

Criminal Record Stigma in the Labor Market for College Graduates: A Mixed Methods Study

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Abstract: One of the primary ways in which contact with the criminal legal system creates and maintains inequality is through the stigma of a criminal record. Although the negative effects of the stigma of a criminal record are well-documented, existing research is limited to the low-wage labor market. Through a job application audit design, this study examines the role of criminal record stigma in the labor market for recent college graduates across Black, Latino, and white men. We find that criminal record stigma has a large effect among white college-educated men but not among Black or Latino men and find no evidence that earning a college degree after the record mitigates criminal record stigma. In-depth interviews with college-educated men with a criminal record show that the criminal record stigma has effects beyond the initial application stage, as many reported provisional job offers being rescinded following a criminal background check, leading participants to limit the jobs to which they applied.

Keywords: criminal records; stigma; college graduates; labor; employment; mixed methods

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
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THE criminal legal system in the contemporary United States is a key driver and reinforcer of inequalities by race and class (Quillian and Midtbøen 2021). One of the primary ways in which criminal legal system contact creates and maintains inequality is through the stigma of a criminal record, which manifests in collateral consequences in multiple domains. These consequences include, but are not limited to, broken social and familial network ties (Lopoo and Western 2005), difficulty finding adequate and stable housing (Geller and Curtis 2011), ineligibility of governmental aid (Rubinstein and Mukamal 2002), and – the focus of the present study – difficulty securing gainful employment (Pager 2003; Bushway 2004; Mueller-Smith 2015; Uggen et al. 2014; Leasure and Andersen 2016; Agan and Starr 2018; Mobasserri 2019).

Prior research shows that due to the negative stigma attached to the criminal record, many employers are averse to hiring people with convictions (Sugie, Zatz, and Augustine 2020). Furthermore, people with a conviction history tend to be relegated to the secondary labor market, where wages, benefits, and opportunities for advancement are bleak and turnover is high (Western 2002). Ultimately, the criminal record is viewed as a negative credential by employers, as documented by a long line of audit studies (Pager 2003, Pager, Bonikowski, and Western 2009; Uggen et al. 2014; Leasure and Anderson 2016; Agan and Starr 2018; Mobasserri 2019).

Despite the fact that the negative effects of the stigma of a criminal record are now well-documented, we know far less about the limits and scope of criminal record stigma. Although we know that employers of different sizes and in different industries discriminate to different degrees based on the criminal record (Pager 2007) and that the stigma is more consequential for Black and Latino people (Pager, Bonikowski, and Western 2009), we know little about the types of positive credentials that might counteract criminal record stigma in the labor market. Furthermore, apart from one study that examines the Certificate of Rehabilitation (Leasure and Anderson 2016) and another that studies employer recommendations and program completion (Denver 2020), existing scholarship narrowly focuses on the criminal record's impact in the secondary labor market and has only begun to investigate potentially offsetting positive credentials.¹

This study examines the role of criminal record stigma in the primary labor market, focusing on the labor market for recent college graduates. We investigate whether a criminal record impacts job application callbacks among applicants with a college degree, comparing white, Black, and Latino men with no record to those with a record before the college degree and a record after the college degree. We report results from an experimental audit study of job application callbacks for college-educated men with criminal records conducted in the six largest metropolitan areas of California ($n=1,798$). Experimental variation in the existence and timing of the criminal record relative to the college degree (pre- vs. post-bachelor's degree) allows us to test whether a college degree earned after the criminal record serves as a signal of redemption or reform in the labor market. In addition, we further probe the way that criminal record stigma operates in the primary labor market through in-depth interviews about the job search process with college-educated men with a criminal record. These data provide a thick description of searching for work in the primary labor market with a criminal record, including the role of the criminal record throughout the hiring process and the strategies that college-educated men with a criminal record employ to manage their stigma in their employment search.

Our results show the ways in which criminal record stigma in the primary labor market operates somewhat similarly and somewhat differently from what has been found for the secondary labor market in previous research. We find that criminal record stigma has a large effect among college-educated men and find no evidence that the timing of a college degree relative to the criminal record matters. This suggests that a college degree cannot mitigate the stigma of a prior criminal record. We also find that the effects of a criminal record are limited to white men, as we see no effect among college-educated Black and Latino men, likely because they experience low callback rates in this labor market whether or not they have a record. Furthermore, our qualitative interviews show that the criminal record stigma has effects beyond the initial application stage, as many participants reported provisional job offers being rescinded following a criminal background check. In response, college-educated men with a conviction history learned to limit the jobs to which they applied, either to positions that did not mention a criminal record check or to a narrow set of jobs in organizations that serve the formerly incarcerated. These findings expand our understanding of criminal record stigma in the labor market and have important implications for policies to improve the reintegration of

those with a criminal record, including policies that focus on removing questions about criminal history from job applications or on promoting college enrollment.

Criminal Record Stigma in the Labor Market

Mass incarceration and the accompanying expansion of the criminal legal system have prompted renewed interest in criminal record stigma in the labor market. Between 70 million and 100 million Americans have a criminal record (almost one-third of the country's population), and eight percent of all adults have a felony record (Vallas and Dietrich 2014; Shannon et al. 2017). The impact of stigma among those who have come into contact with the criminal legal system has been studied extensively and has been shown to reduce employment opportunities in both formal and informal ways (Harding et al. 2018). Formal mechanisms of stigma curb people with criminal records from working certain types of jobs and prevent them from obtaining certain licensing and certifications that may be required to work (Petersilia 2003). Informal mechanisms of stigma impact job opportunities based on preferences not to hire people with criminal records (Mobasserri 2019).

Experimental audit studies have demonstrated the negative effects of criminal record stigma in the labor market, effects that are further compounded with race (Pager 2003; Pager, Bonikowski, and Western 2009; Uggen et al. 2014; Agan and Starr 2018; Mobasserri 2019). These studies show that race and a criminal record are mutually reinforcing disadvantages when searching for work, thus exacerbating existing socioeconomic and racial inequalities. For example, Pager's now classic 2003 study found that Black applicants without records were less likely to be called back for an interview than white applicants with a record. However, it is also possible that Black and Latino applicants will experience less discrimination based on their criminal record than whites. This could occur if racial or ethnic discrimination is overwhelmingly strong, such that there is little room for further disadvantage based on a criminal record. This could also occur if discrimination against Black and Latino applicants is already motivated by stereotypes that assume Black and Latino applicants have a criminal record, as suggested by Pedulla's (2018) concept of muted congruence. In an audit study of the effects of prior unemployment, Pedulla (2018) finds that Black applicants suffer no additional penalty for unemployment, whereas whites do. In addition, the stigma of a criminal record applies even to low-level arrests (Uggen et al. 2014). Criminal record stigma may also relegate those with a criminal record to the secondary labor market, where wages are low and earnings growth over time is minimal (Western 2002; Purser 2012; Harding, Morenoff, and Wyse 2019).

The labor market consequences of criminal record stigma are amplified by the ubiquity of criminal background checks (CBCs). With the advancement of information technology and the widespread use of the Internet, criminal history information has never been more easily accessible (Blumstein and Nakamura 2009). For example, 28 states allow direct Internet access to criminal records (Uggen et al. 2014), and 38 states allow both public and private firms, as well as occupational licensing agencies, to access and consider arrest records that did not result in a conviction (Mukamal and Samuels 2003). One employer motivation for CBCs may

be the assessment of an applicant's risk of committing criminalized acts that could cause physical, financial, and reputational damage to the employer's organization (Blumstein and Nakamura 2009), but a criminal record may also be seen as a proxy for job skills, reliability, and ability to get along with co-workers (Pager 2007; Cullen, Dobbie, and Hoffman 2022; Denver and Dewitt 2023). Although their reliability as a screening tool for prospective applicants is disputable, multiple studies have nonetheless shown that the use of background checks among U.S. employers is very common in both professional and non-professional jobs (see Holzer, Raphael, and Stoll 2006; Raphael 2011; Denver, Pickett, and Bushway 2018).

Additionally, the digitization of record keeping has allowed private background check companies to purchase data from state agencies to create large repositories of criminal record data. These data can be accessed online for a fee by both public and private parties (Jacobs 2015; Lageson 2016). Employers often hire these private companies to conduct background checks on prospective employees, whereas someone in the public might utilize the same companies as a safety measure (i.e., to check sex offender lists) (Lageson and Maruna 2018). Some criminal record data companies go as far as publishing mug shots for all who are curious to see (Jacobs 2015). Simply put, traceable records are created as soon as an individual is placed under arrest. Consequently, the criminal label is applied to an individual well before any criminal charge or conviction has been made (Lageson 2016). As criminal record data often results in erroneous records that are not updated, this can be problematic for people who are trying to escape the criminal label (Jacobs 2015; Lageson and Maruna 2018).

Despite the rich research literature that shows the importance of criminal record stigma for inequality, the number of individuals with criminal records, and the frequency with which employers conduct CBCs, prior work has focused almost exclusively on the secondary labor market. This may reflect the low average levels of education and work experience among individuals with criminal records (Harding and Harris 2020) but has made it difficult to understand one possible set of remedies to criminal record stigma that involve countering the negative credential of a criminal record with a positive credential. Leasure and Anderson (2016) examine the certificate of qualification for employment in the state of Ohio (also known as the certificate of relief) as a potential counteracting positive credential. Using an audit methodology, Leasure and Anderson find that applicants who present a certificate of qualification for employment are almost three times more likely to receive an invitation for an interview or a job offer when compared to those without one (25.45 percent versus 9.8 percent). Similarly, Denver (2020) finds that employer recommendations and program completion increase the probability of clearance to work in health care among people with a criminal record. Evidence from a survey of American adults indicates that positive credentials mitigate criminal record stigma by signaling employee dependability, trustworthiness, lower recidivism risk, and lower risk of workplace crime (Denver and Dewitt 2023).

Another such positive credential is a college degree, which may signal multiple positive qualities in job applicants and open the door to employment in the primary labor market. We hypothesize that a college degree may serve as a compensating positive credential by signaling higher productivity through increased job skills,

commitment to work over illicit means of earning, perseverance and dependability, and socialization into middle class norms. A college degree also opens the door to the primary labor market where background checks may be conducted later in the hiring process and considered more carefully and in relation to other qualifications, due to the rarity of criminal records among applicants to such jobs. For example, based on an interview study of 17 formerly incarcerated people with college degrees in the state of New York, Owens (2009) contends that having college experience increases access to mainstream opportunities for formerly incarcerated people, as most of his participants were able to secure employment within the social services industry. In addition, the effectiveness of a college degree as a positive credential for people with a criminal record may depend on the relative timing of the degree and the convictions indicated on the record. Although a college degree earned after the criminal record could signal rehabilitation, further arrests or criminal convictions after the college degree could diminish its positive credentialing value.

The current study investigates the effect of a criminal record in the primary labor market for individuals with college degrees and examines whether earning a college degree after acquiring one's criminal record can counteract criminal record stigma in this labor market. If applicants with a criminal record and a college degree experience similar callback rates as those without a criminal record and with a college degree, this would suggest that college degrees are an important potential pathway for reducing inequalities generated by criminal record stigma. On the other hand, if applicants with a criminal record experience lower callback rates than those without a criminal record despite having a college degree, this would provide new evidence of the stickiness of criminal record stigma and the deep entrenchment of inequality generated by criminal legal system contact.

Stigma Management

In addition to structural barriers that exclude individuals from participating in legitimate institutions (Apel and Sweeten 2010), the criminal record label and its accompanying stigma can be internalized by the individual. The internalization of criminal record stigma can lead to hopelessness and discourages people with records from searching for work or applying to particular jobs (Harding 2003; Petersilia 2003; Bushway and Sweeten 2007; Smith and Broege 2020). When people with records do search for work, they continue to face challenges as a result of the criminal record (Western 2002; Pager 2003; Uggen et al. 2014). Thus, the internalization of criminal record stigma may influence the types of jobs to which people with records apply.

Scholars have turned to the theoretical framework of impression management (Goffman 1963) to examine strategies used by people with records during the job search (Harding 2003; Ali, Lyons, and Ryan 2017). Using in-depth interviews with formerly incarcerated men on parole, Harding (2003) analyzes how the criminal record is managed when searching for employment. Harding's analysis reveals that a formerly incarcerated person's perception of criminal stigma plays an important role in determining how they choose to present themselves to prospective employers. Ali and colleagues (2017) tested three tactics of impression management for

people with records—apology, justification, and excuse strategies. Their findings suggest that showing remorse about the criminal record could have a positive effect on hiring evaluations.

To our knowledge, however, the existing literature on stigma management during the job search does not examine the ways that individuals with criminal records use positive credentials that could ameliorate or balance the negative effects of the criminal record. That is, the effects of a stigmatized negative credential such as the criminal record has yet to be examined in combination with a positive credential, such as a bachelor's degree, when seeking employment.

Moreover, the ways in which individuals with a criminal record manage stigma in the labor market may depend on their understanding of how employers make hiring decisions. Rivera (2016) notes two perspectives on the hiring process in recent sociological work. One perspective suggests that the hiring process is a straightforward matching process between the employer's needs and the applicant's skills (Tilly and Tilly 1998). This perspective focuses on the employer's evaluation of one or more observable characteristics they believe are related to job performance. Based on these observed characteristics, employers make best guesses on who to hire (Spence 2002; Pager and Karafin 2009; Rivera 2016). The choice of which characteristics to use is commonly based on the employer's stereotypes, perceptions of average group ability, or personal experiences. Employers may also look for the presence or absence of references, and the applicant's gender and or race to make assumptions about worker productivity (Rivera and Tilcsik 2016; Rivera 2016). The second perspective suggests that the hiring process is one in which employer's decisions are being driven by assessments of the applicant's cultural and social capital, which may also be signaled by gender and race (Pager and Shepard 2008).

Rivera's framework suggests that the process of applying for jobs in the more formalized primary labor market might be different than applying in the less formalized secondary labor market. For example, Rivera (2016) highlights how higher status jobs use different strategies, like on-campus recruiting, to recruit their entry-level workers. However, being a student alone is not enough to gain attention from these employers. Paying close attention to the contents of the cover letter and resume, employers in higher status jobs look for high status indicators, such as university prestige, extracurricular activities, and prior employment prestige. As a result, the practice of looking for high status indicators reproduces inequality in the labor market. We hypothesize that a criminal record can interfere with high status indicators used by employers in hiring in the primary labor market for those with college degrees.

If employers in high status jobs pay particular attention to high status indicators, where does this leave people with records who go on to earn a college degree? Due to the selection processes Rivera (2016) found in higher status jobs, we might suspect the strategies of college-educated people with records applying to jobs in the primary labor market would be different than the way they approach lower-wage jobs. First, because a criminal record is much less common among job applicants with a college degree and employers have less experience with such applicants, individuals with a criminal record and a college degree may make greater efforts to conceal their record. Second, those with a criminal record may also need to

work harder to frame their prior experiences and their criminal record as an asset to prospective employers, especially those that serve the criminal justice involved population. Third, those with a criminal record and a college degree may choose to apply to a narrower range of jobs where their record may be less of a barrier to being hired. This article examines the strategies used to apply for jobs and impression management practices of individuals with criminal records and college degrees as they look to enter the primary labor market.

Methodology

Audit Study Design

An employment audit study is an experiment conducted in the field (vs. in a lab) in which applications from fictitious applicants with different characteristics are sent to employers with advertised open positions, randomly assigning applicants with experimentally manipulated characteristics to different employers. Audit studies are a common method for studying discrimination in the labor market, including by criminal records and race (Pager 2003; Pager, Western, and Pedulla 2009; Uggen et al. 2014; Agan and Starr 2018; Mobascerri 2019; Bertrand and Mullainathan 2004; Gaddis 2017). Here we focus on job openings preferring or requiring a bachelor's degree and randomly assign fictitious male applicants who differ by criminal record and race and hold all other applicant characteristics constant through comparable resumes and cover letters. Using a three-by-three experimental design (design provided in online supplement Appendix A), we constructed nine sets of applicant resumes and cover letters that differ by record type and race. The three categories of record type are: (1) No Record BA, (2) Record Pre-BA, and (3) Record Post-BA. These resumes are also categorized by race: (1) Black, (2) Latino, and (3) white. In this study, only one application was submitted for each job opening. This experimental design allows us to examine the causal effect of race and criminal record on job application callbacks among men with bachelor's degrees, as well as the interactive effects of race and record.²

We chose to include treatment arms that vary both the presence of a criminal record and its timing relative to the college degree (pre vs. post) in order to examine whether a college degree serves as a counterbalancing positive credential for people with a criminal record. If this were the case, we would expect to see that applicants who earned their college degree after the criminal record would have a similar callback rate to those with a college degree but without a criminal record, whereas applicants whose college degree predated their criminal record would have lower callback rates than those without a record. Another possible way of testing this hypothesis might be to experimentally vary the presence or absence of a college degree among applicants with criminal records (that is, to compare applicants with criminal records and college degrees to applicants with criminal records without college degrees). However, such a design is not practical because job seekers with and without college degrees largely apply to different types of jobs, and prior audit studies show very different base callback rates between jobs that do and do not require a college degree (e.g., Pager 2003; Gaddis 2015).

Signaling the criminal record in job application materials requires a balance between realism (what would a real job applicant with a BA and a criminal record do?) and clear signaling (is the signal strong enough for employers to notice?). Four signals of the criminal record are included on the job applications: (1) a two-year gap in between work experience, (2) volunteer work connected to prisoner reentry, (3) within the description for prisoner reentry volunteer work, inclusion of the phrase “fellow formerly incarcerated” to further signal that the applicant is a formerly incarcerated person, and (4) direct indication of the criminal record in the cover letter, which also signaled the time ordering of the BA degree and the criminal record. For the “Record Pre-BA” condition, the cover letter stated, “As you can see on my resume, I completed my bachelor’s degree in Economics at [college] in December 2018 after having been incarcerated.” For the “Record Post-BA” condition, the cover letter stated, “As you can see on my resume, I completed my bachelor’s degree in Economics at [college] in June 2013 before my incarceration.” For the “No Record” condition, the cover letter simply stated, “As you can see on my resume, I completed my bachelor’s degree in Economics at [college] in December 2018.” Resumes and cover letters are provided in online supplement Appendix B.

As is common in the audit study literature, race was signaled by using stereotypically race-specific names (Bertrand and Mullainathan 2004; Gaddis 2017). We chose the Black applicant’s name from among those used in prior audit studies. Because most names that clearly signal the applicant is Black or Latino also have a strong social class signal (Crabtree et al. 2022), we selected a white name with a lower-class connotation.

Remaining qualifications presented on the resumes and cover letters, including educational attainment, work experience, and extracurricular activities, were held constant across all nine applicants. The resumes indicate an Associate of Arts Transfer (AA-T) degree in Economics was earned at a community college near the applicant’s home address. Following community college, the resume shows that a Bachelor of Arts in Economics was earned at a California State University (CSU) campus near the applicant’s home address. We chose Economics as a major so that our fictitious applicants could apply to a wide variety of jobs that are not subject to formal hiring restrictions based on criminal records. We intentionally chose moderately selective colleges in order to maintain the generalizability of the results, as we suspect that students with a criminal record are less likely to attend more selective colleges.

Work experience was also equalized across the applicants. One challenge was the potential gap in work experience caused by incarceration. Although past studies have used in-prison work to make the work experience comparable (e.g., Pager 2003), we did not believe that a job applicant with a college degree would be likely to list such work experience on a resume. Instead, we included a similar 2-year gap in work on the no record resume, on the assumption that it would not look unusual for someone enrolled in college to be out of the labor force. All work experience is in customer service and retail, common jobs among college students.

Extracurricular activities were chosen to highlight the applicant’s community and campus involvement, as well as the applicant’s leadership ability. Community

college and university level engagement is demonstrated on the resumes as “Vice President” for a student club and “Project Manager” for a student association at the applicant’s respective campus. Community engagement is demonstrated in volunteering for non-profit organizations. For the “No Record BA” resume, a non-profit that serves marginalized communities was used in order to make those experiences as similar as possible to the volunteer work with the formerly incarcerated included on the two record resumes.

Lastly, the resumes and their accompanying cover letters were tailored for the six largest metro areas in California according to the 2010 Census: Los Angeles, Oakland, Sacramento, San Bernardino, San Diego, and San Jose. The schools attended by the applicants reflect residency in, or near, these six cities. In addition to the schools attended, work experience and community involvement are also tailored to include real organizations and businesses in each area.

Audit Study Implementation and Analysis

For this study, the primary author and a team of research assistants applied to 1,798 jobs using an online job seeking platform. Dillahun et al. (2021) found that 71 percent of job seekers used a popular online job seeking platform to search for and apply to job openings. Job applications were submitted over a period of six months (February 2019 to August 2019). The team of research assistants was provided with hands-on training and a step-by-step guide that explained the process of submitting job applications online.³

Unlike prior studies on job application callbacks for people with criminal records that focus on low-wage, entry-level work, the present study focused only on job ads that required or preferred a bachelor’s degree. Our team submitted applications to jobs in six different job categories: Administration/Coordinator, Analyst, Human Resources, Management/Director, Marketing, and Sales/Business Development. The decision to focus on business jobs was based primarily on two things: (1) the business industry has a broad range of jobs available to would-be applicants and (2) it has fewer legal restrictions when it comes to criminal convictions than other industries like health care.

We recorded callbacks within 30 days of application submission. A working phone number and voice mailbox were configured for each name (racial category) so that employers could leave a message when trying to reach the applicants. Additionally, an email address was created for each name so that employers could also reach the applicants by electronic mail. Both the voice mailbox and email inbox were moderated daily by the primary author. A callback, or an email, from an employer requesting time for an interview was coded as a success. Employers who did not show interest within the 30-day waiting period, or followed up with a message stating disinterest, were coded as unsuccessful.

The process of applying to jobs online began with randomizing which resume and cover letter will be submitted. We did this by assigning a number one through nine to each resume and selecting one via a random number generator. Each research assistant cycled through the job categories in order to submit applications in all categories at the same rate. Job ads were selected based on the following

criteria: specific mention of a bachelor's degree requirement or a preference for that degree, full-time, requiring no more than three years of experience pertaining to a specific skill so it would be appropriate for a recent college graduate, posted within the last seven days, and job location within a 25-mile radius of the fictitious applicant's home address. The research assistant then tailored the employer address and specific job title in the cover letter to correspond with the job ad. For some job applications, we were asked more detailed questions that required responses. We answered these questions using information found in the cover letters so as not to create inconsistencies across job applications. Descriptive statistics on job categories, geographic areas, and whether a college degree was "required" or "preferred" are provided in online supplement Appendix A. Online supplement Appendix A also shows that the experiment produced balance across the nine treatment arms with regard to job category, geographic area, and college degree required versus preferred.

To examine the effects of a criminal record, its timing relative to the BA degree, and race, we compared callback rates between the nine treatment arms of the experiment. We also estimated linear probability regression models with controls for metro area, job type, and whether a college degree was listed as required or preferred to make sure that chance differences in job characteristics across treatment groups were not confounding effect estimates, but this was not the case (see online supplement Appendix A for regression models). Our sample size provides statistical power of 0.83 to detect a difference in callback proportions of 0.08 versus 0.04 comparing the no record applicants group to either of the record applicants groups (based on a Chi-squared test, $\alpha = 0.05$, and group sizes of 600).

Qualitative Interviews

Whereas the audit study provides evidence of the effects of a criminal record and allows us to test whether a college degree is a positive credential that can counteract the negative credential of a criminal record, qualitative interviews provide a thick description of the job search process of college-educated men with criminal records, including the process beyond the initial callback, the men's understandings of their experiences with discrimination, and how those experiences affected their ongoing search for work. The first author conducted a combination of in-person, video, and phone interviews with 20 men who have both a criminal record and a college degree, all but one of the participants earned their degree after having acquired their criminal records. Interviews were conducted between February 2019 and April 2020.

We recruited participants through the Formerly Incarcerated Students and Alumni Network (FISAN). This network aims to connect previously incarcerated college students and alumni to opportunities and resources while simultaneously building community among current college students and alumni with criminal records. Participants were recruited from FISAN by distributing a flier to their listserv containing 237 members (at the time). Because the first author is a member of FISAN, he was able to access and build a rapport with participants. This allowed for a more fluid and honest exchange of information between participants and the

interviewer. The participants of this study all identify as male, and all are located in California. The average age of participants is 35 years old. The racial/ethnic composition of participants is as follows: 65 percent of the participants identified as Latino, 10 percent identified as Black, 10 percent identified as white, 5 percent identified as Asian/Pacific Islander, 5 percent identified as Native American, and lastly, 5 percent identified as mixed race. Participants were given a \$20 gift card for the interview, which lasted 50 minutes on average.

Using a set of semi-structured questions, each participant was asked to reflect on their job seeking experience before and after having earned his bachelor's degree. Topics included criminal legal system involvement, the experiences looking for work, and the stigmatizing effects of the criminal record in relation to everyday social interactions (especially with regards to employers). All interviews were audio-recorded for transcription. The data were coded into four different categories based on frequently occurring themes. We focused specifically on differences in experiences prior to and after receiving a bachelor's degree.

Results

Audit Study of Job Application Callbacks

Figure 1 shows the callback rate by criminal record and timing of record relative to the bachelor's degree. Applicants without a record had a callback rate of eight percent, whereas those with a record were called back at half that rate, or four percent. This difference is statistically significant at the 0.05 level and indicates that the discrimination based on criminal record documented in the low-wage labor market by previous research (cited above) also exists in the labor market for those with a college degree. Although the callback rates in this study are much lower than those in prior audit studies of criminal record stigma in employment, they are consistent with other audit studies of the labor market for those with a college degree (Deming et al. 2016; Quadlin 2018).

We find no difference between applicants with a criminal record who earned their bachelor's degree before versus after the criminal record, as both groups experienced a call back rate of four percent. This suggests that the positive credential of a college degree does not outweigh or counteract the criminal record stigma. Had the job candidates who earned their degrees after they acquired their records been called back at a higher rate than those who earned their degrees before acquiring their records, this would have been evidence of the redemptive signal of the college degree. Instead, the time ordering of the record and the degree does not seem to matter.

Figure 2 shows the same results by race. Although prior research on the stigma of a criminal record in the low-wage labor market finds larger effects of the criminal record among Black and Latino applicants (Pager, Bonikowski, and Western 2009), here we find the opposite in the labor market for college graduates. Among Black and Latino applicants, we detect no effect of the criminal record on callbacks, as the callback rates by record are not statistically different from one another. Among Black applicants, the callback rate for the no record group is four percent, the rate for

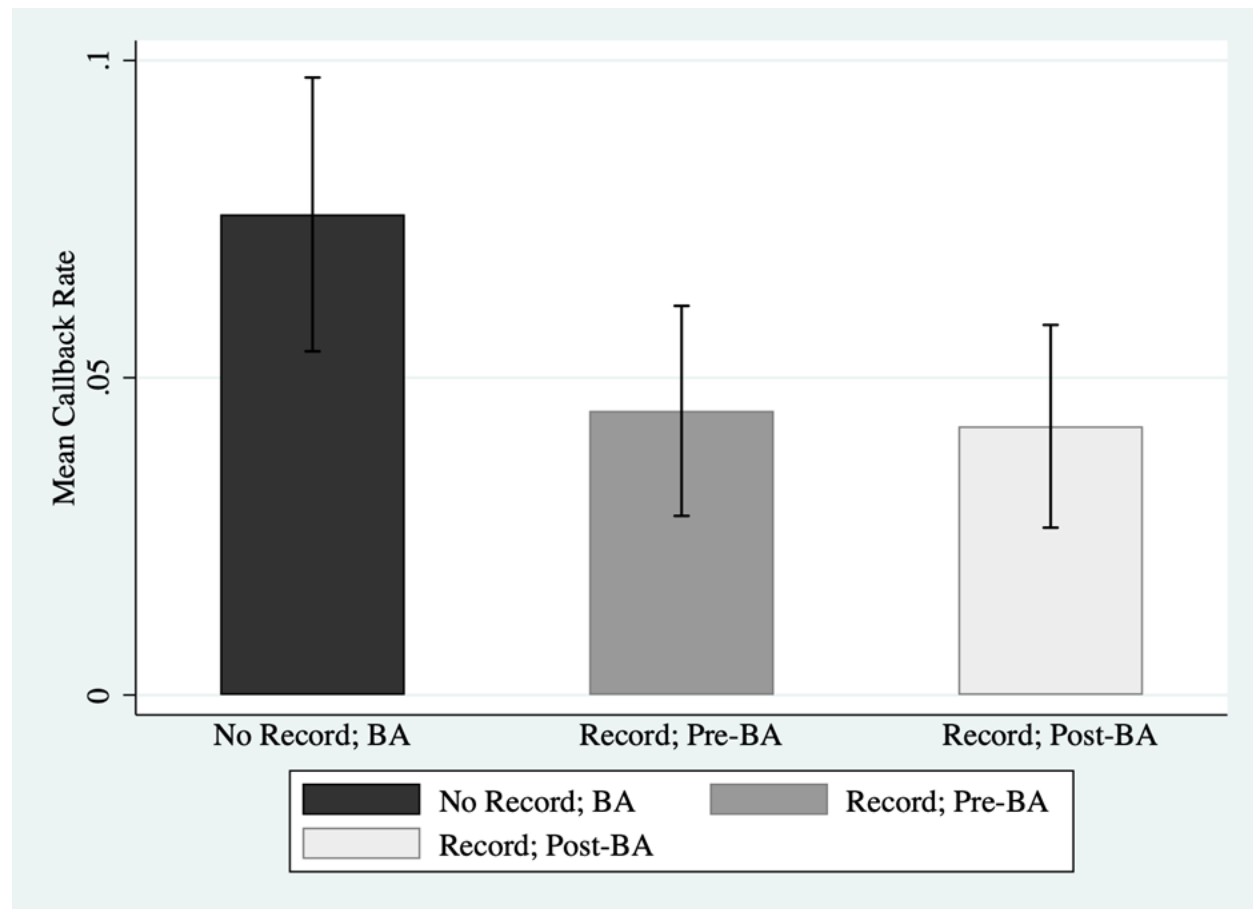


Figure 1: Callback rate by record and timing of record relative to bachelor's degree.

the record pre-BA is five percent, and the rate for the record post-BA is three percent. Especially among Black applicants, this lack of effects is likely due to the consistently low callback rate across all record subgroups. We cannot rule out the hypothesis that there is a small record effect among college-educated Latino men, as the difference in proportions is four percentage points, and we do not have the power to detect race-specific differences as small as we observe. Consistent with prior studies of racial discrimination in the labor market (Bertrand and Mullainathan 2004; Gaddis 2017), we interpret these results as reflecting the master status of race. In other words, callback rates among Black applicants without a record are so low that there is little room for further dampening effects of the criminal record. Among white applicants, the criminal record does reduce callbacks, as the differences between the no record and record conditions are statistically significant at the 0.05 level.

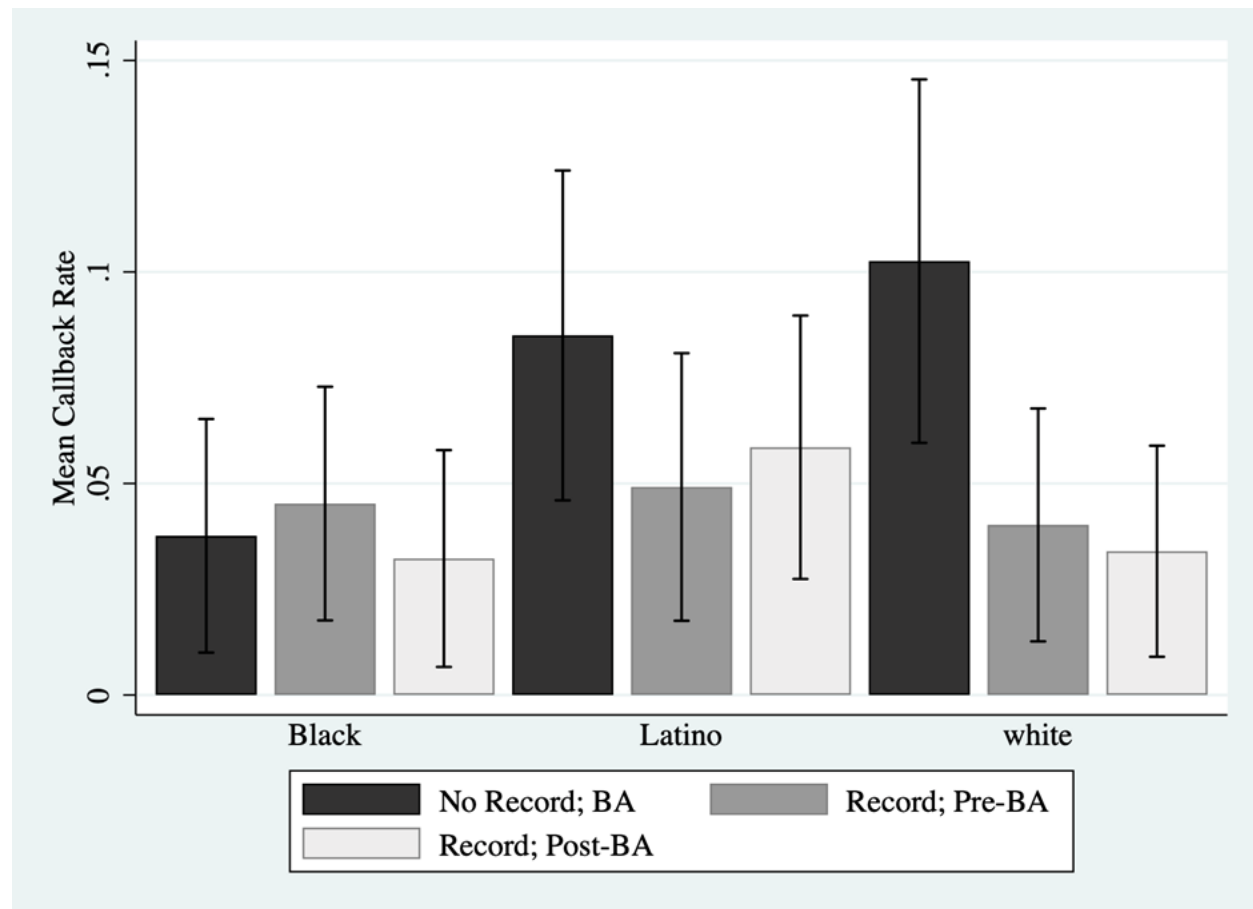


Figure 2: Callbacks by race and criminal record.

How Recent College Graduates with Criminal Records Navigate Stigma in the Labor Market

The audit study results demonstrate that a criminal record lowers job callbacks in the labor market for recent college graduates. We now draw on qualitative interviews with recent college graduates with criminal records to understand the implications of criminal record discrimination for the job search process and the types of jobs that our participants are able to secure. We show that as they struggled to land job interviews, our participants developed strategies of concealment of the criminal record. Although this strategy generated more interviews and tentative job offers, a formal background check often led job offers to be rescinded. In response, our participants chose to enroll in college and became more selective about the jobs to which they would apply. As a result, a criminal record not only decreased the probability of getting a job and made the job search process more arduous, stressful, and lengthy, but it also structured the types of careers available to recent college graduates with criminal records. In many cases, our participants were not able to

secure jobs that require college degrees, and instead elected to pursue graduate degrees as a way to meet their basic needs and open up new career opportunities.

Searching for Work After College

When participants first entered the labor market with their bachelor's degree, they almost uniformly revealed their criminal records when applying for jobs. Participants reported that they initially believed that being honest and upfront about their criminal records with employers would result in positive employment outcomes. As one participant, Mario, a 31-year-old Latino male, explained:

...I didn't know how I was going to get a job, how I can for sure get a job with my record, even though I had a bachelor's. I didn't know how. The only way that I was thinking was, if I get that one interview, I'm going to try to do my best in that interview, and be open minded, and be honest, and be very clear about why I'm applying for the job, be very clear that I know the job position. Be very clear to talk about my qualities, be very clear to know what's required of the job. It's all these things that I had to prepare for. Shit, I went to "hella" interviews and didn't get a job.

Most participants initially developed a strategy of disclosing their criminal records when applying for jobs for fear that hiding the criminal record would cause problems later in the hiring process. This strategy required them to overcome the criminal record stigma through persuasion in the job interview itself. Huitzil, a 30-year-old Native American male, explained his use of this strategy:

I wasn't asked, but I disclosed. I disclosed voluntarily because... I'm not gonna play the game where they try to find out what's wrong with me. I'm gonna come out and say it, and spin it as like, you know, like I don't really need you. You need me. You need a person with this kind of experience and world view.

Yet this strategy made the job search extremely difficult for our participants. Consistent with prior audit studies of the low-wage labor market, they rarely received callbacks from employers when they disclosed their criminal records in their job applications. Over time, our participants grew frustrated with this strategy and weary of the job search and began to omit their criminal records from job applications, with the hope of improving their chances of getting a job interview. Luis, a 32-year-old Latino male, explained the evolution of his own approach to searching for work with a college degree and a criminal record:

I was being very forward. I was giving them arrests that weren't even convictions and stuff like that. When I did that, I thought that honesty was the best policy, you know? I was a different person... Yeah, it didn't turn out that way. As soon as they saw that part [the record], I wouldn't even get a callback. That happened to me about four or five times. Then afterwards, I spoke to one of my mentors and... They advised me like

dude, don't write your history down anymore. Fuck it. See how it goes. Boom, so I did that.

Participants adopted the strategy of omission after they learned that being transparent about their criminal record was negatively impacting the number of successful employment prospects. When they changed strategies, their chances of landing a job interview increased dramatically. Luis eventually changed his approach:

When I graduated, I couldn't find a job. I had graduated from a tier one institution, I had graduated with honors and all that and as I was looking for employment, even though I was qualified, as soon as it came to the portion of whether I had a record or not, people would just not even consider me. It wasn't until I lied ... not actually lied. I guess I just omitted the information.

Antonio, a 30-year-old Latino male, received a job offer after not disclosing his record, only to have the offer rescinded:

I lied about my felony conviction. I didn't mention it. I ended up getting an interview. They were ready to hire me, but they asked me if I would pass a background check because they have to do a background check since the workers are going into these buildings in San Francisco.

However, when our participants entered the labor market for college graduates, the strategy of omission did not work as well. We believe this is because employers of college graduates engage with criminal records differently in the hiring process, the topic to which we turn to next.

Tentative Job Offers and Background Checks

Even as our participants abandoned the strategy of honesty in favor of the strategy of omission, their experiences indicate that employers hiring in the labor market for college graduates discriminate against people with conviction histories by conducting formal background checks after extending tentative job offers, a procedure which is consistent with Ban-the-Box legislation and conforms to guidelines promulgated by the federal Equal Employment Opportunity Commission. In California these background checks are known as Live Scan. Formal background checks thus emerged as another barrier to securing employment outside of the secondary labor market for our participants. All of our participants reported losing tentative job offers after the formal background check. Here are just two examples:

I applied to [redacted]. They do background checks. They wouldn't hire me, although I had a bachelor's degree. [At a different company] I interviewed, they offered me a job. I did a background check. They didn't hire me. [At another company], same thing. It's like, on paper I looked really well. They brought me in, they really loved me. They offered the job and I'm like, "Man, I got time under my belt I figure I

can go pass a background check." And I'm like, I'm failing them back and forth. And I'm trying to be honest with them. Like, "Hey, I have a record," and trying to plead my case. And, it was countless times, all the way down to [a job with the county] ... I got offered a contingent offer based on a background check and [they] ran my fingerprints and they sent me a letter saying they're not going to hire me. – Eduardo, 33-year-old Latino male

... At this point in my life, I've been turned down by three positions after I have already got the positions. – Jose, 30-year-old Latino male

"I Won't Even Apply" – The Strategy of Selectivity

Our participants responded to losing tentative job offers by becoming more selective about the types of jobs to which they would apply. As a result of the pervasive use of formal background checks, all respondents said they eventually became selective of the jobs to which they applied, avoiding any employers that would require a background check, or they outright chose to avoid the labor market by pursuing an advanced degree. When respondents did search for employment, they focused on jobs that allowed them to work with others who had criminal records. For example, Mario and Eduardo turned to organizations oriented towards the formerly incarcerated after they were unable to access jobs in the public sector. And William, a 48-year-old white male, worked as a drug and alcohol counselor—a job in which he says his criminal record benefited him. Roberto, a 53-year-old Latino male, said his formerly incarcerated background provided him with an opportunity in which the employer showed interest, "I got a job offer in Santa Cruz... they sought me out. It would be a co-director [position]. The [current] director is getting ready to retire and he wants somebody to carry his torch. They contacted me again [after incarceration] and they said, "Hey, do you still have that same drive, that same passion that you had when we met you in prison? You're the fit, you're the guy. You're the one that can carry the torch.'" Here are three examples of participants who avoided applying to certain jobs:

So, it feels like anytime that I'm interested in [a government position] ... There's always some sort of wording on some of these job applications that make reference to... a felonious conviction history. And so... just having that reference [to a conviction history] on there, even though they're not asking anything is... one, intimidating and then, two... a lot of government jobs... they are the exclusion to Ban-the-Box. – John, 41-year-old white male

... Let's say I want to get certain manager roles, like really high paying jobs? My record's always going to be an issue... Depending on the positions, that's where there's always going to be like a ceiling or something for me. – Shawn, 31-year-old Black male

I was pretty selective because I knew I was going to have problems... the limitation was that I didn't apply because of the record... Knowing that I had the record limited me by... Being like, "Well, I can't apply to that."

Well, I can't apply to that. I can't apply to that." I had to pick jobs that I didn't want to do, or weren't good for me, or whatever, because I had to grind it. I made the choice to choose certain jobs because, at least it paid me. Instead of wasting my time applying and not getting it. – Francisco, 30-year-old Latino male

This strategy of selectivity served to protect them from the stress of rejection and to avoid wasting time on job applications where the chances of employment are slim. As Francisco further explained, "I could go for that good job, [but] I'm just gonna stay here at the bottom because it's safe."

Returning to School

Some participants were never able to secure a job that required a bachelor's degree, and most were skeptical about their chances due to their criminal records. As a result, they were faced with either returning to the secondary labor market where they worked before college or continuing in school. For example, after months of an unsuccessful job search, Jose found himself with few options for making a living and thus chose to pursue a graduate degree:

Even just being in school broke... for me, is better than... I was selling dope, whatever. It's kept me away from a lot of shit too. It's kept me away from a lot of distractions. And I've reinvented myself more than once bro throughout my academic careers.

Rather than turning back to the street where there was potential for higher earnings or opting for a low-wage job, Antonio chose to continue in academia and pursue a PhD, "I chose to become a professor because I can get funding to get it paid for, it can be free. I don't have to come out of pocket." Pursuing a graduate degree made sense to these participants for two reasons. First, financial aid and campus work provided a way to meet one's basic expenses. Second, a graduate degree carried with it the hope that an advanced degree would open up new career pathways and help to mitigate the criminal record stigma. Clay, a 43-year-old Black male feels that completing his master's degree will lessen the stigma behind incarceration, "Now if I ever finish this master's thesis, which I will, I'll have a master's. I feel like having those degrees [both a bachelor's and a master's] helps smooth over the fact that I've been incarcerated before. I don't feel as stigmatized about it now." Coatl, a 28-year-old Native American and Mexican male, intends to pursue a Master's in Business Administration because he feels it would increase his chances in getting into his preferred career choice:

I want to go into HR and that stuff, policy and all that, that area. I think my bachelor's will be good in that and just having that master's is just taking it to the next level.

Another example comes from Ruben, a 34-year-old Latino male, who expressed challenges after he struggled to find a position commensurate with his college degree:

I was ready to work but I also knew that I needed higher credent -like for example, even the PhD, like I have to be strategic about what I'm getting, because I have to stand out. Right? Because I know that when another dude, another person exactly like me with the same experience as me, the same degree as me, comes to apply at a job at a community college they're not going to have a record and I'm going to have a record, so I need to stand out. Like even I can't have an EdD, I should have a PhD because they're viewed, they're more respected than the EdDs by certain people, right? Just the way that someone that doesn't have a record versus someone that has a record is more respected, you know?

These examples show how criminal record stigma constrains even the career opportunities of those with a college degree.

Conclusion

Although criminal record stigma is widely recognized as a barrier to employment and a consequent driver of racial and ethnic inequality, prior research on criminal record stigma has focused almost exclusively on the low-wage labor market, limiting our understanding of the full impact of criminal record stigma and of the potential role of counteracting positive credentials. This mixed methods study examines criminal record stigma in the labor market for college graduates through an audit study conducted across the state of California and in-depth interviews with college graduates with criminal records about their search for work with a criminal record. This study reveals several novel findings with important implications for criminal record stigma, race, and inequality.

First, our audit results show that the stigma of a criminal record extends to the primary labor market, as applicants with a criminal record received half as many callbacks as those without a criminal record. Yet stigma operates somewhat differently in this labor market. Our qualitative interviews about the process of searching for work reveal that even when someone with a criminal record receives an interview and a provisional job offer, a formal background check conducted at the end of the hiring process often leads to a job offer being rescinded.

In addition, we also find that race and stigma interact differently in the primary labor market. Black applicants with college degrees have low callback rates even when they do not have a criminal record, consistent with prior research on race and hiring in the primary labor market (Gaddis 2015). As a result, a criminal record itself appears to result in no additional discrimination in the labor market beyond racial discrimination. One possible explanation for this finding is that employers assume all Black job applicants have a criminal record (Agan and Starr 2018). Pedulla's (2018) theory of *muted congruence*—the logic that strong stereotypical expectations about group membership are not reinforced by stereotype-consistent information—is consistent with this possible explanation. Further research is necessary to examine whether this is the case even for Black job applicants with college degrees, or whether it is simply due to more extreme racial discrimination in this labor market.

Second, we find no evidence that a positive credential—even one as potentially powerful as a bachelor's degree—can neutralize the stigma of a criminal record. In our audit study, applicants who earned their bachelor's degree after their criminal record fared no better in terms of callbacks relative to an applicant with no record than applicants whose bachelor's degree predated their criminal record. These results are also consistent with evidence from our qualitative interviews that job seekers with a criminal record and a college degree experienced many difficulties securing work commensurate with their college degree, receiving few callbacks when they indicated their record at application and losing provisional job offers after a formal background check. These findings are also evidence of the pervasiveness and power of the criminal record stigma as a master status that is extremely difficult to overcome in contemporary society in which background checks are ubiquitous and inexpensive.

Third, the effects of criminal record stigma prompt those with a criminal record and a college degree to limit the types of jobs to which they apply. Over time, our interview participants learned to avoid job openings for which a background check was explicitly mentioned and to focus on job openings in industries and occupations they believed would be most welcoming to someone with a criminal record. This finding means that criminal record stigma not only affects the probability of finding a job or extends the time it takes to find a job, but also affects the types of careers available, even among those who have since earned a college degree. Furthermore, some of our participants found themselves unable to find work commensurate with their college degrees. This means that the criminal record coupled with the widespread use of background checks lowers the returns to a college degree and thereby impedes upward mobility. Rather than return to the low-wage labor markets where they had worked before college, they decided to pursue graduate degrees. This pathway provided both a means of getting by and further hope that a graduate degree would counter the criminal record stigma and open new career pathways.

We remind the reader of several limitations of this study. First, it was conducted at a particular time and place. In particular, the study was conducted in a relatively tight labor market, which suggests that discrimination may be underestimated. Future research should examine whether results are reproduced in other social and economic contexts. Our study also focuses on urban areas, where jobs for those with college degrees are concentrated, and examines only one particular positive credential. Future research should examine other credentials, such as vocational training certificates and associate degrees, or whether the prestige of the college moderates the effects we find here. Future research might also examine whether effects persist over time and whether returns to work experience or other signals of rehabilitation have similarly muted effects. Finally, this study focuses on men only, and future research should study the labor market experiences and strategies of women with criminal records, who are a growing population (The Sentencing Project 2022) and may face different and additional challenges in securing employment with a college degree.

Nevertheless, we believe our findings hold important implications for policies designed to improve the labor market prospects and general reintegration of people with criminal records. First, it suggests that by themselves Ban-the-Box policies are

inadequate to eliminate labor market discrimination based on a criminal record or to dramatically improve the employment prospects of individuals with records. This study was conducted after the implementation of California's Fair Chance Act, and yet we see the implications of a criminal record both in the audit study with regard to callbacks and in the qualitative interviews with regard to callbacks and job offers that were rescinded following a background check. The latter may be especially relevant for those with a college degree because employers searching for workers with a college degree are likely to be, on average, more aware of and compliant with laws and guidelines governing hiring and criminal records. We note in particular that guidelines promulgated by the Equal Employment Opportunity Commission (Aamodt 2015) suggest that employers wait to conduct a background check until after a provisional hiring decision has been made, but our interview participants reported losing many job offers at that stage of the process.

In other words, stronger interventions into the labor market and the legal system are necessary. We would urge policymakers to consider the following policy ideas to increase job opportunities for people with a criminal record. Anti-discrimination enforcement could be used to prevent employers from considering the criminal record when it is not relevant to job responsibilities. To accomplish this, the state could require employers to formally state how a candidate's criminal record would directly impact their ability to perform a specific job when denying a job based on the record. A more forceful response would be to ban the consideration of criminal records in hiring. Due to disparate incarceration rates among people of color, employers are in fact engaging in racial discrimination by considering criminal records and are subject to violations of Title VII of the Civil Rights Act of 1964, exposing themselves to civil litigation.⁴ Banning the consideration of criminal records in hiring would improve employment opportunities for those with criminal records and could relieve employers from negligent hiring lawsuits related to employees with criminal records.

A third option would be to expand and simplify "clean slate" opportunities, by increasing the number of offenses that are eligible for expungement or sealing and decreasing the waiting time for such actions (Prescott and Starr 2020). California recently enacted a record sealing law, SB 731, that automatically seals nonviolent and non-serious convictions and makes all convictions—except for those requiring registration as a sex offender—eligible for application for sealing. Although it is too early to know the impacts of this law, it represents a substantial expansion in record sealing with significant potential for reducing criminal record stigma in the state. The law could be particularly impactful for those with a college degree, which would presumably increase their ability to demonstrate rehabilitation and convince a judge to seal even violent or otherwise serious convictions.

Similarly, states could implement automatic Certificates of Rehabilitation (COR). Currently, the COR process imposes a very lengthy waiting period, in some cases a minimum of 20 years. Other states could adopt Arizona's law, which expedites the civil rights restoration process directly after any formerly incarcerated person discharges from probation or parole. This would expedite the COR process, making it easier and timelier to counteract criminal record stigma in the search for a job. Finally, many occupations require applicants to possess job-related state licenses.

Unfortunately, this requirement often demands that prospective workers pass a background check in order to obtain the license. Eliminating the automatic ban of those with a criminal record from obtaining an occupational license could improve the ability of those with a criminal record to participate in a wider range of occupations.

In closing, we also note that our findings also have important implications for policies and practices that are encouraging the participation of people with a criminal record in higher education. Evidence shows that higher education reduces recidivism and promotes social reintegration of those with criminal records (Runell 2017). Increasing numbers of higher education programs are being made available in prisons and more and more colleges and universities are creating programs for formerly incarcerated or system-impacted students. Our findings suggest that in order to be maximally effective, such efforts must be paired with greater efforts to reduce criminal record discrimination in the labor market for those with college degrees or other earned credentials.

Notes

- 1 A Certificate of Rehabilitation (COR) serves as an “indication of rehabilitation” and is meant to alleviate automatic employment barriers for people with a conviction history (McCann et al. 2021). In California, CORs are issued by the county in which conviction occurred, or county of residence, after a conviction-free waiting period of 7-10 years, and satisfaction of other statutory criteria (Collateral Consequences Resource Center 2018).
- 2 This experiment was not pre-registered. We include in our analysis presented in this article all randomized treatment conditions and all outcome variables measured.
- 3 Submission duplicates, no degree requirement/preference, or the job posting being too old were issues that came up in the data set and were excluded from the final data set before analysis began (n=90).
- 4 Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, or national origin.

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