined

³² For discussions of “transitional jobs” programs and other efforts to generate more employment for the hardest-to-serve see Holzer (2002), Hill et al. (2002) and Johnson et al. (1999).

³³ According to individuals who manage the Federal Bonding Program for the U.S. Department of Labor, roughly 2000 bonds per year were sold in the late 1970s and early 1980s while fewer than 1000 per year are sold today.

³⁴ Those who work with employers on trying to place offenders into jobs often describe the bonds as a “deal closer” when other conditions are satisfied, though not necessarily effective on their own.

with other services for employers and training for the workers. Once again, intermediaries could potentially play a positive role in helping employers gain more access to these credits.

Finally, the need to improve the incentives of ex-offenders to accept low-wage and low-benefit jobs needs to be addressed. Early work experience sometimes leads to wage growth over time, though this has not been particularly true among welfare recipients and others. Instead, greater efforts need to be made to improve the attractiveness even of those jobs that offer little hope of upward movement.

Of course, the Earned Income Tax Credit has done exactly this for millions of low-wage workers, and is responsible for much of the improvement in the employment rates of low-income women in recent years.³⁵ But adults without custody of children are eligible for only a very small credit at the moment, which is worth less than one-tenth of the maximum credit available to those with children.³⁶ Furthermore, child support orders and arrearages impose additional “taxes” on the earnings of many ex-offender, and further encourages many of them to accept work only informally and “under the table”(Sorensen and Oliver, 2002; Primus, 2002).

Thus, efforts to improve these incentives must focus on reforms in state child support policies for poor fathers, along with possible efforts to extend tax credits or wage subsidies for this group. For instance, the EITC could be expanded either for childless adults in general, or for non-custodial fathers paying child support in particular. Any such effort would have to address concerns about “taxing marriage” or subsidizing single parenthood (e.g., Marshall and Sawhill, 2002), though these problems would not be insurmountable.³⁷ Even more ambitious efforts, such as providing public employment in large numbers to men who cannot find private sector employment or subsidizing their health insurance coverage, could be considered as well.³⁸

³⁵ See Meyer and Rosenbaum (2001). The improvements in employment among low-income women in this period have also been attributed to welfare reform and tight labor markets.

³⁶ The “childless” credit is worth a maximum of only \$340 per year, while credits for custodial parents of two or more children are eligible for roughly \$4000 in credits.

³⁷ For instance, marriage penalties in such situations could be minimized by allowing low-income men and women to retain their separate EITC payments for some time period when they marry, or by having separate schedules for singles and married couples.

³⁸ The New Hope program in Milwaukee was one example of a program that guaranteed public jobs at the minimum wage, as well as health insurance, to low-income males or females.

CONCLUSION

In this paper, we have reviewed the many barriers faced by ex-offenders in the labor market. Some of these barriers—such as poor skills and work experience or health problems—are not related per se to their status as ex-offenders, while others are. Some barriers are characteristics of the workers themselves, while others can be found in the attitudes and behaviors of employers—and also in the laws that affect their behavior.

We have also reviewed some potentially positive factors, such as the coming of tight labor markets over the next few decades as baby boomers retire in very large numbers. This situation will create a context in which employers will be very anxious to generate new pools of labor and may be more open to interventions and activities (especially undertaken by labor market intermediaries) that might improve the prospects of a good “match” between themselves and some carefully screened ex-offenders. A variety of policy activities might also enhance these more positive prospects.

The enormous improvements in employment that were generated among low-income single mothers over the past decade, because of the interaction of welfare reform with tight labor markets and expansions of work supports (such as the EITC), suggest that major progress might be made for low-income men and ex-offenders as well. The two situations are not necessarily identical. Low-income women who are custodial parents of children are viewed much more sympathetically by employers (and the public in general) than are low-income men with criminal records; most now have to work to support these children; their skills and personal characteristics were not as uniformly poor as those of ex-offenders; and enormous resources were available to assist in this effort.³⁹

Still, the welfare reform experience suggests that, when labor markets are tight, the right combinations of incentives and interventions can make large differences in the employment outcomes of low-income adults. Given the magnitudes of the barriers faced by ex-offenders in the labor market and the social costs of not addressing them, a strong case can be made for a major new effort on behalf of these individuals.

³⁹ The resources available for low-income women included not only the many billions of dollars spent annually on the EITC (about \$30B in total), but also the parts of the Temporary Assistance for Needy Families (TANF) block grant to states that were unspent and available as caseloads plummeted by about 60% in the late 1990s.

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