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A HIGHER HURDLE: Barriers to Employment for Formerly Incarcerated Women

Marci Seville

Golden Gate University School of Law, mseville@ggu.edu

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Thelton E. Henderson
Center for Social Justice

A HIGHER HURDLE:
*Barriers to Employment for Formerly
Incarcerated Women*

December 2008



Authors

Monique W. Morris, M.S.
Michael Sumner, Ph.D.
Jessica Z. Borja

Study Advisory Committee

Rose Braz
Cynthia Chandler
Hamdiya Cooks
Linda Evans
Marlene Sanchez
Marci Seville

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Thelton E. Henderson Center for Social Justice
UC Berkeley School of Law
2440 Bancroft Way, Suite 300
Berkeley, CA 94704
Website: <http://www.law.berkeley.edu/centers/csj/>

A Higher Hurdle: *Barriers to Employment for Formerly Incarcerated Women*

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EXECUTIVE SUMMARY

Today there are more than two million incarcerated men, women, and children in the United States,¹ with more than 167,000 men and women incarcerated in California's 33 adult prisons alone.² In 2008, one in every 100 Americans is incarcerated, with higher rates of incarceration for men and women of color, particularly African Americans.³ As a result of disproportionate arrest rates and punitive responses to drug and property crimes, women comprise the fastest-growing segment of the incarcerated population. In California, two-thirds of incarcerated women are mothers of children under the age of 18, compared to about half of the population of incarcerated men.

Nationwide, more than five million men and women are on probation or parole, comprising the majority of the 7.2 million people who are under some form of criminal justice system supervision in the United States. In the second quarter of 2008, the California Department of Corrections and Rehabilitation reported 125,097 men and women on parole,⁴ a disproportionate number of whom are people of color, and a growing number of whom are women and parents.

Research has confirmed that a criminal record presents a barrier to formerly incarcerated men who seek employment because many employers have negative attitudes toward people with a criminal record.⁵ Additionally, job seekers with criminal records are challenged by the increasing frequency with which potential employers inquire about the arrest and conviction history of applicants and perform background checks on leading candidates. There is, however, a dearth of research examining the specific challenges that formerly incarcerated women face when seeking employment. Researchers at the Thelton E. Henderson Center for Social Justice (HCSJ) at the UC Berkeley Law School sought to fill this void by examining whether a history of incarceration has an impact on employment opportunities for women. Additionally, researchers examined whether the race and ethnicity of female job applicants impacted employment opportunities.

This study is one of the first to combine a matched-pair testing methodology and participatory

¹ The Pew Center on the States. (2008) *One in One Hundred: Behind Bars in America, 2008*. Washington, DC: The Pew Charitable Trusts.

² Bailey, A. and Hayes, J. (August 2006) *California Counts: Population Trends and Profiles*. Johnson, Hans, ed. Volume 8, Number 1. San Francisco, CA: Public Policy Institute of California.

³ *SUPRA*, Note 1.

⁴ California Department of Corrections and Rehabilitation. (2008) *Adult Operations: Second Quarter 2008 Facts and Figures*. Sacramento, CA. Available at: http://www.cdcr.ca.gov/Divisions_Boards/Adult_Operations/Facts_and_Figures.html. Last accessed November 2008.

⁵ Pager, D. (2007) *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*. Chicago: University of Chicago Press. Also, see annotated bibliography.

research strategy to measure potential differential treatment among formerly incarcerated women seeking employment. Researchers in this study worked closely with an Advisory Committee comprised of women who are formerly incarcerated or who work with formerly incarcerated women in the greater San Francisco Bay Area. For this study, researchers conducted 1200 résumé tests; in each test, one résumé included a subtle reference to a period of incarceration and one did not. Résumés were submitted for six racial and ethnic groups, including African American, Latina American, Pacific Islander American (Samoan), Asian American (Vietnamese), and White American. Arabic names that suggest an affiliation with Islam were also included.⁶ Additionally, HCSJ researchers conducted focus groups and interviews with forty formerly incarcerated women and developed an annotated bibliography of literature examining employment barriers for women with a criminal record.

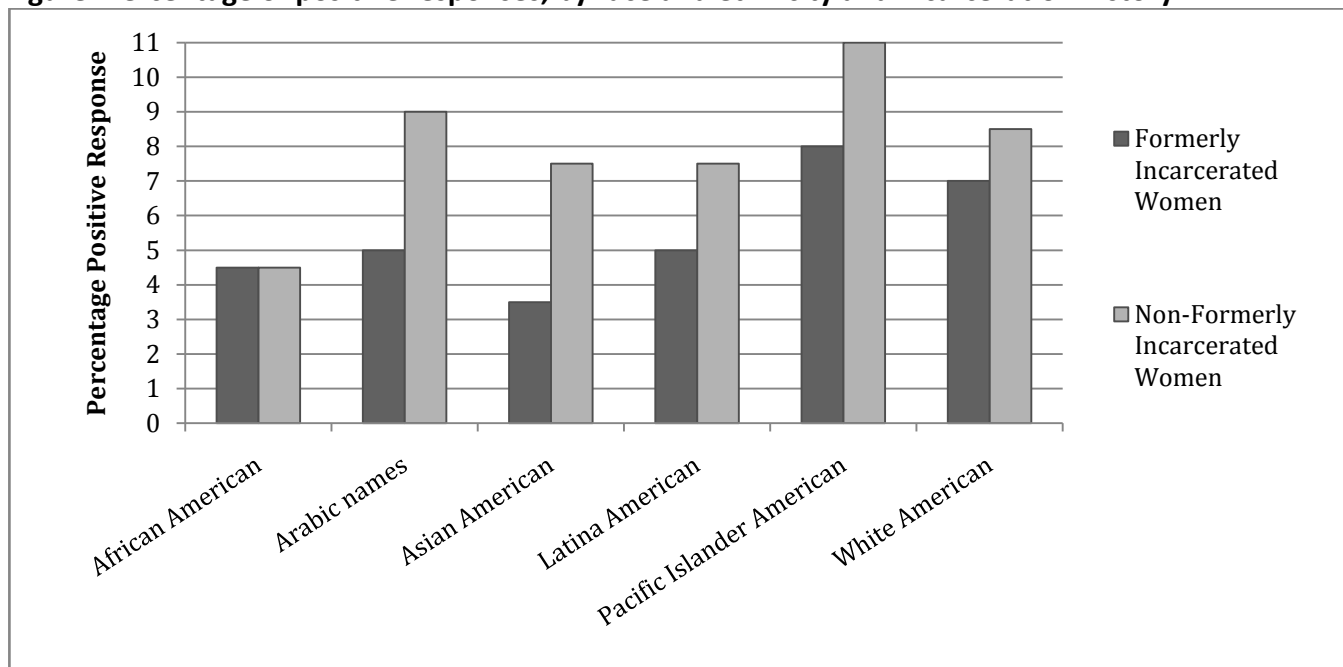
A Higher Hurdle: Barriers to Employment for Incarcerated Women found that a criminal record has a negative impact on employment opportunities of women. Formerly incarcerated women are significantly less likely than non-formerly incarcerated women to receive a positive response (5.5% vs. 8.0%, respectively) from potential employers and face a number of mental, financial, and physical barriers to seeking and retaining employment.

Other key findings from *A Higher Hurdle* include:

- Résumés submitted by Pacific Islander women received the highest positive response rate from potential employers while African American women received the lowest.
- African American women report a concern that a criminal record is being used as a proxy for race with regard to employment opportunities.
- Women perceive that with a criminal record they are less able to pursue many of the careers which would ordinarily be open to them (i.e., nursing, day care, etc.).
- Lack of sufficient training and limited employment options for women while incarcerated are seen as exacerbating the barriers to employment upon reentry.

⁶ Previous testing studies conducted by the Discrimination Research Center (DRC) suggest potential bias against people with an Arabic name following the events of September 11, 2001. [DRC, Names Make A Difference: The Screening of Resumes by Temporary Employment Agencies in California, 2004] While persons with an Arabic name may be of any ethnic or racial group, it is estimated that approximately 1/3 of the population practicing Islam in America is of African descent. [Miller, L., Newsweek Feature: Islam in America, July 23, 2007] Also of particular interest to this study, more than 350,000 incarcerated people are estimated to practice Islam in American prisons and jails. [Shakur, Z. Faith Behind Bars. Southern California InFocus, September 2008]

Figure: Percentage of positive responses, by race and ethnicity and incarceration history



- Formerly incarcerated women tend to have significant histories of abuse (sexual, emotional, mental, and physical) prior to and following their period of incarceration, impacting their ability to seek and retain employment.
- Older formerly incarcerated women perceive combined obstacles of age, histories of abuse, and, for many, prolonged and/or recurring periods of incarceration. Younger formerly incarcerated women identify combined obstacles of lack of formal work experience and a criminal record.
- The conviction history question on applications is viewed as arbitrary and discourages women with a criminal record from even seeking employment.

This report finds that a criminal record tends to serve as a barrier to employment for women. These realities can potentially impact their ability to successfully reenter their home communities, reunite with and care for their children, and act as viable participants in society. A criminal record adds an additional hurdle to employment for women and increases their vulnerability to discrimination. Research from this study may impact legislation and policies addressing education and professional training, processes to seal and expunge records, employment disparities, employer discrimination, and increased use of unnecessary or inappropriate background screening techniques.

INTRODUCTION

“The rhetoric of criminal justice—and that of conventional criminology—is that prisons are for incarcerating criminals. In spite of this mystification, the fact is that prisons are used to control that part of the surplus population that is subject to the discretion of criminal law and the criminal justice system...Prisons are differentially utilized according to the extent of economic crisis. The finding is clear: the prison population increases as the rate of unemployment increases.”

-Richard Quinney⁷

Today, hundreds of thousands of men and women in California are on parole, many of whom attempted to successfully return to their home communities and rebuild their lives as positive members of society. Important to this effort is the ability for these men and women to be able to secure and retain employment. However, the path to employment after incarceration is filled with hurdles. In this report, we document the struggle to clear those hurdles.

Incarceration Trends

In the United States, there are more than two million incarcerated men, women, and children.⁸ California alone incarcerates more than 167,000 men and women in its 33 adult prisons.⁹ Though men are still much more likely than women to be incarcerated, women comprise the fastest-growing segment of the incarcerated population, due in part to the disproportionate arrest rates and punitive responses to drug and property crimes.¹⁰

Race and gender play important roles when examining incarceration trends. Nationwide, one in every 100 African American women age 35-39 is incarcerated.¹¹ In California, African Americans are four times as likely as Latinas and whites to be incarcerated. Among African American women, 346 per 100,000 are incarcerated, compared to fewer than 80 per 100,000 women among white, Latina, and other groups.¹² Latinos comprise the largest number of incarcerated people, while African Americans have the highest rates of incarceration in the state. In California, two-thirds of incarcerated women are

⁷ Quinney, R. (1977) *Class, State and Crime*. New York: Davis McKay Company.

⁸ *SUPRA*, Note 1.

⁹ *SUPRA*, Note 2.

¹⁰ Frost, N., et. al (May 2006) *Hard Hit: The Growth in the Imprisonment of Women, 1977-2004*. New York, NY: Institute on Women and Criminal Justice.

¹¹ *SUPRA*, Note 1.

¹² *SUPRA*, Note 2.

mothers of children under the age of 18, compared to about half of the population of incarcerated men.¹³

As the number of incarcerated men and women increase, so too do the numbers of men and women on probation and parole. Nationwide, there are more than five million men and women on probation or parole. This constitutes the majority of the 7.2 million people who are under some form of criminal justice system supervision in the United States. In California, during the second quarter of 2008, the California Department of Corrections and Rehabilitation reported 125,097 men and women on parole.¹⁴ A disproportionate number of these parolees are people of color, while a growing number of these parolees are women and parents.

While there are no reliable statistics regarding the number of people, including women, living with a criminal record, rates of contact with the justice system have increased over the past decade, particularly among African American women. This has been fueled by the War on Drugs and other policies and practices that influence the arrest, processing, and sentencing of women.¹⁵ Though California voters and legislators have tended to reject efforts designed to reform sentencing policies that could impact the rate of growth among California's incarcerated population, there have been some measures designed to provide alternatives to incarceration. The Substance Abuse and Crime Prevention Act of 2000 (Proposition 36) established alternative interventions for people who had been convicted of simple, nonviolent drug possession offenses. Through this law, California has diverted more than 37,000 people from prison in FY 2003-2004 alone.¹⁶ Still, as the rate of incarceration and other contact with the justice system continues to grow for women, and for women of color in particular, there is a need to improve the public understanding and discourse on the impact of this contact on future employment and rehabilitation efforts. Alternatives to incarceration are important,¹⁷ but they only address potential disparities and differential treatment at specific decision-making points along the justice continuum. They do not address the lingering impact of the *criminal record* itself on the rehabilitation and successful reentry of formerly incarcerated people back to their home communities.

¹³ *IBID.*

¹⁴ *SUPRA*, Note 3.

¹⁵ Bush-Baskette, S.R. The War on Drugs as a War Against Black Women. (2004) In *Girls, Women, and Crime: Selected Readings*. Edited by Chesney-Lind, M. and Pasko, L. Thousand Oaks, CA: Sage Publications.

¹⁶ Proposition 36 Online. (September 2005) UCLA Year 3 Report. In "The Results: Prop 36 Improves Lives and Saves Tax Dollars." Available online: http://www.prop36.org/pdf/prop36_flyer08.pdf

¹⁷ Bonta, J., et.al. (2002) An Outcome Evaluation of a Restorative Justice Alternative to Incarceration. *Contemporary Justice Review*, Vol. 5 (4), 319-338.

Legal and civil rights advocates continue to examine the extent to which employers are discriminating against formerly incarcerated people, and what actions should be taken to remedy discriminatory actions if they are found to occur. Advocates have launched several successful “Ban the Box” campaigns to get public employers to remove the question requiring an applicant to state his or her past criminal arrests or convictions. Instead, employers can ask about conviction history at a later point in the selection process, if they so choose, in order to give all applicants a chance to present their individual qualifications during the application process.

Existing Research on Employment and Formerly Incarcerated People

Employment has long been identified as a critical public safety solution and component of rehabilitation. In an analysis of 63 aggregate studies, Chiricos found a significant relationship between increases in unemployment and increases in crime.¹⁸ Additional studies have also provided evidence to support the theory that low wages and unemployment lead less educated men to be involved in criminal behavior.¹⁹ Despite the noted impact of employment on the rehabilitation and positive reintegration of formerly incarcerated people, this population has continued to face barriers to employment.

Research on formerly incarcerated people and reentry has documented the challenges faced when trying to return to their home communities. For example, the inability to find housing, receive federal or state aid, and attain credit have been documented as significant barriers to reentry.²⁰ Additionally, Thornberry and Christenson found a reciprocal relationship between unemployment and crime, stating, “Unemployment exerts a rather immediate effect on criminal involvement, while criminal involvement exerts a more long-range effect on unemployment.”²¹ Western and Pettit have also established the negative impact of incarceration on the wage and unemployment disparities experienced by people, particularly men, who might have otherwise participated in the skilled labor force.²² Legal statutes and occupational code licensing requirements have failed to maintain systems of accountability among potential employers so as to prevent discretionary actions that veil bias and

¹⁸ Chiricos, T. (1987) Rates of Crime and Unemployment: An Analysis of Aggregate Research Evidence. *Social Problems* 4 (2): 187-212.

¹⁹ Gould, E. et al (February 2002) *Crime Rates and Local Labor Markets in the United States: 1979-1997*. Review of Economics and Statistics; Vol 84. No. 1, pp. 45-61.

²⁰ Richie, B. (July 2001) Challenges Incarcerated Women Face as they Return to Their Communities: Findings from Life History Interviews. *Crime and Delinquency*, Vol. 47 (3): 368-389.

²¹ Thornberry, T. and Christenson, R. (1984) Unemployment and Criminal Involvement: An Investigation of Reciprocal Causal Structures. *American Sociological Review*, 49(3): 398-411.

²² Western, B. and Pettit, B. (October 2004) Incarceration and Racial Inequality in Men’s Employment. *Industrial Labor Relations Review*, Vol. 54 (1): 3-16.

discrimination against people with a criminal record.²³ While the federal Fair Credit Reporting Act and Title VII of the Civil Rights Act of 1964 provide people with conviction and arrest histories with some protections, there is a lack of awareness about the protections and a lack of enforcement by federal and state agencies.

Research conducted by Pager has framed the impact of the criminal record as a “negative credential” that prevents men, particularly African American men, from obtaining equal access to employment.²⁴ Self-report data and other research have also cited a history of substance abuse, mental illness, the lack of adequate education, and inaccurate criminal background reports act as additional barriers to being competitive in the labor market for many formerly incarcerated people.²⁵

To date, the dearth of studies examining the specific experiences of women with criminal records who are actively seeking employment has hampered the crafting of specific remedies for them. Incarcerated women are more likely than their male counterparts to be the primary caregivers of minor children, are less likely to have been employed prior to their period of incarceration, and more likely to have suffered from a history of physical, mental, emotional, and sexual victimization.²⁶ Also, women in contact with the criminal justice system are likely to suffer from the double jeopardy of being both “criminal” and “female,” where differential treatment often results from the convergence of gender bias and the stigma of having been system-involved. Women of color have the added perceived stigma of being a person of color and therefore subject to the racial biases that have been found to permeate the legal system.²⁷

The complexity of incarceration and its “collateral damages” on women, families, and approximately 1.5 million children of incarcerated parents, who are disproportionately children of color, is another consideration.²⁸ Additional barriers caused by incarceration, including decisions that are made about women’s medical, dental, and reproductive health, later impact women upon their release from prison. For example, 9,000 teeth are pulled each year from women in California’s three female

²³ Harris, P. and Keller, K. (February 2005) Ex-Offenders Need Not Apply. *Journal of Contemporary Criminal Justice*, Vol. 21. No 1, pp. 6-30.

²⁴ *SUPRA*, Note 5.

²⁵ Holzer, H., et. al (May 19-20, 2003) *Employment Barriers Facing Ex-Offenders*. Urban Institute Reentry Roundtable. New York University Law School.

²⁶ Acoca, L. and Dedel, K. (1998) *No Place to Hide: Understanding and Meeting the Needs of Girls in California’s Juvenile Justice System*. Oakland, CA: National Council on Crime and Delinquency.”

²⁷ Mann, C.R. (2002) Minority and Female: A Criminal Justice Double Bind. In *African American Classics in Criminology and Criminal Justice*. Edited by Gabbidon, S., Greene, H. and Young, V. Originally printed in *Social Justice*.

²⁸ Bloom, B. Steinhart, D. (1993) *Why Punish the Children? A Reappraisal of the Children of Incarcerated Mothers in America*. Oakland, CA: National Council on Crime and Delinquency

correctional institutions, primarily as a result of mothers trying to reunite with their children and qualify for programs that mandate women to be cleared of “pre-existing health problems.”²⁹ This results in many formerly incarcerated women being left without teeth upon their release, which impacts their self-esteem when they return to their home communities and look for employment.

In *A Higher Hurdle*, the Thelton E. Henderson Center for Social Justice (HSCJ) at UC Berkeley Law School reports on barriers to employment for formerly incarcerated women. HCSJ examined the extent to which employment outcomes are impacted by a criminal record as much for women as has been previously documented for men. The study, which began in 2006 at the Discrimination Research Center, was conducted in partnership with a project Advisory Committee comprised of organizations that work with or on behalf of incarcerated and formerly incarcerated women and girls. Using a mixed-method, participatory approach that focused on the initial point of contact—the résumé submission and application process—the HCSJ research team sought to determine whether women with a criminal record experience differential treatment when seeking employment. HCSJ performed a résumé test for entry-level positions in the Bay Area and held focus groups that provided an opportunity for formerly incarcerated women to tell their own stories. This report summarizes the findings of this study.

²⁹ Garcia, E. (April 21, 2008) “Bad teeth become barrier for incarcerated women.” ANG Newspapers: *Oakland Tribune*.

METHODOLOGY

The testing phase of this study focused on the initial contact of formerly incarcerated women with employers in San Francisco Bay Area counties, including San Francisco, Alameda, San Mateo and Contra Costa. One of the main obstacles these women faced when attempting to find employment after a period of incarceration is the difficulty of even obtaining an interview due to their incarceration history. The methodology followed previous “résumé” testing studies, also known as audits.³⁰ Résumés were submitted to entry-level private sector positions in the Bay Area utilizing composite résumés not representing actual individuals that either indicated or did not indicate a period of incarceration. Additionally, for each résumé, racially and ethnically identifiable names were used. This methodology followed similar “résumé” test studies, also known as audits.

The status of the formerly incarcerated woman was indicated via a work history while incarcerated³¹ and via the listing of a parole officer as a reference.³² The formerly incarcerated woman’s résumé was augmented by having a stronger work history by virtue of a longer employment history with shorter gaps between listed jobs. A felony drug-related conviction was used as the reason for incarceration, though this was not specifically identifiable via the résumé alone.

Racially and ethnically identifiable names were used to indicate the racial or ethnic group of the applicant. These groups consisted of: African American, Asian American, Latina/Hispanic American, Pacific Islander American, White American and Arabic names that suggest a religious or cultural affiliation with Islam (and can be of any race or ethnicity, including African American or Southeast Asian American). Four names were used for each of the categories, resulting in a total of 24 names. Two names were randomly assigned to the formerly incarcerated group and two names were assigned to the non-formerly incarcerated group.³³

³⁰ *SUPRA*, Note 5.

³¹ The length of time for the incarceration was one and half years. Consistent with beginning work within 30 days from the beginning of the incarceration, the one and one half years of incarceration period was represented by a one year and five month work history while incarcerated.

³² In addition to making it more likely that the employer would notice the previous incarceration of the applicant, listing a parole officer as a reference is a common way for formerly incarcerated individuals to provide a third party assessment of their history with the justice system.

³³ Names were pre-tested to ensure they were suitably and uniquely identified to their racial and ethnic group. Names were permanently divided between the formerly incarcerated and non-formerly incarcerated groups to preserve the uniqueness of the main independent variable.

Six profiles were created with similar, though not identical, job histories, which included sales, cashier, customer service, housekeeping, and volunteer experience.³⁴ Résumés consisted of a list of three or four bulleted points that included skills and a list of five to six previous employers, citing their work experience since high school. All résumés indicated that the applicant was a high school graduate.

Résumés were created so that the names associated with the formerly incarcerated women and the non-formerly incarcerated women were paired with all six of the profiles. However, there were three key differences between the profiles for formerly incarcerated women and non-formerly incarcerated women:

- First, formerly incarcerated women listed one year and five months work history while incarcerated. Two positions were listed, a porter and a seamstress.³⁵ These positions were “matched” for the non-formerly incarcerated women with positions as a resident manager and wedding store sales associate, respectively.
- Second, formerly incarcerated women included three references with their résumé, regardless of whether it was requested. The most important inclusion to these references was a listing for a parole officer located in the Bay Area. Also included was a reference for a supervisor at a previous position and a friend or community reference. For all three references, a valid telephone number was listed.
- Third, the résumés for the formerly incarcerated women were strengthened by increasing the length of time they held previous positions before their incarceration, reducing gaps between periods of employment. The formerly incarcerated women’s profile showed 30 additional months of employment relative to the same profile when used by the non-formerly incarcerated women. For the non-formerly incarcerated women, the larger gaps between positions would likely be viewed negatively.

In total, 144 résumés were created, with each of the 24 names paired with each of the six profiles. The names, by race/ethnicity and incarceration history, were:

³⁴ A wide variety of positions were listed to match a common career pathway for formerly incarcerated women and to create candidates that would be positively considered for a wide variety of entry-level positions.

³⁵ These positions were chosen as they are actual positions that incarcerated individuals could perform while incarcerated, and were likely to be filled by incarcerated individuals, rather than non-incarcerated individuals working at a prison. Applicants listed the employer as the “California Prison Industry Authority,” the organization that manages work inside California prisons.

	Formerly Incarcerated Women	Non-Formerly Incarcerated Women
African American	Jada Brown	Raven Jones
	Sharise Williams	Nisha Wood
Arabic names that suggest a religious or cultural affiliation with Islam³⁶	Kareema Muhammad	Najeema Bagheri
	Saba Noorani	Aliyah Najafi
Asian American³⁷	Doris Huynh	Joyce Nguyen
	Norma Tran	Peggy Vu
Latina American	Lucia Gonzales	Dolores Martinez
	Mercedes Rodriguez	Marta Perez
Pacific Islander American	Pam Ienimea	Ellen Tatupu
	Lily Sooalo	Betty Tuigamala
White American	Madeline Crawford	Hannah Smith
	Laurie Thompson	Jenna Stevenson

Applications were sent out in pairs, with one always belonging to a formerly incarcerated woman and the other always belonging to a non-formerly incarcerated woman. All tests were done within race or ethnicity; that is, tests included one formerly incarcerated woman and one non-formerly incarcerated woman of the same race or ethnicity. Although this limits the ability to generalize from the findings by race or ethnicity, it increases the ability to generalize on the findings regarding incarceration history, the key variable tested.

Applicants were randomized and counterbalanced, so that each of the two names within each race and ethnicity were tested against each other (four possible combinations) and so that each of the six profiles was tested against the other five (30 possible combinations), but never against itself, as duplicated résumés may have alerted employers to the test. These orders were randomly assigned to each of the six race and ethnicities, resulting in a total of 720 possible combinations of race and ethnicity, names, and profile. Block randomization was used so that each race and ethnicity was used once in each block of six.

Positions were identified using a variety of sources, including advertisements found through online sites including Craigslist.org and Monster.com, temporary employment agencies, and local

³⁶ *SUPRA*, Note 6.

³⁷ Traditional Pacific Islander (i.e., Samoan) and Asian (i.e., Vietnamese) female first names were not used as those unfamiliar with the culture may have a difficult time determining gender and traditionally English first names are often used by Pacific Islander Americans and Asian Americans.

newspapers and local ethnic media. Researchers did not submit résumés for positions in fields in which formerly incarcerated individuals are restricted from working, such as nursing and child care, or for positions that stated that a background check would take place.

After each application was sent in, HSCJ recorded any contact sent to each applicant. This included contact to the applicant themselves, through email, phone, or traditional mail. For email contact, separate email addresses were created for each applicant and were regularly checked for employer contacts.³⁸ For phone contact, each candidate had an individual East Bay Area (510) phone number. When called, after four rings, a voicemail box would play an automated message reciting the phone number and asking the caller to leave a message. The voicemail messages were recorded and sent to HCSJ researchers as a .WAV file for storage. Voicemail boxes were regularly checked for employer contacts. Call logs for each number were sent weekly, and contained a record of all calls made to the number, including hang-ups. For traditional mail, real East Oakland addresses were used. Mail sent to these addresses was forwarded to the researchers.

Additionally, the references for the formerly incarcerated women also had telephone contacts. These phone numbers were linked to voicemail boxes, just as for the applicant. Of particular note were attempted contacts to the parole officer.

HCSJ researchers tallied the contacts made by the potential employer for all tests. As soon as contact was made to the applicant, researchers contacted the potential employer to end the test, letting the employer know that the applicant had taken another position and was no longer in contention for the position.

After the completion of the tests, responses were coded by two independent raters blind to condition (i.e., the incarceration history or race or ethnicity of applicant) into positive, neutral, and negative categories, with disputes resolved by a third rater. Negative responses included tests in which the applicant was told the position was filled or that the employer was not interested in the applicant. Neutral responses included low information responses, such as an email thanking the applicant for their résumé, or invitations to fill out an application in the store that was hiring. Positive responses included interview offers or other encouraging signs.

³⁸ Yahoo.com and Hotmail.com email addresses were used, and each was randomly assigned to a FIW and non-FIW in each race and ethnicity category. Email addresses were comprised of the applicant's name, reinforcing the race and ethnicity variable, and sometimes contained an extra number so that a unique email address would be available.

RESULTS: RÉSUMÉ TESTS

To analyze the difference in response rates for formerly incarcerated women versus non-formerly incarcerated women, χ^2 tests were used. Although not explicitly tested via matched pairs, χ^2 tests were used to measure the differences between each race and ethnicity.

Tests were completed between January 2008 and August 2008. The goal of completing 1200 tests, 200 tests for each of the six racial and ethnic groups, was accomplished. The vast majority of tests were via ads listed on Craigslist.org (n=1146 out of 1220, or 95.5%). Although the initial intention was to utilize listings in local newspapers, the employment classified sections of local newspapers had all partnered with CareerBuilder.com, Monster.com, or Yahoo/Hotjobs.com and no longer listed unique employment opportunities. When possible, résumés were sent in to positions listed via these job search engines.³⁹ Additionally, 30 tests were completed by sending résumés to temporary employment agencies.

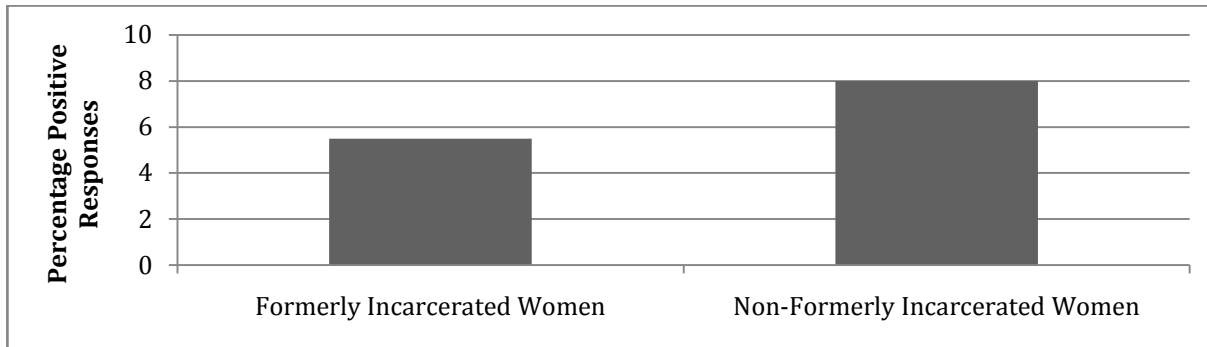
Responses from employers to applicants were received via email and phone. No contacts were made via traditional mail. Additionally, no contacts were made to any of the references provided by the formerly incarcerated women. Responses were rated by two raters, blind to condition, that determined whether the contact was positive, neutral, or negative. Agreement between the two raters was high (88%), and disagreements were settled by a third rater blind to condition. The ratings were collapsed into a single variable.

A total of 1,200 tests were completed.⁴⁰ Out of the 2,400 résumés that were sent out, 336 (14.0%) received a response. Of these, 162 (6.8%) were positive responses, 137 (5.7%) were neutral responses, and 37 (1.5%) were negative responses. Formerly incarcerated women received fewer positive responses from potential employers than non-formerly incarcerated women. Formerly incarcerated women received 66 (5.5%) positive responses, while non-formerly incarcerated women received 96 (8.0%) positive responses (See Figure 1). A χ^2 test indicated this difference was statistically significant ($p < .02$). The formerly incarcerated women received 29 percent fewer positive responses than the non-formerly incarcerated women received.

³⁹ Relatively few tests were completed via these online search engines because most required online application forms be filled out with social security numbers that were not available for the composite résumés developed for the study.

⁴⁰ Forty-seven tests had a complication resulting in restarting the test with a new employment listing. The vast majority of these cases were due to email malfunctions, in which the email arrived with garbled text or a corrupted attachment.

Figure 1. Positive responses, by incarceration history



For the negative and neutral responses, there were no significant differences, by incarceration history or by race and ethnicity (See Table 1). For negative responses, both formerly incarcerated women and non-formerly incarcerated women of all races and ethnicities received between two and five negative responses out of 200 résumés sent in. Similarly, for neutral responses, both formerly incarcerated women and non-formerly incarcerated women of all racial and ethnic groups received between 8 and 14 neutral responses.

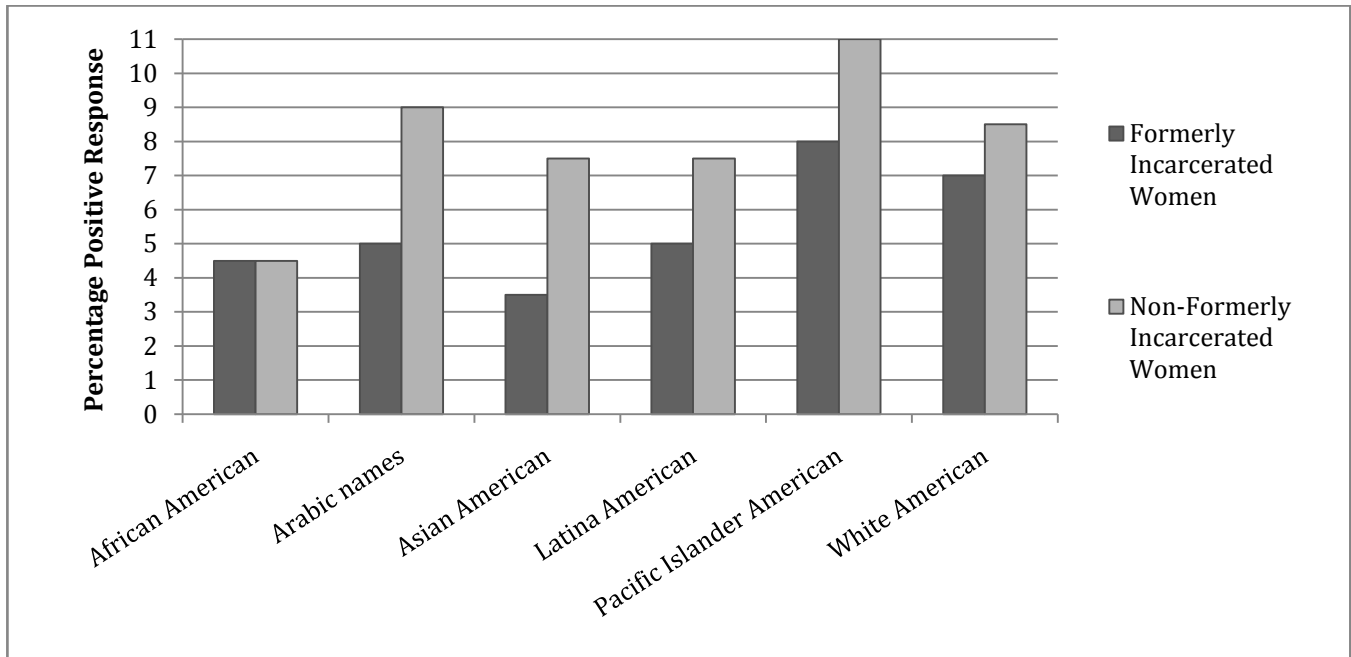
Table 1. Negative and neutral responses to formerly incarcerated women and non-formerly incarcerated women, by race and ethnicity

	Formerly Incarcerated Women		Non-Formerly Incarcerated Women	
	Negative	Neutral	Negative	Neutral
African American	3 (1.5%)	13 (6.5%)	2 (1%)	13 (6.5%)
Arabic name	2 (1%)	12 (6%)	2 (1%)	12 (6%)
Asian American	3 (1.5%)	10 (5%)	3 (1.5%)	11 (5.5%)
Latina American	2 (1%)	8 (4%)	3 (1.5%)	8 (4%)
Pacific Islander American	5 (2.5%)	14 (7%)	5 (2.5%)	13 (6.5%)
White American	4 (2%)	12 (6%)	3 (1.5%)	11 (5.5%)
Total	19 (1.6%)	69 (5.8%)	18 (1.5%)	68 (5.7%)

As both neutral and positive responses can lead to positions, this combined result was also analyzed. When including both positive and neutral responses, this result no longer reaches the traditional level of significance, with formerly incarcerated women receiving 135 (11.3%) responses and non-formerly incarcerated women receiving 164 (13.7%) responses ($p < .09$).

Although not explicitly tested, data were also analyzed by race and ethnicity (See Table 2 and Figure 2). χ^2 tests indicated that African American applicants received fewer positive responses (4.5%) than applicants of the other race and ethnicities ($p < .05$), while Pacific Islander American applicants received more positive responses (9.5%) than applicants of the other race and ethnicity ($p < .05$).

Figure 2. Positive responses, by race and ethnicity and incarceration history



Although the tests lacked the power to study the interaction of race and ethnicity with incarceration history, several trends are worthy of mention. Most noteworthy, African American women were the only group to show no difference in positive responses between the formerly incarcerated women and the non-formerly incarcerated women. Women with Arabic names and Asian Americans had the largest percentage decreases for the formerly incarcerated women, while White Americans had the smallest decrease for formerly incarcerated women, after African American women. However, as White American women had nearly double the positive response rate relative to African American women, it is likely that a very different underlying mechanic accounts for this similarity.

Table 2. Positive responses to formerly incarcerated women and non-formerly incarcerated women, by race and ethnicity

	Formerly Incarcerated Women	Non-Formerly Incarcerated Women	Total
African American	9 (4.5%)	9 (4.5%)	18 (4.5%)
Arabic names	10 (5%)	18 (9%)	28 (7.0%)
Asian American	7 (3.5%)	15 (7.5%)	22 (5.5%)
Latina American	10 (5%)	15 (7.5%)	25 (6.3%)
Pacific Islander American	16 (8%)	22 (11%)	38 (9.5%)
White American	14 (7%)	17 (8.5%)	31 (7.8%)
Total	66 (5.5%)	96 (8.0%)	162 (6.8%)

It is worth noting that these matched pairs tests found a difference in positive responses to formerly incarcerated women and non-formerly incarcerated women despite testing only a brief portion

of the hiring process. If the entire hiring process had been tested, the rates of disparity would likely have been increased for several reasons. First, jobs in fields that do not hire formerly incarcerated individuals were avoided, as were job listings that mentioned a background check requirement. Second, the résumés sent to the employers, which were all of high quality with no spelling or grammatical errors, contained only passing mention of incarceration history that may have been missed by potential employers. The applicants in this study never completed application forms, which often include explicit questions about incarceration history. Third, tests were ended as soon as an employer contacted the applicant. As a consequence, the remaining interview and hiring process was not tested, in which disparity could have been displayed in decisions about hiring, job quality, salary, or negative comments made to the applicant. Fourth, many incarcerated individuals are often negatively affected, after working in a position for weeks or months, when background checks are finally processed and received by an employer.

Despite the limited focus of this matched pair test, formerly incarcerated women were 31 percent less likely to receive a positive response from potential employers. Given that other research demonstrates higher rates of reduced positive contact for formerly incarcerated individuals,⁴¹ it seems likely that the reduction in positive contact for formerly incarcerated women would have been greater had the study included the submission of online application forms and used real testers who could have completed applications and participated in the interview process.

⁴¹ *SUPRA*, Note 5.

RESULTS: FOCUS GROUPS AND INTERVIEWS

Between April 2008 and August 2008, forty women participated in focus groups and interviews that were held in cities throughout the Bay Area, including San Francisco, East Palo Alto, Oakland, Berkeley, and Richmond. Each participant was at least age 18, formerly incarcerated in a jail or prison, and attempted to gain employment in the Bay Area in 2007 or 2008.

The goal of the focus groups and interviews was to capture the employment experiences of women prior to, during, and after the period of time in which they were incarcerated. Participants were asked a series of questions in the following areas:

- **Obstacles to employment prior to incarceration:** Participants were asked to identify and describe obstacles to their employment before their period of incarceration. Questions were designed to capture their intended fields of employment and desired career goals. Questions were also crafted to inquire about the extent to which they felt they had unobstructed access to employment prior to their period of incarceration.
- **Preparation for employment:** Participants were asked to identify and describe key educational or job training programs in which they had participated and to note which ones were most helpful in preparing them for their chosen jobs and careers.
- **Employment experience during incarceration:** Participants were asked questions about their work experiences and resources during their period of incarceration. Questions were designed to inquire about the quality of employment options and training programs available to incarcerated women.
- **Impact of criminal record and/or period of incarceration:** Participants were asked questions to determine the impact of a criminal record on their employment outcomes after their period of incarceration. Specific questions focused on application processes that require an applicant to describe her conviction history and processes used by formerly incarcerated women when seeking employment.
- **Resources for Formerly Incarcerated Women:** Participants were asked to describe the financial, personal, and professional resources they currently have to support their employment endeavors.

Overview

The majority of the participants in the focus groups and interviews were employed at the time of their arrest and prior to their incarceration. For those who were able to retain their job in the community during their period of incarceration, it was largely due to the personal relationships they had established with their employer. However, the vast majority of women lost their jobs as a result of their incarceration.

Employment Experiences Prior to Incarceration

Prior to their period of incarceration, participants were employed in a variety of industries, including in-home care, fast food, financial services, education, construction, medical, administrative office, social work, government, retail, and customer service. Only a small number of the participants had never been employed, and they were all women under the age of 25. Participants described their goals and career objectives prior to their criminal record or period of incarceration. While the range of career interests was vast, below is a summary of the career ambitions described by participants:

- *Medical Industry:* Many participants described their interest in working in the medical field, primarily as nurses or nursing assistants.
- *Sales and Retail:* Many of the participants described their ambitions to work in sales and retail positions, primarily because of their appreciation of fashion.
- *Legal and Law Enforcement:* A number of participants indicated that they were once interested in becoming attorneys. Some participants also described an interest at one time in becoming a police officer or probation counselor.
- *Modeling and Entertainment:* A few of the respondents described their goal of becoming a model or working in the entertainment industry, including the arts.
- *Child Care:* A few of the participants desired to work with children.
- *Administrative:* A few of the participants also described their interest in administrative office work, including becoming an executive secretary.

The majority of participants reported that they did not face any major barriers to employment prior to their criminal record or their period of incarceration. However, for participants who did experience such obstacles prior to their period of incarceration, the specific obstacles identified were as follows:

- *Race*: For a number of the African American participants, race was identified as an obstacle to employment prior to their period of incarceration. Participants described feeling that there were differential opportunities for African American women and that discrimination played a role in what jobs were offered to them.
- *Higher Education*: Participants described lacking confidence on the job as a result of not completing high school or college. Others described their need to continue school as an obstacle to obtaining employment.
- *Age*: Participants described the need to make money at an early age, but being prohibited from doing so because they were younger than the legal working age.
- *Transportation*: While public transportation is readily available in most areas of the Bay Area, a number of participants indicated that lack of sufficient funds for public transportation, and in some areas, the schedules of reliable public transportation also present obstacles.
- *Child Care*: For participants who have children, child care was identified as an obstacle to securing and retaining employment. Great concern was expressed regarding the safety and security of their children while they were working, as well as the affordability of child care on the low wages they typically earn.
- *Drug Use*: Participants described prior drug use as an obstacle to securing and retaining employment.
- *Family & Domestic Partnerships*: For a number of women, marriage at an early age presented an obstacle to employment. Women described getting pregnant and not being able to work or being discouraged from employment.

Preparation for Employment

The majority of participants had completed high school or taken college-level or training courses to help prepare them for their participation in the labor force. As a result, most felt that they were adequately prepared to perform the duties associated with their jobs. Participants attended vocational schools in the Bay Area as well as professional and career development centers in other states. For those who did not feel prepared for the jobs they held prior to incarceration, the primary reason was lack of a formal education.

Prior to their period of incarceration, participants identified several resources available to them in their search for employment. Most participants noted family, schools, public search engines, and

unemployment agencies as primary resources to support their employment search process. Many of the participants attended or completed programs at collegiate institutions and vocational training schools designed to prepare them for their particular area of work (e.g., nursing aide). However, most were unable to complete their career goals due to factors that included, but were not limited to, their financial needs at the time and, in some cases, their period of incarceration. While the majority of participants described their home environment as supportive of their quest for employment (i.e., through employing them in family businesses or providing other preparation), a few participants noted that their family structure was disorganized or otherwise not conducive to seeking and securing legitimate employment.

Participants described the resources that would be helpful to girls and women, prior to any period of incarceration or other involvement with the justice system. Suggested programs and resources included the following:

- *Life Skills Development and Self-Esteem*: The majority of participants described the need to address the root causes of contact with the justice system. Specifically, participants were interested in prevention programs that would provide counseling and guidance to young women to enhance their confidence in themselves and their ability to be independent and self-sufficient. A number of participants described unhealthy relationships with men that ultimately led them into contact with drugs and the criminal or juvenile justice systems. As such, there was a strong recommendation that prevention programs address gender-responsive self-esteem and life skills development.
- *Job Skills Training*: Many women identified a gap in job skills training for low income women or young women living in poverty. Participants felt that all programs offered to young women in high-risk communities should be free or provide on-the-job training that would financially compensate women for their time in class. If paid training is not possible, participants recommended that programs include other incentives and/or rewards (e.g., gift cards for necessities, vouchers, etc.). Participants also noted that there is a need for programs to teach young women basic workplace skills (i.e., professionalism) that would support their employment efforts.
- *Grief Counseling*: A number of participants described their battle to deal with death and other significant losses in their lives (spouses, partners, and other family members) and the impact of

prolonged exposure to violence. Participants felt that dealing with these incidents without assistance impacted their mental health and ability to focus on employment.

- *Culturally Appropriate and Competent Education*: Participants reported a lack of sufficient role models and educational frameworks that addressed their culture and gender. Participants described the need for tutoring programs that emphasize English, culture, etiquette, history, and other aspects to support a “knowledge of self” and appreciation for the contributions of women from diverse backgrounds.
- *Safe Haven and Housing Interventions*: Many participants described the need for housing as a strategy to support homeless women’s ability to seek and secure employment, prior to and after their period of incarceration.
- *Arts and Recreation Programs*: A number of women were interested in careers in the arts, and felt that programs emphasizing dance and other aspects of their artistic ambitions would be helpful.

Participants noted that these programs and services should be long-term and offered as frequently as possible. Many noted that programs and services were offered only during working hours, when they needed access after 5:00 p.m. Therefore, a number of participants emphasized the need for programs or services to be extended into the evening hours and to be located in satellite offices in high-risk communities as well as in downtown locations.

“I was young, I got caught up...I needed some money and made a bad mistake. I’m trying to change my life right now, and I’m asking for this opportunity.” – Study Participant

Employment Experience during Incarceration

The overwhelming majority of participants worked during their period of incarceration and expressed the view that remaining employed while incarcerated was important. Participants identified several types of employment opportunities for incarcerated women, including landscaping, skilled trades work, janitorial and porter services, kitchen or food services, teaching, and administrative jobs. A few participants participated in specialized programs, such as an optical training program and fire camp. None of the participants continued to work in these industries once they were no longer incarcerated.

The majority of women felt that working while incarcerated was important for two primary reasons: 1) to keep women busy and focused on a worthwhile activity; and 2) to reduce time served. Among those women who did not work while incarcerated, the majority attended school and completed educational certificates. However, participants noted that the pay scale of incarcerated women is well below minimum wage. Wages earned by participants in this study ranged from one cent an hour to one dollar an hour. There was one exception, a participant who typed naval manuals while incarcerated was able to earn between \$300 and \$400 a month—a prize wage that was available only to the most skilled and well-positioned incarcerated women. Women primarily used these funds to support their hygiene and food needs.

Many of the participants felt that the programs and services offered in correctional institutions inadequately prepared them for employment outside of prison. To improve services, participants felt that institutions should immediately offer programs to inmates upon their incarceration so as to maximize their rehabilitation plan while incarcerated. Also, participants noted that pre-release programs should be designed to produce helpful outcomes and resources, including: temporary job placements with cooperating employers; DMV appointments to secure appropriate identification; and temporary housing for inmates without a permanent home. Participants noted that release programs should be tailored to the specific needs and skills of the woman leaving prison.

“I only apply [to jobs] where people don’t ask. I look at Craigslist and I’ve applied to over 200 jobs and got three calls back...They’ll tell you if they’re going to do a background check, and I don’t apply to those jobs. I don’t want to deal with that. About half of the jobs listed will do a background check, and I don’t apply to those jobs 100% of the time.”

– Study Participant

Impact of Criminal Record and/or Period of Incarceration

All participants described their criminal record as an obstacle to employment following their period of incarceration. The increase and frequency with which background checks are performed have made every participant in this study feel extremely unable to secure employment after her period of incarceration. Some participants were able to secure employment upon release from incarceration by

working for family members or close family friends. However, most have struggled to find any employment and particularly to secure positions that provide livable wages in the Bay Area.

All participants reported feeling trepidation when completing job applications because of the question or “box” inquiring about a criminal record or conviction history. While the question varies depending on the interest of the potential employer—some applications ask for a complete conviction history (misdemeanor and felony), others for an arrest history or felony conviction history for the past seven to ten years—the response often did not. The majority of the participants described feeling fearful and discouraged when they reached that question on an application, and some opted not to complete the remainder of the application because they believed they would not get an interview or the job once they truthfully answered the question.

“I was going to school and taking nursing classes, but then I observed people who had a felony from seven or eight years ago, and how they were trying to find a job. They were totally discriminated against. I said, ‘No, I don’t want to go to school for four years and still not have a job.’ So, I changed my major from nursing to social work.” – Study Participant

Many of the participants admitted to avoiding the “box” question or answering the question untruthfully to get a job. Others indicated that they never respond to job postings that suggest a background check may be performed, greatly reducing the frequency with which they apply to available positions. Participants who did not tell the truth on an application described feeling humiliated once a background check revealed that they did have a history of incarceration or the employer found out through other means. In each case, once the criminal background of the participant was discovered, she was walked off of the job and fired immediately. Other women felt that their criminal record made it possible for employers to discriminate against them in wages and other compensation, and in some cases, was used as a proxy for race. Participants described performing the same jobs as other women without a criminal record, and being compensated less because their criminal record prevented them from participating in training and other certificate programs that resulted in higher wages.

Participants in the study reported that they looked for employment throughout the Bay Area, especially those areas frequented or easily accessible by public transportation. Many, however, described the troubled economy and their own poverty as obstacles to taking public transportation to

job interviews. Lack of money to pay for bus or Bay Area Rapid Transit (BART) fare was named as a specific obstacle to seeking employment following their period of incarceration. Other obstacles included: lack of job skills, history of addiction, and a lack of high school education. Participants reported that as these obstacles are not easily remedied, the process of securing a job would remain difficult over time.

While a number of participants were able to secure employment at some point following their period of incarceration, the majority of participants were unemployed at the time of the study. For younger participants, their employment concerns were fueled by a lack of formal work history prior to their period of incarceration. For aging participants, their inability to secure employment as a function of their criminal record was doubly worrisome because they were concerned about whether they would ever be able to retire. Older women (self-identified as age 50 or older) with multiple barriers (e.g., years of incarceration, drug abuse history, lack of strong employment history, etc.), expressed additional concerns about having to work “until [they] die” and never being able to redeem themselves from mistakes made in their past. For a number of the older participants, this concern was a source of great anxiety, particularly since they began their lives in low-income families and have lived in poverty for the majority of their lives.

Employment was not the only area impacted by the participants’ criminal record. Many of the women who participated in this study indicated that their criminal record also presented a barrier to securing public housing and other benefits, as well as access to student and personal loans. Many of the participants, particularly those who reported being incarcerated for violent crimes, felt stigmatized by their record and judged by potential employers as still being “violent women.” In general, participants expressed great frustration about being judged by their past and wanted instead to be offered an opportunity to show how they have changed.

Resources for Formerly Incarcerated Women

Participants described resources for formerly incarcerated women in the Bay Area as extremely scarce. While a number of the women were able to identify helpful programs or other resources that work with formerly incarcerated people—including CalWorks, Rubicon, Center for Young Women’s Development, All of Us or None, Clean Slate programs, Larkin Street Youth Services, and East Bay Works, among others—participants in this study agreed that there is a dearth of programs and resources

designed to deal holistically with the many issues that plague formerly incarcerated women attempting to obtain entry-level and other jobs. Existing programs were seen by participants as inaccessible to women, focused on the trades or other industries that are dominated by men, and largely unfriendly to the needs and schedules of women with children. Job fairs for formerly incarcerated people were appreciated, but many of the women felt that the industries represented at these fairs did not represent their full range of career interest. Additionally, because interviewing often does not happen during these job fairs, participants felt these opportunities were less effective at resulting in actual employment.

Participants expressed their willingness to work and a strong desire for employers to look beyond their criminal record when evaluating their readiness and qualifications for work. Each participant felt that her criminal record unnecessarily took precedence over her experience and work ethic. There was a strong perception among the participants in this study that employers and service providers were inclined to ignore the particular needs of formerly incarcerated women, leaving them feeling that there were few choices for them.

Overall, participants in the focus groups and interviews believed that employment plays a vital role in the rehabilitation and re-entry process because it provides stability and a sense of purpose. While many acknowledged that employment alone cannot curb future violence, delinquency, or victimization, all agreed that it is a necessary component of securing public safety.

DISCUSSION

This study confirms that formerly incarcerated women face barriers that are complex and intersected with other factors that affect their ability to seek and secure employment. Specifically, the findings of this study confirm that while formerly incarcerated women tend to have several barriers to employment, including history of abuse, lack of adequate education and job skills, and insufficient job skills training, the criminal record is perceived as the most pervasive and paramount of the barriers they face when seeking employment.

This study found that poverty is an important factor in this equation. Because formerly incarcerated women tend to live in poverty, they are more likely to seek entry-level positions and to rely upon those jobs to support themselves and their minor children. The absence of financial resources limits their ability to conduct wide searches for employment (many of the women in the focus groups restricted their job search to their home city because they could not afford transportation to look for work in other communities) and support their other needs (e.g., permanent housing, child care, etc.).

As women of color, particularly African American women, are vulnerable to the multiple stigma of being formerly incarcerated and subject to gender bias and racial bias, they face particularly steep barriers when seeking employment. In this study, African American women received the fewest number of responses to their résumés, and they were the only group to have the same positive response rate from potential employers, regardless of incarceration history. In focus groups, African American women tended to pinpoint racial discrimination as a barrier to employment prior to and following their period of incarceration. It is possible that a public perception of their culpability—where a criminal record may serve as a proxy for race—tends to impact African Americans more than their counterparts of other ethnic and racial groups. Given the frequency with which background checks are performed on job candidates, there is the potential for a disproportionately negative impact on African American communities, where potential bias among law enforcement can increase the likelihood of contact and formal involvement in the juvenile and criminal justice systems.

This study also reveals that more research is needed to assess the attitudes of employers toward women with a history of incarceration or criminal record, and to examine the extent to which children are impacted by the differential treatment of women with a criminal record.

CONCLUSION

A criminal record is not the best predictor of future criminal behavior;⁴² it is descriptive of past involvement with the criminal and/or juvenile justice system—a system most “returning citizens” are eager to move beyond. The inaccuracy of information contained on many criminal records jeopardizes the reliability of background checks to efficiently represent the behavior of an applicant, particularly those who are trying to rebuild their lives by seeking legitimate employment.⁴³

Several legislative and advocacy efforts have attempted to address the differential handling of women, particularly women of color, in contact with the justice system. Recent efforts include: the Second Chance Initiative introduced by Rep. Danny Davis (D-IL) signed into law in 2008; the Fairness and Accuracy in Employment Background Checks Act, introduced by Rep. Robert Scott (D-VA); and the Justice Integrity Act, introduced by Sen. Joe Biden (D-DE). These initial legislative responses support fairness in the criminal justice process and the employment opportunities for those who have been system-involved. Advocacy efforts, such as the “Ban the Box” initiative, have also pushed for more equitable employment processes to minimize or eliminate potential discrimination against people with criminal records. Ensuring fairness in these processes is an important step toward maintaining fairness and equality, fundamental values of our democracy and supporting the greater public safety of our communities.

⁴² *SUPRA*, Note 15.

⁴³ The U.S. Attorney estimates that half of all FBI records are incomplete or inaccurate, primarily due to arrests that have not been updated by state and local authorities. This problem has a continued adverse effect on the populations discussed in this report because approximately five million criminal background checks are performed each year for civil purposes, including employment. Private and public employers may access these criminal records as well. [National Employment Law Project, 2008]

Thelton E. Henderson Center for Social Justice Staff

Mary Louise Frampton, Faculty Director

Monique W. Morris, Director of Research

Michael D. Sumner, Research Manager

Mary Elliott, Program Administrator

Ariana Ceja, Program Assistant

Thelton E. Henderson Center for Social Justice Advisory Council

The Honorable Thelton E. Henderson

The Honorable Ken Kawaichi, Ret.

The Honorable John Racanelli, Ret.

The Honorable John True

Mario Barnes

Angela Blackwell

Barbara Bryant

Vicki De Goff

Elizabeth Eng

Abby Ginzberg

Irma Herrera

Judith Droz Keyes

Bernida Reagan

Amitai Schwartz

Brad Seligman

Ellen Widess

Steven Zieff

BerkeleyLaw
UNIVERSITY OF CALIFORNIA