

# **Policy Options to Mitigate the Criminal Record Barrier to Employment**

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## **INTRODUCTION**

Since the Great Depression, the principle of least eligibility, which posits that criminals should be last in line when competing with regular citizens for jobs and resources, has often restricted large-scale policy measures geared toward assisting ex-cons in the United States. Today, we know that employers use criminal records to exclude millions of men and women from the prospect of earning an adequate living. The systematic exclusion of people with criminal convictions from the labor market has far-reaching effects on people, communities and American society.

The sheer numbers of people who cycle in and out of jail and prison does concern policymakers. The domino effect of mass incarceration, increased availability of criminal records, and institutional-level blacklisting of people with criminal convictions has drawn attention of both criminal justice researchers and policy makers. This article discusses how criminal records are used to deny employment and then explores several policy options to address this growing problem.

## **THE SOCIAL CONSTRUCTION OF CRIMINALS**

American society typically relegates criminals to the bottom of the political and social power structure where they are typically considered ineligible or deemed the least deserving of most social benefits (Ingram *et al.*, 2007), and receive a disproportionate share of burdens and sanctions. The widespread growth of criminal history repositories and their low-cost access have further eroded possible opportunities or avenues for persons convicted of crimes for personal and social empowerment, even when they have changed their ways. Criminals are labeled as incorrigible deviants. The public would like to think that they are a separate species, persons unlike themselves, different and damaged.

The social construction of criminals is accomplished through criminal law, criminal records, and the need to define and control individual behavior. Durkheim considered the criminal to be a functional element of all normal societies (see Simpson, 1963). They serve as a scapegoat for indignation

and outrage, and as a measuring rod for defining what society deems as “bad” or “immoral” behavior. The criminal helps to reinforce the bonds among law-abiding citizens as the punishment of the criminal demonstrates the solidarity among the people as to what is defined as bad. In fact, society uses the bad to define the good.

## THE ELECTRONIC PANOPTICON

Twenty-five years ago, Gordon (1987) warned of the burgeoning dangers surrounding the accumulation of personal information in the interest of law enforcement. Richards (1998, p. 130) wrote:

Gordon (1990) named this technological surveillance the “electronic panopticon” which extends the reach of criminal justice sanctions beyond prison walls into the community. Computer generated criminal justice data are used to systematically redefine the opportunity structure and create a permanent underclass of leveled aspirations. For example, while it is illegal to discriminate on the basis of race, it is legal to discriminate on the basis of criminal record, constructing biographical barriers to viable employment; the most apparent to felons, particularly the poor and minorities.

Gordon questioned the Federal Bureau of Investigation’s need to build a national criminal records system, largely because of its foreseeable reach beyond the margins of law enforcement purposes. It is doubtful that policymakers could have anticipated the exacerbating effect that widespread availability and exchange of criminal histories would have on mass incarceration and its social consequences.

Nevertheless, Gordon (1987, p. 506) anticipated the quandary we face today, during a time when the Internet barely existed:

Because the effects on individuals of the Panopticon are as yet either potential or unmeasured in any systematic way, it is easy to dismiss it as a minor civil liberties issue unrelated to structural problems. But the continuing extension of record checks goes beyond the right to be *let alone* or the right to speak up. Those who have records in the system – disproportionately poor and darker-skinned – run the risk of more or less

permanent unemployability. As more employers, landlords, and insurers gain access to the system on a national basis, and as more investigative files are included within it, the system may become a hidden stratifier of social and economic power, channeling many millions of Americans away from jobs and services because they have been arrested at some time for something other than a traffic offense.

Still, even Gordon's remarkable insights could not predict the explosion the Internet has created in instant access to immeasurable storehouses of digitalized information, including both criminal and civil courts.

### **THE GROWING UNDERCLASS OF FELONS AND FORMER PRISONERS**

Punitive crime-control policies, along with the public's easy access to criminal records, have created a permanent underclass of stigmatized persons. In the United States it is estimated that 9 to 25 percent of working-aged males have some form of criminal history for arrest or conviction available for public access (Freeman, 2008, p. 409; Stoll and Bushway, 2008). At any given time, over two million people are incarcerated in American prisons and jails, while approximately five million persons are under some form of community corrections supervision, and in excess of 700,000 prisoners are being released from prison each year (U.S. Department of Justice, 2009).<sup>1</sup>

Every year the number of people with criminal or prison records grows. For example, at the current rate of release, in five years approximately three and a half million prisoners will exit prison returning to the community. Furthermore, at least fourteen million individuals are arrested every year – a figure that has fluctuated, but remained fairly constant for the last two decades. There are over two hundred and twenty eight million arrest cycles contained within the National Criminal History Record File (Federal Bureau of Investigation, 2008). Approximately eighty one million criminal records were stored in state databases in 2006 (Bureau of Justice Statistics, 2006), an estimated seventy one million Americans presently have at least one arrest record (Legal Action Center, 2009), and sixty five million working-age citizens have some type of criminal history (Rodriguez and Emsellem, 2011). Researchers estimate that 40 to 80 percent of employers conduct background checks (Burke, 2004; Holzer *et al.*, 2004; Stoll and Bushway,

2008), and persons with criminal records, no matter how trivial, are more likely to be denied employment (Schmitt and Warner, 2010).

The American prison system is releasing record numbers of ex-convicts into the labor force (Finlay, 2008; Schmitt and Warner, 2010). Those recently released join millions of convicted felons already living in American communities. Many employers are reluctant to hire people with criminal records (Pager, 2003; Holzer *et al.*, 2004; Stoll and Bushway, 2008; Schmitt and Warner, 2010; Ross *et al.*, 2010; Murphy *et al.*, 2011), precisely because criminal records are so easily accessed on the Internet, the public fear of victimization, and the misinformed idea that all or most ex-convicts are dishonest and/or violent. These strictures coalesce, forming a mounting impasse between cautious employers, a growing number of people with criminal records – the vast majority of which need jobs – and the communities who must safely absorb an influx of stigmatized individuals. The use of criminal records to deny employment is contributing to a growing underclass in the United States. This underclass of homeless, unemployed and underemployed people is disproportionately minority. Every large American city now has a felony ghetto.

## **THE ELECTRONIC SCARLETT LETTER**

Criminal labels are now instantly circulated in the form of an “electronic scarlet letter” (Murphy *et al.*, 2011). People “marked” with a criminal record (Pager, 2003, p. 937) must now reckon with widely accessible Internet search engines. The routine dissemination of electronic criminal records has now become entrenched in American society (Murphy *et al.*, 2011) and the availability of computerized records to employers has increased 83 percent since 1985 (Ramker, 2006). A report by SEARCH (2005) referred to this trend as the “criminal backgrounding of America” through the commercial sale of criminal justice information. The report states that criminal backgrounding has become “a necessary, even if not always welcome, rite of passage for almost every adult American” (SEARCH, 2005, pp. 1-2). Hundreds of companies now engage in the selling of criminal histories over the Internet through daily downloading, storing both arrest and conviction records from court systems, as well as developing repositories around the country.

Following an arrest or conviction, the criminal label is immediately propelled to an institutional plane, transmitted electronically among

countless interested parties, including employers, landlords, schools, public assistance entities, state and federal agencies, commercial criminal history repositories, and the Internet in general. A fast and inexpensive mechanism for screening and evaluating a person's worth, the electronic scarlet letter has permeated so many social domains that criminal offenders encounter a formidable barrier to self-efficacy or what is best described as institutional stigma. Add to this the fact that the public may now simply Google or Yahoo a person's name and access newspaper, radio or TV stories stored on Internet servers. Many of these media stories convey false or misleading information about arrests, convictions and/or court proceedings. These accounts can then be printed out and distributed at work sites ruining a person's professional career or occupational status. Unfortunately, many people may accept what they read as truth without reference to all the facts in the case as they pass judgment, which may contribute to conspiracies, slander and libel.

### **THE RELATIONSHIP BETWEEN THE RATE OF UNEMPLOYMENT AND THE RATE OF INCARCERATION**

Is government sending more people to prison as a means of artificially reducing the rate of unemployment? What would be the rate of unemployment without the 'war on drugs'? Marxist criminologists might assert that during a decline in economic conditions, when the rate of unemployment goes up, the government might decide to reduce the pool of surplus labor by increasing the rate of incarceration by sending more people to prison and keeping them for longer. We could argue that the 'war on drugs' has been used to artificially reduce the rate of unemployment.

Conversely, although the current economic crisis is forcing some states to consider reducing the costs associated with the incarceration binge by reducing prison populations, this has only added more former prisoners to the army of unemployed workers (Austin and Irwin, 2001). Thus, mass incarceration (Rose *et al.*, 2010) has produced a substantial reallocation of labor, whereby at any given time, at least two million persons are not being counted among the unemployed (U.S. Department of Labor, 2010). Therefore, while high incarceration rates might lower "conventional measures of unemployment in the short run by concealing

joblessness among able-bodied, working age men” (Western and Beckett, 1999, p. 1031), it raises unemployment rates over time as the labor market is flooded with ever-growing numbers of released prisoners whose job prospects are dismal at best.

## **A FRESH START OR A SECOND CHANCE**

“As President Bush has said, ‘America is the land of second chances, and when the gates of the prison open, the path ahead should lead to a better life’” (U.S. Attorney General, 2004). The opportunity for a fresh start is an important concept in American culture. There remains a long-standing tradition, perhaps lingering from early Americans’ distaste for religious and political oppression of the “social benefits of forgetfulness” (Blanchett and Johnson, 2002, p. 33). It is an ideal that “once a debt has been paid to society, it is forgotten [...] However, with the mass of easily accessible files, one’s past is always present [...] This can create a class of permanently stigmatized persons” (Marx, 1988, p. 223).

Blumstein and Nakamura (2009) introduce the notion of “redemption” in their analysis of electronic criminal records and their proposed regulation. The idea of a second chance for persons convicted of crimes has become a compelling reason for reintegrating these citizens into society. The combination of punitive crime control policies and the expansion of the criminal record archives have intensified punishments to disproportionate levels when compared to the overall harms incurred to society (Maruna, 2001; Uggen, 2006; Austin, 2010).

A modern criminal record can be used to deny persons convicted of crimes fair access to economic resources and opportunities, regardless of the offense or the individual’s credit score. Richards (1998, p. 130) wrote:

We live in a computer age where social security numbers trace criminal records, credit histories, and insurance records. Exconvicts are denied bank loans, credit cards, student loans, welfare assistance, as well as fair market insurance rates. Without credit, exconvicts may be unable to purchase homes or a car, provide for their families, or pay for education. Prisoners, upon release from prison, may encounter an opportunity structure limited by the rule of law that denies them access to employment resources, legitimate opportunities and conventional social structure.

In effect, felons and ex-convicts may find they are not welcome at banks and pay more for all types of insurance, and may not understand why. Denied employment they are unable to open their own small businesses.

Surprisingly, federal regulations governing credit have been employing the idea of second chances for decades. For instance, over 40 years ago, credit reporting agencies began taking advantage of accessible personal information on individuals, the gathering and use of which had no established time limits. The resulting abuses prompted regulation of the credit reporting industry through the *Fair Credit Reporting Act* (FCRA, 1971, 1991). Not only did the FCRA imposed time limits on adverse credit history, it offered people a second chance. For example, adverse credit information is deleted from credit reports after statutory time expires. Under federal law, the bankruptcy reporting period for Chapter 7 is 10 years, while Chapter 13 is only 7 years.

### **FEDERAL POLICY ALTERNATIVES FOR MITIGATING THE EFFECTS OF CRIMINAL RECORDS**

In the early 1970s, the public seized upon ‘get tough’ policies as a means for solving the crime problem and the stream of politics, irrespective of party affiliation, has been guided by this ideology ever since (Austin, 2010). The policy course sustaining this approach is now being reexamined given budgetary constraints, an increasingly expensive correctional system, the unrelenting “revolving door” of our prison system, a falling crime rate, and America’s unbecoming reputation for incarcerating more of its citizens than any other country in the world (Pew Center on the States, 2008). Below are three federal policy alternatives that we suggest could mitigate the effect of criminal records as more individuals are released from prison.

#### **Imposing Time Limits on the Use of Criminal Records**

One policy alternative would impose time limits on availability of criminal history to employers and the general public, similar to the length of time credit information is retained by credit bureaus. Several researchers have found that the odds of recidivism declines over time (Kurleychek *et al.*, 2006; Blumstein and Nakamura, 2009). This research suggests that once a person desists from crime for a period of about seven years, the likelihood of committing another crime, or what is termed the *hazard rate*,

becomes almost indistinguishable from that of the comparable non-offender population. The rationale holds that once a man or woman reaches a certain point in years, beyond the last criminal offense, then that person should be “redeemed” for employment purposes since there is no longer a substantial risk for recidivism (Blumstein and Nakamura, 2009).

The question of whether or not the removal of “stale” records will increase employment prospects for persons with criminal records will require future study. This stated, by comparing to information contained within credit reports, if an individual makes a serious attempt to improve a poor credit score and does not accumulate any negative credit information for seven years, then that person is rewarded with a clean slate. In parallel, such a policy may provide people an incentive to function within the realm of legitimate opportunity rather than return to crime. If such a policy was combined with enforced compliance that limited the use of outdated records, more former prisoners might successfully reintegrate into the fabric of society.

### **Expanding the Scope of Criminal History Information**

Another policy option, that we do not support, assumes that electronic criminal history is here to stay – in other words, what has been done cannot be undone. From a political and public safety point of view, the citizenry is quite comfortable with more, rather than less, criminal history information. Therefore, it may benefit both employers and the general public if more detailed information were made available, by which better-informed appraisals and hiring decisions may be made when considering ex-offenders. This position has at its roots in the assumption that more detailed records may establish a hierarchy of criminal activity for consideration in the hiring process.

Not only do prisons send over seven hundred thousand prisoners per year back into the community, national expenditures in corrections alone reach \$70 billion annually (Austin, 2010). Corrections agencies should begin to shoulder more responsibility for meeting the needs of public safety and offender reentry, moving beyond custodial duties to proactive efforts or rehabilitation. Under this model, corrections officials would implement a scoring system, providing interested parties with a risk assessment score that included not only past criminal events and convictions, but also accounts of a person’s behavior in prison, on community supervision, or his or her continued work at self-improvement and efforts directed toward rehabilitation. Constructive efforts toward a crime-free lifestyle would



influence the score in a positive way, yet continued risky behavior, criminal associations, substance use or marginal compliance with supervision restrictions would impact the score negatively. This “panoptic-like” policy may increase the deterrent effect on individuals who otherwise are contemplating a return to criminal behavior (Freeman, 2008).

### **Reduce Employer Risk When Hiring Ex-Offenders**

Changes to negligent hiring laws would ease the due diligence burden imposed upon employers and help ease their fears when they are considering an ex-offender for a job (Holzer *et al.*, 2003; Williams, 2008). A policy that would enable employers to reduce their risk of violating negligent hiring laws when considering felons for jobs, coupled with federally subsidized programs like the Federal Bonding Program and tax breaks for employers who hire, might result in lower unemployment rates for workers with a criminal history.

The Federal Bonding Program provides employers with insurance benefits up to \$25,000 if an insured person steals, embezzles, or otherwise causes a financial harm to a business or employer. It does not insure against incidents of violence. Alone, the benefits of the Federal Bonding Program, including an additional tax break for hiring felons, is often insufficient in persuading an employer to hire. Relaxing the current negligent hiring laws, particularly in the case of persons under correctional supervision, coupled with the insurance bonding program and tax incentives, would provide employers motivation to hire.

The Work Opportunity Tax Credit is available to employers who hire, but is often under-utilized and may not be considered strong motivation (Holzer *et al.*, 2003). Whether or not the tax credit in itself generates any new employment for felons and former prisoners is unclear, but some evidence suggests that the credit might be better utilized if employers were not only made aware of the advantages, but were provided assistance by an intermediary who could help them understand how to access the tax credit (*ibid*).

## **STATE-LEVEL POLICY CHANGES**

Beyond the role the federal government can play in helping to mitigate the impacts of criminal records on the ability of former prisoners to obtain employment, state governments can also put in place policies to this end. Three such policy alternatives are outlined below.

### **Banning the “Box”**

From job applications to housing applications, it is common practice to include a “box” to check if one has been arrested for or convicted of a crime. Unfortunately, many employers may discount or reject an applicant based on the checking of this box. A national movement to “ban the box” has actually gained momentum in many states (All of Us or None of Us, 2010). It is suggested that if people are not required to disclose criminal history during the initial application process by checking the box or listing criminal convictions they have a better chance at getting through the screening process and can then explain their criminal history in a face-to-face interview. Although two states, Minnesota and Massachusetts, have recently passed legislation prohibiting the box, there has been little research conducted that demonstrates how absence of the box might actually affect an employer’s hiring decision beyond the application stage of the hiring process, thus further analysis is warranted. This said, it appears reasonable to assume that some people might enhance their likelihood of employment if they could get an interview.

### **Standards for Hiring People with Criminal Records**

Continuing to allow broad sweeping discrimination by employers against the hiring of people with criminal records will only worsen the situation over time, again, since employment is a key indicator of reduced recidivism. Legislation is needed that encourages employers to make individualized assessments for people with criminal records, or at the very least, prohibit employers from preemptively excluding applicants solely because of criminal history.

At the time of writing, fourteen states require government agencies to look beyond the actual record and make an individual determination in the hiring process (Legal Action Center, 2009). In fact, twenty-one states require a substantial reason for the denial of a professional license beyond the existence of a criminal record, while all other states allow denials based solely on an applicant’s criminal record. Moreover, thirty-six states still allow employers and occupational licensing boards to consider arrests that never led to a conviction (ibid).

### **Expunging or Sealing Arrest / Conviction Records**

In the absence of regulation controlling the use of arrest history many citizens who have never been convicted of a crime are being denied housing, employment and other forms of public assistance. Legislation needs to be

proffered allowing individuals with arrest only records to have those records expunged. Certain types of conviction records need to be sealed after a reasonable period of time. Records of first time non-violent offenses, for example, should only be obtainable by law enforcement agencies, thereby mitigating stigma associated with the ex-con label and thus fostering successful reintegration into society (Legal Action Center, 2009).

At this time, only Nevada allows the sealing of felony convictions after certain waiting periods determined by the offense class. Illinois provides for the sealing of misdemeanor convictions four years after completion of the sentence if no intervening convictions occur. These laws provide a model for other states as a mechanism to offset the long reach of current unrestricted access to criminal records.

## CONCLUSION

If an additional ten percent of the almost fifteen million felons were able to secure steady employment, which means one and a half million men and women with jobs, considerable costs could be saved. Using an average yearly conservative imprisonment cost of \$30,000 – which builds in other economic costs, such as lost tax revenue, law enforcement expenditures, court costs, additional public assistance burden, and victim costs – this would result in a savings of \$4.5 billion. Whereas these figures are extrapolations, yet not unreasonable for evaluating any program's effectiveness, this would result in a net gain for employees and employers, along with a significant reduction in the economic burden society currently absorbs.

While it is difficult to predict what universal criminal record access will have on the future labor market, the consequences for felons and former prisons are obvious unless policies change. It should be abundantly clear, that when fourteen million arrests are being made each year, the correctional population continues to number around seven million persons and almost sixty-five million Americans have criminal records, that a tipping point will be reached at some point in the future. In light of these figures, the continued reliance upon criminal records to exclude persons from employment in our society will deplete the pool of eligible workers and create more poverty.

Compare this situation to the plight of African Americans almost fifty years ago. In 1960, about one hundred and eighty million persons lived

in the United States. Approximately twenty million were non-white or approximately 11 percent of the total population (U.S. Census Bureau, 1960). Blacks were being systematically denied opportunities in a myriad of ways and this continual state of inequality was perpetuated through institutional discrimination. Their plight became so egregious and unfair that this rather small minority of Americans managed to capture the nation's attention. In this context, the *Civil Rights Act* of 1964 was passed, mainly as a measure of relief to Blacks by legislating equal treatment under the law.

Today, the majority of those incarcerated, and thus the majority of those released, are African-American (Pew Center on the States, 2008). The ubiquitous presence of "criminal backgrounding" by a few strokes of a keyboard, disproportionately effects Black men and women who now suffer under another form of institutional discrimination, one that currently overrides many of their former gains against racial inequality. The use of criminal records to deny employment is contributing to a growing underclass in the United States. Minorities disproportionately represent this underclass of homeless, unemployed and underemployed people. Every large American city now has a felony ghetto. The United States needs a new civil rights movement to limit the use of criminal records.

There is a new slavery in this country predicated on the widespread public access to criminal records that is systematically eliminating people from economic competition. We need a new civil rights movement to remove the electronic bondage – the mark and brand of stigma that locks us away in felony ghettos, jails and penitentiaries. We should never forget that many of the founding fathers of America, Gandhi, Martin Luther King and Nelson Mandela were ex-convicts, and that today they would be denied employment in America due to criminal records. We suggest that all criminal records should be subject to privacy laws, the same as medical records, and only available for law enforcement and courts, as they are in France and many other European countries.

## **ENDNOTE**

- <sup>1</sup> See Richards (1997, pp. 125-126; 2004, pp. 122-144) for a discussion of how even these figures underestimate the number of people with criminal records or "in custody" of correctional authorities.

## REFERENCES

- All of Us or None (2010) Ban the Box Campaign. Retrieved from <<http://www.allofusornone.org/campaigns/ban-the-box>>.
- Austin, J. (2010) "Reducing America's Correctional Populations: A Strategic Plan", *Justice Research and Policy*, 12(1): 9-40.
- Austin, J. and J. Irwin (2001) *It's About Time*, Belmont (CA): Wadsworth.
- Blanchette, J. and D. Johnson (2002) "Data Retention and the Panoptic Society: The Social Benefits of Forgiveness", *The Information Society*, 18: 33-45.
- Blumstein, A. and K. Nakamura (2009) "Redemption in the Presence of Widespread Criminal Background Checks", *Criminology*, 47: 327-359.
- Bureau of Justice Statistics (2006) *Survey of State Criminal History Information, 2003*. Washington (D.C.).
- Bureau of Justice Statistics (2009) *Prisoners Released*, Washington (D.C.). Retrieved June from <<http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf>>.
- Burke, M. (2004) *Reference and Background Checking Survey Report: A Study by the Society for Human Resource Management*, Alexandria (VA): Society for Human Resource Management.
- FedCure News (2010) "DOJ announces \$110 million for reentry programs", p. 2 – October 14. Retrieved from <[www.fedcure.org](http://www.fedcure.org)>.
- Federal Bureau of Investigation (2008) *Crime in the United States, 2007*, Washington (D.C.): Federal Bureau of Investigation.
- Finlay, K. (2008) "The Effect of Employer Access to Criminal History Data on the Labor Market Outcomes of Ex-offenders and Non-offenders, *NBER Working Paper No. 13935*", Cambridge (MA): National Bureau of Economic Research.
- Gordon, D. R. (1990) *The Justice Juggernaut: Fighting Street Crimes, Controlling Citizens*, New Brunswick (NJ): Rutgers University Press.
- Gordon, D. R. (1987) "The Electronic Panopticon: A Case Study on the Development of the National Criminal Records System", *Politics & Society*, 15: 483-511.
- Holzer, H., S. Raphael and M. Stoll (2004). "How Willing Are Employers To Hire Ex-offenders?", *Focus*, 23: 40-43.
- Holzer, H., S. Raphael and M. Stoll (2003) *Employment Barriers Facing Ex-offenders*, New York: Urban Institute Reentry Roundtable.
- Ingram, H., A. Schneider and P. deLeon (2007) "Social Construction and Policy Design", in P. Sabatier (ed.), *Theories of the Policy Process*, Boulder (CO): Westview Press, pp. 93-126.
- Kurleychek, M., R. Brame and S. Bushway (2006) "Enduring Risk? Old Criminal Records and Short-term Predictions of Criminal Involvement", *Crime and Delinquency*, 53: 1-24.
- Legal Action Center (2009) *After Prison: Roadblocks to Reentry*, New York: Legal Action Center.
- Maruna, S. (2001) *Making Good*, Washington (D.C.): American Psychological Association.
- Marx, G. (1988) *Undercover: Police Surveillance in America*, Berkeley (CA): University of California Press.

- Murphy, D., B. Fuleihan, S. C. Richards and R. S. Jones (2011) "The "Electronic Scarlet Letter": Criminal Backgrounding and a Perpetual Spoiled Identity", *Journal of Offender Rehabilitation*, 50(3): 101-118.
- Pager, D. (2003) "The Mark of a Criminal Record", *American Journal of Sociology*, 108: 937-975.
- Ramker, G. F. (2006) *Improving Criminal Records for Background Checks, 2005*, Bureau of Justice Statistics Program Report, Office of Justice Programs. Retrieved from <<http://www.ojp.usdoj.gov/bjs/pub/ascii/ichrbc05.txt>>.
- Richards, S. C. (2009) "A Convict Perspective on Community Punishment: Further Lessons from the Darkness of Prison", in J. I. Ross (ed.), *Cutting the Edge: Current Perspectives in Radical/Critical Criminology and Criminal Justice* (second edition), Edison (NJ): Transaction, pp. 122-144.
- Richards, S. C. (1998) "Critical and Radical Perspectives on Community Punishment: Lessons from the Darkness", in J. I. Ross (ed.), *Cutting the Edge: Current Perspectives in Radical/Critical Criminology and Criminal Justice* (first edition), New York: Praeger, pp. 122-144.
- Rodriguez, M. and M. Emsellem (2011) *65 Million "Need Not Apply": The Case for Reforming Criminal Background Checks for Employment*, New York: National Employment Law Project.
- Rose, C. D., V. Beck and S. C. Richards (2010) "The Mass Incarceration Movement in the USA", in M. Herzog-Evans (ed.), *Transnational Criminology Manual* (volume 2), Nijmegen, Netherlands: Wolf Legal Publishers, pp. 533-551.
- Ross, J. I., S. C. Richards, G. Newbold, R. S. Jones, M. Lenza, D. S. Murphy, R. G. Hogan and G. D. Curry (2010) "Knocking on the Ivory Towers' Door: The Experience of Ex-convicts Applying for Tenure-track University Positions", *Journal of Criminal Justice Education*, 21(3): 1-19.
- Sampson, R. and J. Laub (1993) *Crime in the Making: Pathways and Turning Points Through Life*, Cambridge (MA): Harvard University Press.
- SEARCH (2005) *Report of the National Task Force on the Criminal Backgrounding of America*, Sacramento (CA): SEARCH, The National Consortium for Justice Information and Statistics.
- Schmitt, J. and K. Warner (2010) *Ex-offenders and the Labor Market*, Washington (D.C.): Center for Economic and Policy Research.
- Simpson, G. (1963) *Emile Durkheim: Selections from his Work*, New York: Cromwell, pp. 61-64.
- Stoll, M. and S. Bushway (2008) "The Effect of Criminal Background Checks on Hiring Ex-offenders", *Criminology & Public Policy*, 7: 371-404.
- The Pew Center on the States (2008) *One in 100: Behind Bars in America 2008*, Washington (D.C.): The Pew Charitable Trusts.
- Uggen, C. (2006) "The Effect of Criminal Background Checks on Hiring Ex-offenders", *Criminology & Public Policy*, 7(3), 367-370.
- Uggen, C. (2000) "Work as a Turning Point in the Life Course of Criminals: A Duration Model of Age, Employment, and Recidivism", *American Sociological Review*, 67: 529-546.
- United States Attorney General (2004) "Prepared Remarks of Attorney General John Ashcroft – Department of Justice Re-Entry Conference", Cleveland (OH). Retrieved from <[http://www.justice.gov/archive/ag/speeches/2004/ag092004\\_reentry.htm](http://www.justice.gov/archive/ag/speeches/2004/ag092004_reentry.htm)>.

- United States Census Bureau (1960) *Characteristics of the Population*, Washington (D.C.).
- United States Department of Justice (2009) *Crime in the United States*, Washington (D.C.).
- United States Department of Labor (2010) *Bureau of Labor Statistics*, Washington (D.C.).
- Western, B. (2006) *Punishment and Inequality in America*, New York: Russell Sage Foundation.
- Western, B. and K. Beckett (1999) "How Unregulated is the US Labor Market? The Penal System as a Labor Market Institution", *American Journal of Sociology*, 104(4): 1030-1060.
- Williams, K. (2008) "Employing Ex-offenders: Shifting the Evaluation of Workplace Risks and Opportunities From Employers to Corrections", *UCLA Law Review*, 55: 521-558.

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