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Does "Ban the Box" Help or Hurt Low-Skilled Workers?

Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden

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Mass incarceration was an important crime-reduction policy during the past several decades, but it has come under intense scrutiny due to its high financial cost, diminishing public-safety returns, and collateral damage to families and communities. There is substantial interest in reallocating public resources to more cost-effective strategies, with greater emphasis on rehabilitating offenders. Due in part to this change in focus, individuals are now being released from state and federal prisons more quickly than they are being admitted. According to the most recent data, over 637,000 people are released each year. However, recent data also suggest that approximately two-thirds of those released will be re-arrested within three years. This cycle signals our failure to help re-entering offenders transition to civilian life and limits our ability to reduce incarceration rates. Breaking this cycle is a top policy priority.

Connecting ex-offenders with jobs is often considered a necessary—though not sufficient—step toward successful re-entry outcomes. Individuals who have been convicted of a crime often have difficulty finding employment, which appears to increase their likelihood of committing another crime. Part of the reason may be that employers discriminate against those with criminal records, even when other observable characteristics are identical. This likely reflects statistical discrimination. On average, ex-offenders are more likely than non-offenders to have engaged in violent, dishonest, or otherwise antisocial behavior, and—based on current recidivism rates—are more likely to engage in similar behavior in the future. Ex-offenders also have higher rates of untreated mental illness, addiction, and emotional trauma. These are all valid concerns for employers seeking reliable, productive employees. However, this reasoning is little comfort to someone coming out of prison and hoping to find gainful legal employment. In addition, since black and Hispanic men are more likely to have criminal records, making a clean record a condition for employment could exacerbate racial disparities in employment.

If even a few ex-offenders are more job-ready than some non-offenders, then employers' statistical discrimination against those with criminal records hurts the most job-ready ex-offenders. This has motivated the "ban the box" (BTB) movement, which calls for employers to delay asking about an applicant's criminal record until late in the

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hiring process. Advocates of BTB believe that if employers can't tell who has a criminal record, job-ready ex-offenders will have a better chance at getting an interview. During that interview, they will be able to signal their otherwise-unobservable job-readiness to the employer. This could increase employment rates for ex-offenders and thereby decrease racial disparities in employment outcomes.

This policy does nothing to address the average job-readiness of ex-offenders, however, so employers will still seek to avoid hiring individuals with criminal records. When BTB removes information about a criminal record from job applications, employers will likely respond by using the remaining observable information to try to guess who the ex-offenders are and then avoid interviewing them. Surveys show that employers are most concerned about hiring those who were recently incarcerated. Since young, low-skilled black and Hispanic men are most likely to fall into this category, employers may respond to BTB by avoiding interviews with these groups. As a result, racial disparities could increase rather than decrease.

Our research examines whether BTB is a net positive or negative for racial minorities. We exploit variation in the adoption and timing of state and local BTB policies to test BTB's effects on employment outcomes for various demographic groups, using individual-level data from the 2004–2014 Current Population Survey (CPS).

We focus on the probability of employment for black and Hispanic men who are relatively young (age 25–34) and low-skilled (no college degree), as they are the ones most likely to have been recently incarcerated. This group contains the most intended beneficiaries of BTB as well as the most people who could be unintentionally hurt. If BTB enables some re-entering offenders to get their foot in the door and communicate their job-readiness to employers, we might see a positive effect on employment for this group. But if young, low-skilled black and Hispanic men are now less likely overall to be called in for interviews, then the net effect on employment could be negative.

Indeed, we find a net negative effect on employment for these groups: On average, young, low-skilled black men are 3.4 percentage points (5.1%) less likely to be employed after BTB than before. This effect is statistically significant ($p < 0.05$) and robust to a variety of alternative specifications and sample definitions. We also find that BTB reduces employment by 2.3 percentage points (2.9%) for young, low-skilled Hispanic men. This effect is only marginally significant ($p < 0.10$) but also fairly robust. Both effects are unexplained by pre-existing trends in employment, and—for black men—persist long after the policy change. The effects are larger for the least skilled in this group (those with no high school diploma or GED), for whom a recent incarceration is more likely.

We also expect BTB's effect on employment to vary with the local labor market context. For instance, it would be difficult for an employer to discriminate against all young, low-skilled black men if the local low-skilled labor market consists primarily of black men, or if there are few applicants for any open position. We find evidence for such differential effects. BTB reduces black male employment significantly everywhere but in the South (where a larger share of the population is black). Similarly, BTB reduces Hispanic male employment everywhere but in the West (where a larger share of the population is Hispanic). This suggests that employers are less likely to use race as a proxy for criminality in areas where the minority population of interest is larger—perhaps because discriminating against that entire set of job applicants is simply infeasible. In addition, we find evidence that statistical discrimination based on race is less prevalent in tighter labor markets: BTB's negative effects on black and Hispanic men are larger when national unemployment is higher. In other words, employers are more able to exclude broad categories of job applicants in order to avoid ex-offenders when applicants far outnumber available positions.

Ban-the-box policies seek to limit employers' access to criminal histories. This access itself is relatively new. Before the internet and inexpensive computer storage became available in the 1990s, it was not easy to check job applicants' criminal histories. This is the world that BTB advocates would like to recreate. Of course this world differs from our own in many other respects, but nevertheless it is helpful to consider how employment outcomes changed as criminal records became more widely available during the 1990s and early 2000s. A number of studies address this, and their findings foreshadow our own: when information on criminal records is available, firms are more likely to hire low-skilled black men. In fact, many of those studies explicitly predicted that limiting information on criminal records, via BTB or similar policies, would negatively affect low-skilled black men as a group.

Our study therefore contributes to a growing literature showing that well-intentioned policies that remove information about negative characteristics can do more

harm than good. Advocates for these policies seem to think that in the absence of information, employers will assume the best about all job applicants. This is often not the case. Research has shown that providing information about characteristics that are less favorable, on average, among black job-seekers—including criminal records, personality tests, drug tests, and credit histories— actually helps black men and black women find jobs. These outcomes are what we would expect from standard statistical discrimination models. More information helps the best job candidates avoid discrimination.

NOTE:

This research brief is based on Jennifer Doleac and Benjamin Hansen, "Does 'Ban the Box' Help or Hurt Low-Skilled Workers? Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden," National Bureau of Economics Research Working Paper no. 22469, July 2016, http://www.nber.org/papers/w22469.