

 **11hr_SC-LPSUA_sb0207_pt03**



(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Labor, Public Safety, and Urban
Affairs (SC-LPSUA)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (July/2012)

Employment Discrimination Report for SFY 2011
7/1/2010 to 6/30/2011 as of 10/18/2011

SB 207
file

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	626	12.65%
Arrest Record	200	4.04%
Color	169	3.41%
Conviction Record	347	7.01%
Disability	907	18.32%
FMLA Retaliation - File Compt	13	0.26%
Genetic Testing	1	0.02%
Lawful Products	21	0.42%
LS-Retaliation	93	1.88%
Marital Status	30	0.61%
Military Status	8	0.16%
National Orighn/Ancstry	157	3.17%
Pregnancy / Maternity	140	2.83%
Race	725	14.65%
Religion/Creed	67	1.35%
Retaliation - Made a Complaint	186	3.76%
Retaliation - Opposing a Practice	534	10.79%
Retaliation - Testified/Assisted	20	0.40%
Sex	627	12.67%
Sexual Orientation	79	1.60%

During this time period, 3,043 complainants filed 4,950 separate bases.

Employment Discrimination Report for SFY 2010

7/1/2009 to 6/30/2010 as of 10/14/2011

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	744	13.40%
Arrest Record	200	3.60%
Color	183	3.29%
Conviction Record	319	5.74%
Disability	986	17.75%
FMLA Retaliation - File Compt	15	0.27%
Genetic Testing	1	0.02%
Honesty Testing	3	0.05%
Lawful Products	31	0.56%
LS-Retaliation	90	1.62%
Marital Status	40	0.72%
Military Status	13	0.23%
National Origin/Ancestry	180	3.24%
Pregnancy / Maternity	124	2.23%
Race	859	15.47%
Religion/Creed	64	1.15%
Retaliation - Made a Complaint	226	4.07%
Retaliation - Opposing a Practice	668	12.03%
Retaliation - Testified/Assisted	24	0.43%
Sex	712	12.82%
Sexual Orientation	72	1.30%

During this time period, 3,360 complainants filed 5,554 separate bases.

Employment Discrimination Report for SFY 2009

7/1/2008 to 6/30/2009 as of 10/14/2011

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	745	13.61%
Arrest Record	211	3.86%
Color	175	3.20%
Conviction Record	389	7.11%
Disability	935	17.09%
FMLA Retaliation - File Compt	7	0.13%
Genetic Testing	1	0.02%
Honesty Testing	2	0.04%
Lawful Products	27	0.49%
LS-Retaliation	99	1.81%
Marital Status	29	0.53%
Military Status	11	0.20%
National Origin/Ancestry	217	3.97%
Pregnancy / Maternity	133	2.43%
Race	844	15.42%
Religion/Creed	61	1.11%
Retaliation - Made a Complaint	178	3.25%
Retaliation - Opposing a Practice	623	11.39%
Retaliation - Testified/Assisted	17	0.31%
Sex	705	12.88%
Sexual Orientation	63	1.15%

During this time period, 3,473 complainants filed 5,472 separate bases.

Employment Discrimination Report for SFY 2008

7/1/2007 to 6/30/2008 as of 10/14/2011

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	723	13.12%
Arrest Record	217	3.94%
Color	142	2.58%
Conviction Record	382	6.93%
Disability	948	17.21%
FMLA Retaliation - File Compt	9	0.16%
FMLA Retaliation - Testified	1	0.02%
Honesty Testing	1	0.02%
Lawful Products	24	0.44%
LS-Retaliation	83	1.51%
Marital Status	25	0.45%
Military Status	10	0.18%
National Origin/Ancstry	182	3.30%
Pregnancy / Maternity	159	2.89%
Race	887	16.10%
Religion/Creed	64	1.16%
Retaliation - Made a Complaint	195	3.54%
Retaliation - Opposing a Practice	644	11.69%
Retallatlon - Testified/Assisted	24	0.44%
Sex	734	13.32%
Sexual Orientation	56	1.02%

During this time period, 3,505 complainants filed 5,510 separate bases.

Employment Discrimination Report for SFY 2007

7/1/2006 to 6/30/2007 as of 10/14/2011

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	711	12.50%
Arrest Record	379	6.66%
Color	159	2.79%
Conviction Record	526	9.25%
Disability	1,049	18.44%
FMLA Retaliation - File Compt	10	0.18%
FMLA Retaliation - Testified	2	0.04%
Honesty Testing	5	0.09%
Lawful Products	23	0.40%
LS-Retaliation	106	1.86%
Marital Status	36	0.63%
Military Status	6	0.11%
National Origin/Ancestry	156	2.74%
Pregnancy / Maternity	152	2.67%
Race	793	13.94%
Religion/Creed	71	1.25%
Retaliation - Made a Complaint	195	3.43%
Retaliation - Opposing a Practice	554	9.74%
Retaliation - Testified/Assisted	17	0.30%
Sex	688	12.09%
Sexual Orientation	51	0.90%

During this time period, 3,502 complainants filed 5,689 separate bases.

Employment Discrimination Report for SFY 2006

7/1/2005 to 6/30/2006 as of 10/14/2011

<u>Basis</u>	<u>Number Received</u>	<u>Percentage</u>
Age	603	11.56%
Arrest Record	208	3.99%
Color	189	3.62%
Conviction Record	314	6.02%
Disability	836	16.02%
FMLA Retaliation - File Compt	11	0.21%
FMLA Retaliation - Testified	1	0.02%
Honesty Testing	6	0.11%
Lawful Products	27	0.52%
LS-Retaliation	104	1.99%
Marital Status	29	0.56%
Military Status	5	0.10%
National Origin/Ancestry	179	3.43%
Pregnancy / Maternity	129	2.47%
Race	900	17.25%
Religion/Creed	67	1.28%
Retaliation - Made a Complaint	221	4.24%
Retaliation - Opposing a Practice	600	11.50%
Retaliation - Testified/Assisted	16	0.31%
Sex	724	13.88%
Sexual Orientation	49	0.94%

During this time period, 3,261 complainants filed 5,218 separate bases.



National Conference of State Legislatures
State Laws on Employment-Related Discrimination

October 2010

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
Alabama Code §§ 21-7-1 and 21-7-8.	Not specified	Not Specified	visually handicapped, physically disabled, age	none	none	none
Alaska Const. Art. I, §3, Alaska Stat. §§ 18.80.010-18.80.300.	employers with 1 or more employees, public and private employers, employment agencies, labor organizations, communications, media;	social clubs, nonprofit religious, fraternal, charitable, or educational organizations, domestic employment.	race, religion, color, national origin, age, physical or mental disability, gender, marital status, pregnancy or parenthood, retaliation	State Commission for Human Rights	Copy of written complaint to Commission	appropriate relief, reasonable expenses, including attorney fees
Arizona §41-1401 et seq.	public and private employers, employment agencies, labor organizations	non-civil service staff of elected public officials, employees with fewer than 15 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, the United States, Indian tribes, and bona fide tax-exempt private membership clubs.	race, color, religion, gender, age, physical or mental disability, national origin, genetic test results, retaliation,	Arizona Civil Rights Division	Timely filing of charge with ACRD prerequisite to suit	Temporary restraining order or preliminary relief, hiring or reinstatement with or without back pay or other equitable relief, including attorneys' fees
Arkansas §§16-123-101 to 108	employers who employ 9 or more employees in each of twenty or more calendar weeks in the previous year	employment by a religious corporation, association, society, or other religious entity, matters regulated by the Arkansas Insurance Code or the Trade Practices Act of the Arkansas Insurance Code.	race; religion; national origin; gender; sensory, mental or physical disability, retaliation	Court of competent jurisdiction	No requirement to file with EEOC. civil suit must be brought within one year of alleged discrimination or within 90 days of receipt of a right-to-sue determination from the federal EEOC.	affirmative relief, up to two years back-pay, interest, court costs and attorney fees; in addition, compensatory and punitive damages are available for intentional discrimination.
California Gov't Code §12900-12926	public and private employers, employment	close family, employment under a special license in a nonprofit rehabilitation facility, employers with fewer than 5	race, religious creed, color, gender, gender identity, national origin, age of persons over 40, physical, mental or visual disability, medical	Fair Employment and Housing Commission	written complaint to Commission within one year of the date of alleged discrimination.	Jury trial, actual damages, plus up to three times that amount, as well as attorney fees and

SB 207
file

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages
	agencies, labor organizations with 5 + employees	employees or fewer than 15 employees if unlawful employment practice related to mental disability, nonprofit religious organizations	condition, ancestry, arrest record, marital and military status, pregnancy or sexual orientation, retaliation, genetic information, lie-detector tests as condition for hire, or employees who take up to 40 hours per year for school or day care related activities,			court costs.
Colorado §24-34-401 et seq.	public and private employers, employment agencies, labor organizations	domestic service, religious organizations that are not supported in whole or part by taxation or public borrowing employers	race, creed, color, gender, age, disability, national origin, ancestry, applicant's refusal to disclose arrest and criminal records that have been sealed [24-72-308, 24-72-309.] employee's engaging in any lawful activity off the premises of the employer during nonworking hours unless such a restriction relates to a bona fide occupational requirement or is reasonably and rationally related to the employment activities and responsibilities of a particular employee or a particular group of employees, rather than to all employees of the employer, or is necessary to avoid a conflict of interest with any responsibilities to the employer or the appearance of such a conflict of interest [24-34-402.5	Civil Rights Commission	written complaint to Commission	Cease and desist order, hiring, reinstatement, or upgrading, with or without back pay, or restoration to membership in a respondent labor organization, or admission to a training program.
Connecticut §46a-51 to 46a-99.	public and private employers, employment agencies, labor organizations	close family members and in domestic service, employers of fewer than three persons	race, color, religion, creed, gender, national origin, age, present or past history of mental disorder, mental retardation, learning disability or physical disability (including but not limited to blindness), ancestry, marital status, pregnancy, retaliation, may not be disqualified from employment by the state or any business licensed by the state solely because of prior conviction of a crime, lie-detector tests, required submission to drug test	Commission on Equal Rights and Opportunities	written complaint to Commission within 180 days	cease and desist order, hiring or reinstatement, or restoration to membership, other appropriate relief- may include prospective monetary relief if no positions are currently available. Temporary injunctive relief if employer has more than 50 employees.

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
Delaware Title 19, §710-728	public and private employers, employment agencies, labor organizations	religious, fraternal, charitable, and sectarian organizations not supported by government appropriations when discrimination and employers of fewer than four persons within the state when discrimination is not based on race, color, age, or national origin; domestic service, agricultural workers, and employment by close family members	unless employer has reasonable suspicion employee is under influence of drugs or unless test authorized by federal law. race, marital status, genetic information, color, religion, gender, national origin, age, handicap, requiring submission to a polygraph examination, retaliation, sexual orientation	Department of Labor		cease and desist order, hiring or reinstatement, with or without back pay, other appropriate affirmative action, attorney's fees
DC ST § 2-1402.11	DC government, public and private employers, employment agencies, labor organizations	domestic service and employment by close family member	race, color, religion, gender, national origin, age between 18 and 65, disability, family responsibilities, marital status, matriculation, personal appearance, political affiliation, or sexual orientation, pregnancy, childbirth, tobacco use, retaliation, use of lie detector	Commission of Human Rights	written complaint to Office of Human Rights within one year of alleged discrimination, mandatory mediation process	Jury trial may be available, affirmative relief as appropriate, including back pay, compensatory and punitive damages, attorneys' fees available
Florida §760.01 et seq.	employers with 15 or more employees for each working day in each of 20 calendar weeks		race, color, religion, gender, national origin, age, handicap, marital status, AIDS/HIV, sickle-cell trait	Commission on Human Relations	written complaint to Commission within one year of alleged discrimination	affirmative relief, including attorney fees; back-pay is limited to two years.
Georgia §§ 45-19-20 to 45-19-45 (state employment); §§ 34-5-1 to 34-5-7 (equal pay); §§ 34-6A-1 to 34-6A-6	public and private employers (10+), employment agencies, labor organizations	personal and political staff of public officials	In state employment, race, color, religion, national origin, gender, physical disability, or age between 40 and 70, retaliation; In private employment in interstate commerce only, discrimination in pay based on gender and age over 40	Comm. on Equal Opp. (discrimination in state employment). Court of competent jurisdiction (equal pay and disabled).	sworn complaint to Commission within 180 days after alleged discrimination	Public employees: potential hiring/rehiring, possible back pay/benefits, actual damages. Private sector disability discrimination: hiring, reinstatement, back pay. Gender-based wage discrimination: unpaid

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
(disabled).						wages.
Hawaii §378-1 to 69	public and private employers, employment agencies, labor organizations	the United States and domestic service.	race, color, religion, sexual orientation, age, gender, disability, ancestry, arrest or court record, marital status, or pregnancy, retaliation, required submission to lie detector tests, except for applicants to law enforcement agencies, HIV infection testing	Dept Labor and Industrial Relations	written complaint to Commission within 180 days of alleged discrimination	affirmative remedies, incl. potential hiring/ reinstatement/back pay, poss. attorney fees.
Idaho Code § 67-5901 to 5912 § 18-7301 Civil Rights	public and private employers, employment agencies, labor organizations	employers of fewer than five persons for each working day in each of 20 or more calendar weeks in the current or preceding calendar year	race, religion, creed, color, gender, national origin, disability, age (at least 40), retaliation, submission to lie detector tests except in law enforcement.	Commission on Human Rights	written complaint to Commission or civil suit within two years of alleged discrimination	equitable relief through courts, including back-pay up to two years and punitive damages up to \$1,000 per year for each willful violation.
Illinois Art I, §§17-19 and Illinois 775 ILCS 5/2-101	public and private employers, employment agencies, labor organizations	domestic service, personal staff of elected public officials, principal admin. officers of govt. bodies, and persons in federally certified vocational rehabilitation facilities who have been designated evaluatees, trainees, or work activity clients, private employers of fewer than 15 persons within the state during 20 or more calendar weeks within the current or preceding calendar year. nonprofit religious organizations.	race, color, religion, gender, national origin, age, ancestry, marital status, citizenship status, physical or mental handicap, use of lawful products during off-work hours (tobacco, alcohol, nonprescription drugs), military duty status or discharge status, limited use of genetic testing, retaliation	Human Rights Commission and Dept. of Human Rights	written complaint to the Dept. within 180 days of alleged discrimination	relief, including actual damages, hiring, reinstatement, back-pay, attorney fees and costs.
Indiana § 22-9-1-3 to 18	public and private employers, employment agencies, labor organizations	employers of fewer than 6 persons within the state, nonprofit fraternal or religious organizations, social clubs, close family, domestic service.	race, religion, color, gender, disability, handicap, national origin, ancestry, age, retaliation	Civil Rights Commission	written complaint to the Commission or a local agency, but not both	affirmative relief, including back-pay, attorney fees and costs, poss. civil action
Iowa OAG No. 83-3-4 (2983) and ICA §216.1 et	public and private employers, employment agencies, labor organizations	employers with fewer than 4 employees, domestic service, close family, religious institution	age, race, creed, color, gender, national origin, religion, physical or mental disability, genetic test unrelated to occupation, HIV	Civil Rights Commission	written complaint to the Commission within 300 days of alleged discrimination	Remedial action incl. hiring/ reinstatement; actual damages and attorney fees; other

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
seq. § 730.4-5	employment agencies, labor organizations		testing, submission to a polygraph or drug test-except for peace or corrections officers			affirmative remedies
Kansas §44-1002 et seq., & 44-1112 et seq.	public and private employers, employment agencies, labor organizations, nonsectarian corporations, and organizations engaged in social service work	employers with fewer than 4 employees, domestic servants, close family members, and nonprofit fraternal or social organizations, drug testing of state employees	race, religion, color, gender, national origin, ancestry, physical handicap, age, genetic test results, retaliation	Civil Rights Commission	written complaint to Commission within 6 months of alleged discrimination	affirmative relief, including back-pay and an award of up to \$2,000 for pain, suffering and humiliation related to the discrimination
Kentucky §§344.010 et seq., 334.044 and 207-206.160	public and private employers, employment agencies, labor organizations	excludes employers of fewer than eight persons within the state in each of 20 or more calendar weeks in the current or preceding calendar year, close family, domestic service	race, color, religion, national origin, gender, age, disability, HIV (unless absence of virus is bona fide qualification for job), smoking, physical handicap, pregnancy, retaliation, (state employee-political affiliation or convictions)	Human Rights Commission and Attorney General	written complaint to Commission within 180 days of alleged discrimination	affirmative relief, including compensatory damages, attorney fees
Louisiana §23:301 et seq.	public and private employers, employment agencies, labor organizations	employers of 20 or 25 employees depending on the particular part of the chapter. Close family, domestic service, religion-affiliated organizations if curriculum is directed toward propagation of a particular religion	age, disability, race, color, sickle-cell disease, religion, gender, pregnancy or related conditions, national origin	State District Court	A plaintiff must give the person who has allegedly discriminated written detailed notice 30 days before initiating court action, and both parties must make a good faith effort to resolve the dispute prior to initiating court action.	general or special compensatory damages, back-pay, benefits, reinstatement, front pay, attorney fees and costs
Maine Title 5, §4571	public and private employers, employment agencies, labor organizations	close family, nonprofit religious or fraternal organizations	race, color, religion, physical or mental disability, ancestry, age, national origin, gender, sexual orientation, retaliation, polygraph or genetic test	Human Rights Commission	oral or written complaint to Commission within 300 days of alleged discrimination	Appropriate remedies, attorneys fees and costs, poss. civil penal damages up to \$50,000
Maryland Code, State	public and	employers with fewer than 15 employees for each working	race, color, religion, gender, age, national origin, marital status,	Commission on Human	written complaint under oath to Commission	Affirmative action and other equitable relief

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
Gov't § 20-602	private employers, employment agencies, labor organizations	day in each of 20 or more calendar weeks in the current or preceding calendar year, and bona fide private membership clubs, non-civil service employees of public officials	physical or mental handicap, retaliation	Rights	within 6 months of alleged discrimination	
Massachusetts M.G.L.A Ch. 151B, §1(5)	public and private employers, employment agencies, labor organizations	employees of fewer than six employees, nonprofit clubs and fraternal organizations	race, religious creed, color, national origin, ancestry, gender, age, sexual orientation, handicap (incl. AIDS), genetic information, pregnancy, misdemeanors or arrest information not convicted, lie detector or HTLV III test, sexual harassment	Commission Against Discrimination	complaint filed with Commission within 300 days	Commission orders subject to judicial review and poss. civil penalties to employer
Michigan §37.22201 et seq.	public and private employers, employment agencies, labor organizations	close family	race, color, religion, gender, national origin, marital status, height, weight, age, pregnancy, handicap (incl. AIDS), retaliation	Civil Rights Commission	complaint to Commission	affirmative relief, civil suit provides for costs and attorney fees Jury trial available. affirmative remedies: hiring/reinstatement/ poss. back pay, payment of profits obtained by respondent in violation, injunctive relief, Damages, attorney fees
Minnesota §363A.03 et seq.	public and private employers, employment agencies, labor organizations	domestic service, close family	race, color, creed, religion, national origin, gender, sexual orientation, marital status, acceptance of public assistance benefits or housing, disability, activity in local commission, age, pregnancy, lie detector, drug test,	Department of Human Rights	signed charge submitted to the Commission within one year of alleged discrimination	affirmative relief, including up to triple actual damages, damages for pain and suffering, back-pay, punitive damages up to \$8,500, attorney fees
Mississippi §33-1-15 et seq. (military affairs) Miss. Code. Ann. §§ 25-9-149, 43-6-15.	Military affairs, Public employees	none specified	race, color, religion, sex, national origin, age, or handicap (blindness, visually handicapped, deaf, or otherwise physically handicapped, unless such disability materially affects performance of the work required by the job), past or present active or reserve military service	Court of competent jurisdiction	none	unspecified
Missouri VAMS §	public and private employers,	fewer than six employees within the state or corporations	race, color, religion, national origin, gender, ancestry, age,	Commission on Human	verified written complaint to	affirmative relief, including back-pay,

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
213.010-077	employment agencies, labor organizations	and associations owned and operated by religious or sectarian groups	gender, familial status, handicap, retaliation	Rights	Commission within 180 days of alleged discrimination	actual, compensatory, or punitive damages, costs and attorney fees
Montana §49-2-101 (Human Rights Act); § 39-2-901-914 (Wrongful Discharge Act)	HRA-public and private employers, employment agencies, labor organizations WDA-any employer	employers with 1 or more employees	race, religion, color, national origin, creed, age, physical or mental disability, marital status, gender, pregnancy, lie detector test, retaliation	Commission for Human Rights	complaint to Commission within 180 days of alleged discrimination (exclusive remedy)	Attorney fees; HRA-any reasonable measure to correct harm and remedy discrimination. WDA- Lost wages and benefits up to 4 years from date of discharge, poss. punitive damages
Nebraska §48-1101 et seq.	public and private employers, employment agencies, labor organizations	fewer than 15 employees for each working day in each of 20 or more calendar weeks in the current or preceding year, the United States, Indian tribes, and bona fide tax-exempt private membership clubs, close family, favor of a particular religion by a religious organization. Private employers are not covered by the Nebraska age discrimination provisions unless they have 25+ employees	race, color, religion, gender, disability, marital status, national origin, age, pregnancy, retaliation	Equal Opportunity Commission	written complaint under oath to Commission within 300 days of alleged discrimination	affirmative relief subject to judicial review, attorney fees
Nevada § 613.310-613.430.	public and private employers, employment agencies, labor organizations	fewer than 15 employees, United States, Indian tribes, tax-exempt private membership clubs. employers with respect to employment outside Nevada, religious organizations hiring members of that religion to carry out work connected with their religious activities	race, color, religious creed, gender, sexual orientation, age, disability (incl. AIDS), national origin, genetic test results, pregnancy, retaliation, limits on lie detectors	Equal Rights Commission	written complaint to Commission within 180 days of alleged discrimination	affirmative relief, including back-pay for up to two years plus interest, and actual damages
New Hampshire §354-A:2 – A:7 and Adm. Rule 401:01	private employers of 6 or more employees, public employers, employment agencies, and labor organizations	nonprofit religious orgs and nonprofit social, fraternal, or charitable clubs, close family, domestic service	age, gender, race, color, marital status, religious creed, national origin, physical or mental disability, sexual orientation, genetic testing	Commission for Human Rights	written complaint to Commission within 180 days of alleged discrimination	affirmative relief, including back-pay and compensatory damages, subject to judicial review, attorney fees

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
New Jersey §10:5-1 et seq.	public and private employers, employment agencies, labor organizations	Domestic service	race, creed, color, national origin, nationality, ancestry, age, gender, sexual orientation, past or present handicap (Incl. AIDS), marital status, presence of an atypical hereditary cellular blood trait, genetic trait, draft status, retaliation, lie detector (in certain circumstances)	Division of Civil Rights	written complaint to Division within 180 days of alleged discrimination	Affirmative relief, treble damages, attorney fees
New Mexico §28-1-2 et seq.	public and private employers, employment agencies, labor organizations	4 or less employees	race, age, religion, color, national origin, ancestry, gender, physical or mental handicap, serious medical condition, retaliation	Human Rights Commission	written complaint to Commission within 180 days of alleged discrimination	Affirmative, injunctive relief, compensatory damages, specific performance, attorney fees, jury trial available
New York (Exec.) Law §296 et seq.; (Labor) Law art. 20-A, §§ 733-739	Employers, licensing agencies, employment agencies, and labor organizations	Fewer than 4 employees, close family	race, creed, gender, sexual orientation, color, national origin, age, disability (incl. AIDS), disabled persons use of guide, hearing or service dog, pregnancy, predisposing genetic characteristics, military status, marital status, arrest or conviction record, retaliation, lie detector test, sexual orientation, domestic violence victim status	Division of Human Rights	verified written complaint to Division within one year of alleged discrimination	affirmative and injunctive relief, including back-pay and compensatory damages, (election of administrative complaint bars civil suit)
North Carolina §143-422.1 et seq.	public and private employers, employment agencies, labor organizations; provisions regarding off-the-job use of lawful products apply to all public and private employers with 3 or more regularly employed employees	Fewer than 15 employees, domestic and farm workers	race, religion, color, national origin, age, gender, handicap or disability, off-duty use of lawful products, sickle-cell trait carriers, retaliation, genetic testing,	Human Relations Commission of the Dept. of Administration	complaint within one year of alleged discrimination	Claims based on handicap, use of lawful products, retaliation; affirmative relief, damages and injunctive relief, poss. attorney fees
North Dakota CC	employers, employment	political staff of elected public office-holder, close family,	race, color, religion, gender, national origin, age, physical or	State District Court	suit filed within 180 days of alleged discrimination	injunctions, equitable relief, and back-pay

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
§14-02.4-01 et seq.	agencies, and labor organizations	domestic service, or those who employ for one-quarter of a year or less.	mental disability, marital status, acceptance of public assistance, participation in lawful activities during non-work hours, pregnancy, retaliation			limited to no more than two years from the date a complaint was filed, attorney fees
Ohio §4113.02 et seq.	public and private employers, employment agencies, labor organizations	Fewer than 4 employees, domestic service	race, color, religion, gender, national origin, disability (Incl. HIV), age, ancestry, pregnancy, juvenile arrest record, retaliation	Civil Rights Commission	written complaint to the Commission	Judicial review available, affirmative relief, back-pay
Oklahoma Title 25, §1301(1) et seq.	public and private employers, employment agencies, labor organizations	fewer than 15 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year unless such employer is a state contractor or subcontractor, Indian tribes, nonprofit membership clubs, close family, domestic service	race, color, religion, gender, national origin, age, disability, genetic testing, sex incl. but not lmtd. to pregnancy	Human Rights Commission	written complaint to Commission within 180 days of alleged discrimination	affirmative relief incl. back-pay, compensatory damages, injunctive and attorney fees
Oregon O.R.S. § 659A.006 et seq.	public and private employers, employment agencies, labor organizations	close family, domestic service, preference given by religious organization to which applicant/employee belongs	race, religion, color, gender, national origin, marital and familial status, age, disability, expunged juvenile record, pregnancy, injured workers, retaliation, requiring submission to breathalyzer test, lie detector, genetic testing, use of legal tobacco during non-working hours, person with a degree in theology or religious occupations, domestic violence	Bureau of Labor and Industries	written complaint to the Bureau commissioner within one year of the alleged discrimination	equitable relief may be granted by civil suit; remedies include back-pay up to two years, compensatory and punitive damages
Pennsylvania 43 PCSA §952 et seq.	public and private employers, employment agencies, labor organizations	religious, fraternal, charitable, or sectarian organizations that are not funded by government, fewer than 4 employees, agriculture, domestic service, close family	race, color, familial status, religious creed, ancestry, age, gender, national origin, handicap or disability, use of service animal, refusal to perform abortion or sterilization, retaliation, lie detector test- except law enforcement	Human Relations Commission	verified written complaint to Commission within 180 days of alleged discrimination	affirmative relief, including back-pay up to three years and attorney fees, investigatory hearing for race
Rhode Island §28-5-6(6) et seq.	public and private employers, employment agencies, labor	fewer than 4 employees, religious, close family, domestic service	race, color, religion, gender, sexual orientation, pregnancy, disability (incl. AIDS), age, country of ancestral origin, retaliation, lie-	Commission for Human Rights	formal charge to the Commission within 2 years of alleged discrimination	actual and punitive damages, attorney fees and costs

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
	organizations		detector test, domestic abuse order or petition, AIDS, smoking in off-duty hours, 50+ employees employers must adopt and distribute written policy against sexual harassment			
South Carolina §1-13-20 et seq.	public and private employers, employment agencies, labor organizations	fewer than 15 persons for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, Indian tribes, private membership clubs, elected public officials, policymaking governmental appointees, and advisors as to constitutional or legal powers of political office	race, religion, color, gender, age, national origin, pregnancy, disability, smoking outside of the workplace	Commission on Human Affairs	complaint to Commission within 180 days of alleged discrimination	appropriate affirmative relief including back-pay for up to two years.
South Dakota §20-13-10 et seq.	public and private employers, employment agencies, labor organizations	number of employees not specified	race, color, creed, religion, gender, ancestry, disability, national origin, genetic testing, retaliation	Commission of Human Rights within the Division of Human Rights	charge to the Commission within 180 days of alleged discrimination	affirmative relief, including back-pay and compensation incidental to the violation but not including punitive or consequential damages or damages for pain and suffering, civil actions available
Tennessee §4-21-202 et seq.	public and private employers, employment agencies, labor organizations	fewer than 8 employees, close family, domestic service, religious organizations	race, color, creed, religion, gender, age, national origin, mental or physical handicap (incl. AIDS), retaliation	Human Rights Commission	written and sworn complaint to the Commission within 180 days of alleged discrimination	affirmative relief, including back-pay reduced by interim earnings, damages for humiliation and embarrassment, attorney fees, actual damages, injunction, and costs
Texas Labor Code §21.051 et seq.	public and private employers, employment agencies, labor organizations	fewer than 15 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, religious organizations, close family members, participants in U.S. Department	race, color, disability, religion, gender, national origin, age, pregnancy, retaliation	Commission on Human Rights	written complaint to Commission within 180 days of alleged discrimination; civil action no later than 2 years past date of complaint filing	affirmative relief, including back-pay up to two years, reduced by interim wages, and costs; administrative remedies must be exhausted prior to filing of civil suit.

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
		of Labor approved state-wide hometown plans				which may include punitive and compensatory damages, including pain and suffering, for intentional discrimination
Utah §34A-5-102 et seq.	public and private employers, employment agencies, labor organizations	fewer than 15 employees within the state in each of 20 calendar weeks or more in the current or preceding calendar year, religious organizations	race, color, gender, pregnancy and related conditions, age, religion, national origin, handicap, retaliation, false alcohol or drug test	Industrial Commission, Anti-Discrimination Division	written complaint to Commission within 180 days of alleged discrimination	Cease and desist order, hiring, reinstatement, or upgrading, back pay, and benefits, attorney fees
Vermont Title 21, §495 et seq.	public and private employers, employment agencies, labor organizations	Labor Orgs with fewer than 5 employees	race, color, religion, sex, sexual orientation, national origin, age, disability (incl. AIDS), ancestry, place of birth, retaliation, polygraph test-except for jobs involving public safety, sale of precious metals or gems, sale of regulated drugs, or when authorized or required by federal law, drug test-unless told negative result is a condition of employment or employer has probable cause to believe employee under influence of drugs on the job, genetic testing or counseling	State Attorney General and Human Rights Commission	complaint to Attorney General or Human Rights Commission	appropriate civil and equitable relief, including back-pay, attorney fees, costs and other damages
Virginia §2.2-3900 et seq.	employers with 5 or more employees	employers with 5 or more employees	race, color, religion, national origin, gender, age, marital status, disability	Council on Human Rights, Equal Opportunity Council	complaint to Council within 60 days of alleged discrimination	Disability- other affirmative/equitable relief but not pain/suffering, attorney fees
Washington §49.60.040 et seq.	public and private employers, employment agencies, labor organizations	fewer than 8 employees, nonprofit religious or sectarian organizations, close family, domestic service.	race, color, creed, religion, gender, national origin, age, mental or physical disability (incl. AIDS), military status, marital status, retaliation, lie detector test-except for employment with law enforcement agencies or manufacturers or distributors of controlled substances, or employment in sensitive positions involving national security, use of	Human Rights Commission	written complaint to Commission within 6 months of alleged discrimination	affirmative relief, including remedies that could be granted by a court; damages for pain and suffering are limited to \$10,000; a private cause of action may include actual damages, attorney fees or any other relief allowed under state or federal law

State and Citation	Covers	Exclusions	Prohibited Practices	Enforcement Agency	Complaint Process	Remedy/Damages ¹
West Virginia §5-11-3 et seq.	public and private employers, employment agencies, labor organizations	Fewer than 12 employees, private clubs, close family	guide or service animal race, color, religion, sex, national origin, age, disability (incl. AIDS), visual handicap, familial status, or ancestry, retaliation, lie detector test- except for manufacturers or distributors of controlled drugs, and state military or law enforcement entities	Human Rights Commission	verified complaint to Commission within 365 days of alleged discrimination	affirmative relief, including back-pay; if complaint filed, administrative process becomes exclusive remedy unless granted leave to bring suit, other equitable relief, attorney fees
Wisconsin §§111.32 et seq. and 111.321 et seq.	public and private employers, employment agencies, labor organizations	close family, social clubs, fraternal societies violation of lie detector or genetic testing may not bring an action under this paragraph against PPE, EA, LO employing fewer than 15 individuals for each working day in each of 20 or more calendar weeks in the current or preceding year.	race, color, religion, creed, gender, marital status, national origin, age, handicap, ancestry, arrest record, conviction record, sexual orientation, military status, use or nonuse of lawful products off premises during nonworking hours, retaliation, pregnancy, lie detector test, AIDS test, or genetic test, or declining to attend a meeting or to participate in any communication about religious matters or political matters	Dept. of Industry, Labor, Human Relations	complaint to Dept. within 300 days of alleged discrimination	Appropriate remedial action, back pay from which interim earnings or amounts earnable with reasonable diligence must be deducted, poss. attorney fees, compensatory and punitive damages-
Wyoming §27-9-102 et seq.	public and private employers, employment agencies, labor organizations	Fewer than 2 employees and religious organizations	race, color, creed, gender, national origin, age, disability, ancestry, off-the-job use of tobacco, retaliation.	Dept. of Employment	written complaint to Dept. within 6 months of alleged discrimination	A appropriate remedial measures, back-pay or front-pay

Sources: *Guide to Employment Law and Regulation, 2nd Edition, West Group/Thomson Publishing*; *Manual of Employment Discrimination and Civil Rights Actions in the Federal Courts, 2 Manual on Employment Discrimination Appendix A3: Database updated June 2010*; *State Net Bill Search "Employment Discrimination" Current Legislation*

Notes:

1. In many states, a claimant may file a civil suit in addition to formal complaint to enforcement authority, and, if prevails in court, may be entitled to damages available to civil litigants.
2. Connecticut: no liability is imposed on individual employees
3. Kansas: persons acting for an employer are covered by the law
4. Ohio: the Ohio Supreme Court has ruled that supervisors or manager may be held jointly and severally liable along with their employer for discriminatory conduct.



SB 207
file

Civil Rights and Consumer Protection Litigation Docket

Many workers are facing escalating barriers to employment as employers increasingly rely on criminal records information in employment hiring and firing decisions, often with little protections to ensure that the process is fair and based on accurate information. As a result, advocates are working to enforce the basic federal protections that regulate criminal background checks for employment through a variety of tools, including litigation. In the past few years, several major lawsuits have been filed alleging violations of the basic civil rights and consumer protection laws that apply to criminal background checks.

What follows is a docket of the latest and pending cases alleging violations under the federal laws that regulate criminal background checks for employment, including Title VII of the Civil Rights Act of 1964 and the Fair Credit Reporting Act (FCRA). In addition, this document reports on major state settlements against several large employers and a private screening firm issued by the New York Attorney General.

This docket will be updated regularly. For more information, or to contribute to this update, please contact [Madeline Neighly](#).

Current Title VII Litigation

EEOC v. Freeman, Case No. 8:09-cv-02573 (D. Md., filed Sept. 30, 2009). The EEOC is represented by Debra Lawrence, Acting Regional Attorney for the EEOC-Philadelphia District Office, and Ronald Phillips, Senior Trial Attorney for the EEOC-Baltimore Field Office. Defendant is represented by Donald Livingston and Paul Mirengoff of Akin Gump Strauss Hauer & Feld LLP.

On January 17, 2008, Katrina Vaughn, an African American woman, filed a charge of discrimination against Freeman, an event planning company, alleging race discrimination. Freeman had rejected Ms. Vaughn's application for employment because of her credit history. After the EEOC began investigating Ms. Vaughn's complaint, it expanded the investigation to encompass Freeman's use of criminal history in the hiring process.

On September 30, 2009, the EEOC filed suit against Freeman. The EEOC alleges that Defendant Freeman violates Title VII of the Civil Rights Act of 1964 because its use of "credit history and criminal history [is] neither job-related nor consistent with business necessity, as there are more appropriate, less discriminatory alternative selection procedures."

In response to Defendant's motion to dismiss all claims relating to hiring decision made more than 300 days before the initial EEOC charge was filed, Plaintiff filed in opposition claiming the "continuing violation doctrine," and argued that the court should use the date charging party filed her questionnaire (12/19/2007) rather than the date she filed her charge (1/17/2008). The court found that no court of appeals had addressed the issue of seeking relief for individuals subjected to discriminatory acts more than 300 days before the filing of an administrative charge that prompted the EEOC's investigation, and district courts are split. This court held that "the EEOC may not seek relief for individuals who were denied employment more than 300 days before the filing of the administrative charge prompting the EEOC's investigation." The court also held that the intake questionnaire cannot be considered a charge and thus uses the 1/17/2008 date to count back 300 days.

The court granted the parties' joint motion for additional stay of proceedings to permit continued mediation.

Mays v. Burlington Northern Santa Fe Railroad Co., Case No. 1:10-cv-00153 (N.D. Ill., filed Jan. 11, 2010). Plaintiff is represented by Steven Zeller and Kyle Davis of Dykema Gossett, PLLC. Defendant is represented by Steven Hartmann and Rachel Atterberry of Freeborn & Peters LLP.

Plaintiff is an African American man with a felony conviction. He began working for Rail Terminal Services (RTS) at a Burlington Northern Santa Fe (BNSF) Railway Company facility in April 2000. BNSF began implementing the e-RAILSAFE background checks in 2004 and "required its contractors, including RTS, to conduct periodic background checks on all employees working at BNSF facilities." Because his felony conviction was within seven years of the background check, he was denied access to the BNSF facility, resulting in his termination by RTS. This was before e-RAILSAFE had appeals (implemented after 2007 Congressional Hearing).

Plaintiff filed a charge with the EEOC on September 9, 2005. Nearly four years later, on March 10, 2009, the EEOC sent a right to sue letter to Plaintiff's previous address. He learned of this in October 2009 and requested a reissuance. His request was granted on October 19, 2009. He filed suit on January 11, 2010. After being assigned counsel, Plaintiff filed an amended complaint on September 1, 2010.

Case is currently in discovery.

Arroyo v. Accenture, Case No. 10-civ-3013 (S.D.N.Y., filed April 8, 2010). Plaintiffs are represented by Adam Klein, Samuel Miller, and Ossai Miazad of Outten & Golden LLP, and the Lawyers' Committee for Civil Rights Under Law. Defendant is represented by Peter Walker of Seyfarth Shaw LLP and James DeVita of Schoeman Updike Kaufman & Scharf.

Plaintiff is a Latino man who worked for Accenture, a global management consulting, technology service and outsourcing company, as a contract employee from November 2005 to April 2007. He had been placed by an employment agency to work as an analyst. In April 2007, Accenture offered him a permanent position subject to a background check. On April 17, 2007, Accenture withdrew the job offer and terminated Plaintiff from his position. At the time of the background check, Plaintiff had a 10-year-old conviction for vehicular homicide arising from a drinking and driving incident. He spent 2.5 years in prison and has no other convictions.

On November 6, 2007, Plaintiff filed a charge of discrimination with the EEOC. On January 8, 2010, the EEOC issued a right to sue letter to Plaintiff (it was received on January 13, 2010). The complaint was filed on April 8, 2010 and the answer was filed on May 25, 2010.

Case is currently in discovery for class certification.

Johnson et al. v. Locke, Case No. 10-cv-3105 (S.D.N.Y., filed April 13, 2010). Plaintiffs are represented by Adam Klein, Justin Schwarz, Samuel Miller, Lewis Steel, Ossai Miazad, Rachel Bien, and Melissa Pierre-Louis of Outten & Golden LLP, Judy Whiting and Paul Keefe of Community Service Society, Sharon Dietrich of Community Legal Services, Inc., Richard Bellman and Jackson Chin of LatinoJustice PRLDEF, Ray McClain of the Lawyers' Committee for Civil Rights Under Law, Anjana Samant and Darius Charney of Center for Constitutional Rights, Robert Coulter of Indian Law Resource Center, and Michel Kirkpatrick of Public Citizen Litigation Group. Defendant is represented by Preet Bharara, Allison Penn, Daniel Filor, and Tara Lamorte of the United States Attorney General.

Plaintiffs brought suit against the U.S. Census for Census' policy of requiring applicants to provide "official court documentation" for any and all arrests. On March 15, 2011, the court granted in part and denied in part a motion to dismiss premised primarily on the grounds that the Plaintiffs have not exhausted their administrative remedies. All but one plaintiff was allowed to continue with the litigation, but the class allegations were dismissed for failure to meet the class action administrative complaint pleading requirements unique to federal employment. 29 C.F.R. § 1614.204(a). Plaintiffs will rectify the dismissal of the class allegations by filing on behalf of plaintiffs who have met the federal administrative pleading requirements.

Case is currently in discovery for class certification.

Kellam v. Independence Charter School, Case No. 2:10-cv-01644 (E.D. Pa., filed April 14, 2010). Plaintiff is represented by May Mon Post of the Post Law Firm. Defendant is represented by Walter Swayze III and Brian Franklin of Segal, McCambridge, Singer & Mahoney.

Plaintiff is an African American male with a 1999 conviction for aggravated assault. Plaintiff was hired by Defendant, a non-profit corporation, in 2003 as a part-time Lunchroom Assistant. On September 1, 2004, Plaintiff was promoted to a full-time Lunchroom Assistant position. On November 16, 2004,

Plaintiff was terminated from his position because of his criminal background check. Plaintiff had disclosed his conviction on the initial job application.

Following his termination, Plaintiff filled out a Charge Questionnaire with the EEOC on March 15, 2005. This was converted into a formal Charge of Discrimination by EEOC personnel and signed by Plaintiff on January 20, 2006. At that time, the charge was filed concurrently with the Pennsylvania Human Relations Commission ("PHRC"). On January 28, 2010, the EEOC issued a right to sue letter, and Plaintiff filed his complaint on April 14, 2010. Plaintiff brought his claim under both Title VII and the Pennsylvania Human Rights Act.

On August 17, 2010, the court denied Defendant's motion to dismiss. Defendant's sole argument was that the statute of limitations had run on Plaintiff's claims because his Charge of Discrimination was not signed until 430 days after the act of discrimination. Because Plaintiff had timely filed his Charge Questionnaire at the EEOC 119 days after the act of discrimination and had provided sufficient information, the court found that the Plaintiff did timely file his charge of discrimination and the statute of limitations does not bar his claim under Title VII. While the court did find that the filing of the Charge Questionnaire was insufficient to constitute the filing of a charge with the PHRC, the Plaintiff's PHRA claim was saved by the doctrine of equitable tolling.

Case is currently in discovery.

Mayer v. Driver Solutions, Inc., Case No. 10-cv-01939 (E.D. Pa., filed April 30, 2010). Plaintiffs are represented by Janet Ginzberg and Brendan Lynch of Community Legal Services, Inc., and Adam Klein, Justin Schwartz, Samuel Miller, and Rachel Bien of Outten & Golden LLP. Defendant is represented by Jacqueline Gallagher and Jacob Sitman of Obermayer Rebmann Maxwell & Hippel LLP.

This class action suit alleges that Defendant, a company that trains and places new truck drivers, violates Title VII by refusing to "procure placements for applicants with a felony conviction, no matter how old the conviction, its relation to the job, or the fitness or ability of the applicant for the job." An amended complaint was filed on July 23, 2010.

Case is currently in discovery for class certification.

Hudson v. First Transit, Inc., Case No. C10-03158 (N.D.Cal., filed July 20, 2010). Plaintiffs are represented by Teresa Demchak, Roberta Steele, and James Kan of Goldstein, Demchak, Baller, Borgen & Dardarian, Matthew Piers, Kalman Resnick, and Christopher Wilmes of Hughes Socol Piers Resnick & Dym, and Madeline Neighly of the National Employment Law Project. Defendant is represented by Theodora Lee, Constance Norton, and John Hong of Littler Mendelson PC.

Plaintiff is an African American woman with a 2000 felony conviction for welfare fraud. After successfully completing her four days of jail time and five years of probation, Plaintiff's conviction was reduced to a misdemeanor and dismissed by the State of California.

In March 2009, Plaintiff left her position as a paratransit driver with MV Transportation to accept a position as a paratransit driver with First Transit, Inc., one of the nation's largest bus providers. Soon thereafter, Plaintiff was terminated from her position because of her criminal history. Although Plaintiff informed First Transit that the charges against her had been reduced and dismissed, she was nonetheless terminated from her position.

On November 19, 2009, Plaintiff filed a charge of discrimination with the EEOC. On June 1, 2010, she received a right to sue notice. The class action suit was filed on July 20, 2010.

Case is currently in discovery for class certification.

EEOC v. Kaplan, Case No. 1:10-cv-02882 (N.D. Ohio, filed December 21, 2010). Plaintiff is represented by Debra Lawrence, Regional Attorney for the EEOC-Philadelphia District Office, Mary Kate Boehringer, Supervising Trial Attorney for the EEOC-Baltimore Field Office, and Jeffrey Stern, Cleveland Field Office. Defendant is represented by Gerald Maatman, Steven Pearlman, Jennifer Riley, and Brandon Spurlock of Seyfarth Shaw LLP, and Stephen Zashin, B. Jason Rossiter, and David Vance of Zashin & Rich Co., LPA.

The EEOC brought suit against Defendant, a company that offers career-oriented certificate and degree training in the United States and internationally, alleging that Defendant's use of credit history information in employment decisions has "a significant disparate impact on Black job applicants and incumbents, is not job-related and consistent with business necessity," and thus violates Title VII.

Case is currently in discovery.

Current FCRA Litigation

Hunter v. First Transit, Inc., Case No. 1:09-cv-06178 (N.D. Ill., filed October 5, 2009). Plaintiff is represented by Matthew Piers, Christopher Wilmes, Cristina Siepel, Joshua Karsh, and Kalman Resnick of Hughes Socol Piers Resnick & Dym, Ltd. Defendant is represented by James McKenna, Peter Bulmer, and Jason Selvey of Jackson Lewis, LLP.

On October 5, 2009, a class action lawsuit was filed against First Transit, one of the nation's largest transit providers, for violations of the Fair Credit Reporting Act (FCRA). The suit alleges that Defendant terminated or denied employment to class members in reliance on information contained in consumer reports without first providing class members with a pre-adverse action disclosure, including a copy of the report and information of the individual's rights under FCRA, and an opportunity to dispute the accuracy of the reported information.

Consolidated with First Student case and recently settled the case for \$5.9 million. A fairness hearing is scheduled for August 1, 2011.

Joshaway v. First Student, Inc., Case No. 2:09-cv-02244 (C.D. Ill., filed October 5, 2009). Plaintiff is represented by Kalman Resnick, Matthew Piers, Christopher Wilmes, Cristina Siepel, and Joshua Karsh of Hughes Socol Piers Resnick & Dym, Ltd. Defendant is represented by Peter Bulmer, James McKenna, and Joshua Selvey of Jackson Lewis LLP.

Class action lawsuit filed on October 5, 2009 in the Central District of Illinois and transferred to the Northern District on November 1, 2010.

Consolidated with First Transit case and recently settled for \$5.9 million. A fairness hearing is scheduled for August 1, 2011.

Ryals v. HireRight Solutions, Inc., et al., Case No. 3:09-cv-00625 (E.D. Va., filed October 5, 2009). Plaintiff is represented by Leonard Bennett and Matthew Erausquin of Consumer Litigation Associates PC, Anthony Pecora, Dennis O'Toole, and Matthew Dooley of Stumphauzer, O'Toole, McLaughlin, McGlamery & Loughman, and Christopher North. Defendant is represented by Amy Davis, Dane Butswinkas, Daniel Shanahan, and Frank Bowman of Williams & Connolly LLP.

Class action lawsuit filed on October 5, 2009. Its class claims alleged that HireRight and its predecessor USIS violated Section 1681k of FCRA by failing to notify the subject at the time when it issued criminal background reports, and Section 1681i by imposing obstacles and delays to reinvestigations following consumer disputes.

Consolidated with Smith v. HireRight and Henderson v. HireRight and recently settled.

Smith v. HireRight Solutions, Inc., et al., Case No. 4:10-cv-444 (N.D. Okla., filed July 7, 2010). Plaintiff is represented by Sharon Dietrich and Janet Ginzberg of Community Legal Services, Inc., James Francis of Francis & Mailman PC, and David Searles of Donovan Searles, LLC. Defendant is represented by Matthew Hank, Robert Drake, Rod Fliegel, and William Simmons of Littler Mendelson.

On December 17, 2009, a class action suit was filed in Philadelphia against HireRight, one of the largest providers of consumer reports, and its predecessor USIS. It alleged that Defendants' practice of duplicate reporting of criminal cases was a violation of Section 1681e(b) of FCRA by failing to utilize procedures designed to assure maximum possible accuracy, and Section 1681k by failing to maintain strict procedures to assure that the information is complete and up to date. It also alleged violation of Section 1681k by failure to provide contemporaneous notice of providing a report to an employer.

On June 7, 2010, Defendant's motion to transfer the case to Oklahoma was granted.

Consolidated with Henderson v. HireRight and Ryals v. HireRight and recently settled.

Henderson v. HireRight Solutions, Inc., et al., Case No. 4:10-cv-443 (N.D. Okla., filed February 1, 2010). Plaintiff is represented by Sharon Dietrich and Janet Ginzberg of Community Legal Services, Inc., James Francis of Francis & Mailman PC, and David Searles of Donovan Searles, LLC. Defendant is represented by Matthew Hank, Robert Drake, Rod Fliegel, and William Simmons of Littler Mendelson.

The lawsuit alleged that Defendants' practice of reporting criminal cases that had been expunged was a violation of Section 1681e(b) of FCRA by failing to utilize procedures designed to assure maximum possible accuracy, and Section 1681k by failing to maintain strict procedures to assure that the information is complete and up to date. It also alleged violation of Section 1681k by failure to provide contemporaneous notice of providing a report to an employer.

Complaint filed in Philadelphia on February 1, 2010. Case transferred to Oklahoma on July 13, 2010.

Consolidated with Ryals v. HireRight and Smith v. HireRight and recently settled.

Williams v. Prologistix, Case No. 1:10-cv-00956 (N.D. Ill., filed February 11, 2010). Plaintiff is represented by Matthew Piers and Christopher Wilmes of Hughes Socol Piers Resnick & Dym, Ltd. Defendant is represented by Michael Cramer and Michael Ray of Ogletree, Deakins, Nash, Smoak, & Stewart, PC.

A class action suit was filed on February 11, 2010 alleging violations of the Fair Credit Reporting Act (FCRA). Plaintiff was not provided a pre-adverse action disclosure with a copy of the consumer report, a description of his rights under FCRA, or a pre-adverse action opportunity to dispute the accuracy of the reported information.

Motion to certify class was granted on January 27, 2011. Case is currently in discovery.

Recent NY Attorney General Settlements

In the Matter of the Investigation of Andrew M. Cuomo, Attorney General of the State of New York, of RadioShack Corporation, AOD No. 09-148 (November 20, 2009).

Settlement agreement arising from the New York Attorney General's investigation of "whether RadioShack unlawfully rejected the employment applications and withdrew conditional offers of employment of persons based on real or perceived criminal records histories (1) that could not be lawfully considered for employment purposes; and (2) that RadioShack improperly determined were directly related the job duties or created an unreasonable risk to persons or property without considering a number of factors required by New York ... Law."

In the Matter of the Investigation of Andrew M. Cuomo, Attorney General of the State of New York, of ChoicePoint Workplace Solutions, Inc.; ChoicePoint Precision Marketing LLC; ChoicePoint Public Records, Inc.; and ChoicePoint Services, Inc., AOD No. 09-165 (December 17, 2009).

Settlement agreement arising from the New York Attorney General's investigation of whether ChoicePoint violated federal and state law by "unlawfully aided and abetted employers in New York State who exclude and/or excluded applicants from consideration for employment (1) based upon information that could not be lawfully considered for employment purposes; and (2) without considering a number of factors required by New York Correction Law."

In the Matter of the Investigation of Andrew M. Cuomo, Attorney General of the State of New York, of ARAMARK Corporation, AOD No. 09-164 (February 2, 2010).

Settlement agreement arising from the New York Attorney General's investigation of "whether ARAMARK unlawfully rejected employment applications based on criminal records histories without considering a number of factors required by New York ... Law."

In the Matter of the Investigation of Andrew M. Cuomo, Attorney General of the State of New York, of ABM Industries Incorporated, AOD No. 10-173 (December 23, 2010).

Settlement agreement arising from the New York Attorney General's investigation of "whether ABM unlawfully rejected employment applications based on criminal record histories without considering a number of factors required by New York ... Law."

- The U.S. Equal Employment Opportunity Commission

EEOC Policy Statement on the Issue of Conviction Records under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (1982). (2/4/87)

CONVICTION RECORDS

At the Commission meeting of November 26, 1985, the Commission approved a modification of its existing policy with respect to the manner in which a business necessity is established for denying an individual employment because of a conviction record. The modification, which is set forth below, does not alter the Commission's underlying position that an employer's policy or practice of excluding individuals from employment on the basis of their conviction records has an adverse impact on Blacks⁽¹⁾ and Hispanics⁽²⁾ in light of statistics showing that they are convicted at a rate disproportionately greater than their representation in the population. Consequently, the Commission has held and continues to hold that such a policy or practice is unlawful under Title VII in the absence of a justifying business necessity.⁽³⁾

However, the Commission has revised the previous requirements for establishing business necessity⁽⁴⁾ in the following manner. Where a charge involves an allegation that the Respondent employer failed⁽⁵⁾ to hire or terminated the employment of the Charging Party as a result of a conviction policy or practice that has an adverse impact on the protected class to which the Charging Party belongs, the Respondent must show that it considered these three factors to determine whether its decision was justified by business necessity:

1. The nature and gravity of the offense or offenses;
2. The time that has passed since the conviction and/or completion of the sentence; and
3. The nature of the job held or sought.⁽⁶⁾

This procedure condenses the Commission's previous standard for business necessity, substituting a one-step analysis for the prior two-step procedure and retaining some but not all of the factors previously considered.⁽⁷⁾ The modification principally eliminates the need to consider an individual's employment history and efforts at rehabilitation. However, consideration is still given to the job-relatedness of a conviction, covered by the first and third factors, and to the time frame involved, covered by the second factor. Moreover, the first factor encompasses consideration of the circumstances of the offense(s) for which an individual was convicted as well as the number of offenses.

The Commission continues to hold that, where there is evidence of adverse impact, an absolute bar to employment based on the mere fact that an individual has a conviction record is unlawful under Title VII.⁽⁸⁾ The Commission's position on this issue is supported by the weight of judicial authority.⁽⁹⁾

It should be noted that the modified procedure does not affect charges alleging disparate treatment on a prohibited basis in an employer's use of a conviction record as a disqualification for employment. A charge brought under the disparate treatment theory of discrimination is one where, for example, an employer allegedly rejects Black applicants who have conviction records but does not reject similarly situated White applicants.

With respect to conviction charges that are affected by this modification--that is, those raising the issue of adverse impact--Commission decisions that apply the previous standard are no longer available as

Commission decision precedent for establishing business necessity. To the extent that such prior decisions are inconsistent with the position set forth herein, they are expressly overruled.

Questions concerning the application of the Commission's revised business necessity standard to the facts of a particular charge should be directed to the Regional Attorney for the Commission office in which the charge was filed.

1. See, e.g., Commission Decision No. 72-1497, CCH EEOC Decisions (1973) ¶ 6352, and Commission Decision Nos. 74-89, 78-10, 78-35, and 80-10, CCH EEOC Decisions (1983) ¶¶ 6418, 6715, 6720, and 6822, respectively.

2. See Commission Decision No. 78-03, CCH EEOC Decisions (1983) ¶ 6714.

3. See, e.g., Commission decisions cited supra nn.1-2.

4. Prior to this modification, for an employer to establish a business necessity justifying excluding an individual from employment because of a conviction record, the evidence had to show that the offense for which the applicant or employee was convicted was job-related. If the offense was not job-related, a disqualification based on the conviction alone violated Title VII. However, even if the offense was determined to be job-related, the employer had to examine other relevant factors to determine whether the conviction affected the individual's ability to perform the job in a manner consistent with the safe and efficient operation of the employer's business. The factors identified by the Commission to be considered by an employer included:

1. The number of offenses and the circumstances of each offense for which the individual was convicted;
2. The length of time intervening between the conviction for the offense and the employment decision;
3. The individual's employment history; and
4. The individual's efforts at rehabilitation.

See, e.g., Commission Decision No. 78-35, CCH EEOC Decisions (1983) ¶ 6720.

Thus, under the previous procedure, business necessity was established by means of a two-step process: first, by showing that the conviction was job-related; then, by separately demonstrating that the conviction would affect the individual's ability to safely and efficiently perform the job upon consideration of the four factors enumerated above.

5. Although the term "employer" is used herein, the Commission's position on this issue applies to all entities covered by Title VII. See, e.g., Commission Decision No. 77-23, CCH EEOC Decisions (1983) ¶ 6710 (union's policy of denying membership to persons with conviction records unlawfully discriminated against Blacks).

6. The Commission's revised business necessity analysis follows a decision by the United States Court of Appeals for the Eighth Circuit in the Green v. Missouri Pacific Railroad Company case. Green, 523 F.2d 1290 (8th Cir. 1975), is the leading Title VII case on the issue of conviction records. In that case, the court held that the defendant's absolute policy of refusing employment to any person convicted of a crime other than a minor traffic offense had an adverse impact on Black applicants and was not justified by business necessity. On a second appeal in that case, following remand, the court upheld the district court's injunctive order prohibiting the defendant from using an applicant's conviction record as an absolute bar to employment but allowing it to consider a prior criminal record as a factor in making individual hiring decisions as long as the defendant took into account "the nature and gravity of the offense or offenses, the time that has passed since the conviction and/or completion of sentence, and the nature of the job for which the applicant has applied." Green v. Missouri Pacific Railroad Company, 549 F.2d 1158, 1160 (8th Cir. 1977).

7. See discussion supra n.4.

8. See, e.g., Commission Decision No. 78-35, CCH EEOC Decisions (1983) ¶ 6720.

9. See Green, 523 F.2d at 1298; Carter v. Gallagher, 452 F.2d 315 (8th Cir. 1971), cert. denied, 406 U.S. 950 (1972) (brought under 42 U.S.C. §§ 1981 and 1983); and Richardson v. Hotel Corporation of America, 332 F. Supp. 519 (E.D. La. 1971), aff'd mem., 468 F.2d 951 (5th Cir. 1972). See also Hill v. United States Postal Service, 522 F. Supp. 1283 (S.D. N.Y. 1981); Craig v. Department of Health, Education, and Welfare, 508 F. Supp. 1055 (W.D. Mo. 1981); and Cross v. United States Postal Service, 483 F. Supp. 1050 (E.D. Mo. 1979).

This page was last modified on September 11, 2006.



[Return to Home Page](#)



[Switch Client](#) | [Preferences](#) | [Help](#) | [Sign Out](#)[My Lexis™](#)[Search](#)[Get a Document](#)[Shepard's®](#)[More](#)[History](#)[Alerts](#)FOCUS™ Terms Search Within

Advanced...

[View
Tutorial](#)Source: **Wisconsin > Search Law Reviews & Journals > US & Canadian Law Reviews,
Combined**

Terms: Dev! w/s Pager (Suggest Terms for My Search)

Focus: **Devah! w/s Pager** (Exit FOCUS™)☐ Select for FOCUS™ or Delivery*623 Annals 195, **

Copyright (c) 2009 The American Academy of Political and
Social Science
The Annals of The American Academy of Political and
Social Science

May, 2009

623 Annals 195

LENGTH: 7198 words

IN THIS ISSUE: RACE, CRIME, AND JUSTICE: CONTEXTS AND COMPLEXITIES; SPECIAL
EDITORS: LAUREN J. KRIVO, RUTH D. PETERSON: SECTION THREE: Consequences:
Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with
Criminal Records

NAME: By **DEVAH PAGER**, BRUCE WESTERN, and NAOMI SUGIE

BIO: NOTE: Research for this article was supported by grants from the National Science
Foundation, the National Institute of Justice, and the JEHT Foundation. We gratefully
acknowledge the generous assistance of Commissioner Patricia Gatling and the New York
Commission on Human Rights and the contributions of Glenn Martin of the Fortune Society.

Devah Pager is an associate professor of sociology and a faculty associate of the Office of
Population Research at Princeton University. Her research focuses on institutions affecting racial
stratification, including education, labor markets, and the criminal justice system. Her recent
book, *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration* (University of
Chicago 2007), describes the results from a field experiment investigating the racial and
economic consequences of large-scale imprisonment for contemporary U.S. labor markets.

Bruce Western is a professor of sociology and director of the Program in Inequality and Social
Policy at Harvard University. His research interests are in the areas of social stratification and
inequality, political sociology, and statistical methods. His latest book, *Punishment and
Inequality in America* (Russell Sage Foundation 2006), examines the causes, scope, and
consequences of the growth of the U.S. penal system.

Naomi Sugie is a PhD student in sociology and social policy at Princeton University. Before

SB 207
file

beginning her graduate studies, she worked at the Vera Institute of Justice on child welfare, policing, and jail reentry issues. She is coauthor of a book profiling working mothers living in New York City shelters and is currently investigating the economic consequences of incarceration on families of offenders.

LEXISNEXIS SUMMARY:

... :201;15125;93120320115a;1 **FIGURE 1 THE EFFECT OF RACE AND CRIMINAL BACKGROUND ON EMPLOYMENT OPPORTUNITIES** The importance of personal contact One of the ways that job applicants can build rapport with employers is through the interview process. ... Particularly for applicants with criminal records, the interview provides a key opportunity to assuage employers' concerns. ... Within seconds, the many signals pointing to a job opportunity (help-wanted sign, "great part-time positions," etc.) disappeared, as the employer decided he was no longer hiring, or at least not hiring Kevin. ... **Conclusion** The results of this study show a strong reluctance among employers to hire applicants with criminal records, especially when considering black ex-offenders. ... Despite the many appealing personal characteristics of our testers, employers often appear to base their decisions on the more salient markers of race and criminal background. ... Furthermore, although the distribution of reactions from employers is roughly similar among black and white applicants with criminal backgrounds, actual employment outcomes differ for those who have little opportunity to discuss their criminal record: among whites, these limited interactions are not overly consequential; whereas for blacks, job opportunities appear substantially reduced.

HIGHLIGHT: In this article, the authors report the results of a large-scale field experiment conducted in New York City investigating the effects of race and a prison record on employment. Teams of black and white men were matched and sent to apply for low-wage jobs throughout the city, presenting equivalent resumes and differing only in their race and criminal background. The authors find a significant negative effect of a criminal record on employment outcomes that appears substantially larger for African Americans. The sequence of interactions preceding hiring decisions suggests that black applicants are less often invited to interview, thereby providing fewer opportunities to establish rapport with the employer. Furthermore, employers' general reluctance to discuss the criminal record of an applicant appears especially harmful for black ex-offenders. Overall, these results point to the importance of rapport-building for finding work, something that the stigmatizing characteristics of minority and criminal status make more difficult to achieve.

Keywords: race; criminal record; discrimination; employment; low-wage labor markets

TEXT:

[*195] Roughly seven hundred thousand inmates are increase from from prison each year, a fivefold increase from the late 1970s (Bureau of Justice Statistics 2004). Consisting mostly of young men with less than a college education, about two-thirds of ex-prisoners remain out of work a year after prison release, and 60 percent are rearrested within three years (Bureau of Justice Statistics 2002; Petersilia 2003; Travis 2005). Those that can find steady work are less likely to return to prison and are better-equipped to assume the mainstream social roles of spouse and parent (Lopoo and Western 2005; Sampson and Laub 1993; Uggen 2000). Unfortunately, the goal of stable employment remains elusive for a large fraction of ex-offenders. The challenges of reentering society from prison are compounded for many by the racial stigma **[*196]** produced by prejudice and discrimination. Black men are about six times more likely than whites to be sent to prison and are likewise overrepresented among released prisoners (Bureau of Justice Statistics 2004). Some evidence suggests that blacks may also pay a higher penalty for having a criminal record relative to other-wise similar whites (Pager 2007). Given these patterns, understanding the nature of criminal and racial stigma--and the combination of the two--represents an important goal for research and policy.

We study the effects of race and a prison record on employment with a large-scale field experiment conducted in New York City. In this study, teams of black and white men were matched and sent to apply for hundreds of low-wage jobs throughout the city, presenting

equivalent resumes and differing only in their race and criminal background. These results build upon our earlier work (Pager 2003), pointing to a robust interaction between race and criminal background. Furthermore, this research allows us to look with more detail into the interpersonal contact between job seekers and employers for some insight into the process by which race and criminal background translate into labor market disadvantages.

We find a significant negative effect of a criminal record on employment out-comes, and one that appears substantially larger for African Americans. The sequence of interactions preceding hiring decisions suggests that black applicants are less often invited to interview, thereby providing fewer opportunities to establish rapport with the employer. Furthermore, employers' general reluctance to discuss the criminal record of an applicant appears especially harmful for black ex-offenders. Overall, these results point to the importance of rapport-building for finding work, something that the stigmatizing characteristics of minority and criminal status make more difficult to achieve.

Stigma, Rapport, and the Job-Matching Process

Little is known about the process by which employers select workers. Economic models of employment often assume that the productivity of prospective workers can be readily assessed, but in reality, employers often face acute information [*197] shortages in evaluating new hires. Particularly in low-wage job markets, where few concrete skills or experience are required, employers typically rely on limited information provided on a resume or gathered during a cursory interview. Indeed, many employers claim to base hiring decisions on a "gut feeling" about candidates (Moss and Tilly 2001, 209), the source of which remains largely unknown.

Where employers are often looking for applicants with whom they feel an intuitive rapport, applicants with stigmatizing characteristics (such as minority status or a criminal background) may face special barriers to establishing such a rapport, even if possessing otherwise highly appealing characteristics. Indeed, a wealth of social psychological evidence indicates that negative stereotypes compromise interactions and undermine the ability of interaction partners to demonstrate traits that are inconsistent with stereotypical expectations. Experimental evidence suggests that people ask fewer questions of stereotyped targets (Trope and Thomson 1997) and selectively notice and retain information consistent with the stereotypes while ignoring information that is inconsistent with initial expectations (Fiske and Neuberg 1990). Although the effects of stereotypes have been shown to weaken as personalizing information becomes available (Allport 1954; Anderson 1999; Fiske and Neuberg 1990), perceivers are less likely to seek out or retain individuating information when confronted with members of stigmatized social groups.

It is easy to imagine how this process might play out in employment settings. In cases where employers are confronted with stereotyped applicants, they may be more likely to make negative attributions about the individual without probing deeper into the specific characteristics of the applicant in question. Employers may be less likely to grant an interview to such applicants and, during the course of an interview, may ask fewer questions or provide less opportunity for the applicant to present his or her profile in the best light (e.g., Word, Zanna, and Cooper 1974). While in some cases these dynamics may result from overt prejudice, they can also come from simple discomfort or more subtle, unconscious biases (Crocker, Major, and Steele 1998).

Most of the research on stereotyping and social interaction focuses on racial differences. In contemporary low-wage urban labor markets, a criminal conviction represents another source of disadvantage that may contribute to the differential treatment of young low-skill men. In fact, one might expect the effect of a criminal conviction to be more disqualifying for job applicants than racial stigma because of its direct association with negative behaviors--like dishonesty, violence, or unreliability--that suggest poor job performance on the job. On the other hand, criminal history is a legitimate topic of discussion in a job interview, with job

applications commonly asking about criminal backgrounds and employers often discussing criminal convictions with job seekers. These opportunities for candid discussion may provide chances to defuse the effect of a criminal background, a strategy less available in the case of racial stigma, where prevailing norms discourage open conversations about race. Furthermore, relatively little is known about how various stigmatizing characteristics may interact to produce new forms of labor market disadvantage. How do employers' assumptions or concerns about black applicants overlap with or intensify their concerns about ex-offenders? In what ways do the barriers facing one applicant type (e.g., a black [*198] applicant) contribute to the disadvantages experienced by those with additional stigmatizing characteristics (e.g., a black ex-offender)?

These ideas were previously examined in Pager's (2003) audit study of entry-level jobs in Milwaukee. Using an audit methodology, replicated in this article, two-person teams of trained testers were assigned resumes with equivalent schooling and work histories. Within each team, one tester was randomly assigned a criminal record. The applicant pairs applied for entry-level jobs, measuring the extent to which race and a criminal background represented barriers to employment. Milwaukee employers strongly disfavored job seekers with criminal records, and the penalty of the criminal record was especially large for blacks. These results suggested that minority status compounds the stigma of a criminal record, though the mechanism through which this stigma is exerted remained unobserved.

We replicate the design of the Milwaukee study in New York City, and look beyond the general patterns of employment to investigate the sequence of events that precede an ultimate hiring decision. In particular, we examine the patterns of interaction (quantity and kind) experienced by black and white job seekers and their relationship to ultimate hiring outcomes. By studying the hiring process through this lens, we can better understand how rapport-building is facilitated or compromised as a function of an applicant's race or criminal background.

Data and Methods

The New York City Hiring Discrimination Study sent matched teams of testers to apply for 250 real entry-level jobs throughout New York City over nine months in 2004. The testers were well-spoken, clean-shaven young men, ages twenty-two to twenty-six. Most were college-educated, between 5 feet 10 inches and 6 feet in height, and recruited in and around New York City. They were matched on the basis of their verbal skills, interactional styles (level of eye-contact, demeanor, and verbosity), and physical attractiveness. Testers were assigned fictitious resumes indicating identical educational attainment and comparability in quality of high school, work experience, and neighborhood of residence. Resumes were prepared in different fonts and formats and randomly varied across testers, with each resume used by testers from each race group. Testers presented themselves as high school graduates with steady work experience in entry-level jobs. Finally, the testers passed through a common training program to ensure uniform behavior in job interviews. While in the field, they dressed similarly and communicated with teammates by cell phone to forewarn one another of unusual interview situations.

To study employers' responses to applicants with criminal records, we fielded two teams of testers. The first team paired two white applicants, one presenting a criminal record and the other a clean record. The second team paired two similar black applicants. None of the testers had real criminal backgrounds, but presented fictitious records to employers. Testers rotated which member of the pair presented criminal background information, which allowed for control of [*199] within-pair differences that might affect hiring outcomes. The criminal record was typically disclosed in answer to the standard question on job applications: "Have you ever been convicted of a crime? If yes, please explain." When asked, testers were instructed to reveal that they were recently released from prison after serving eighteen months for a drug felony (possession with intent to distribute cocaine). Following Pager (2003), the tester's criminal record was also signaled on his resume by listing work experience at a state prison and by listing a parole officer as a reference.¹

For both teams, employers were sampled from job listings for entry-level positions, defined as jobs requiring no previous experience and no education greater than high school. Jobs included restaurant positions, retail sales, warehouse work, couriers, telemarketers, customer service positions, clerical workers, stockers, movers, delivery drivers, and a wide range of other low-wage positions. Job listings were randomly drawn each week from the classified sections of the *New York Times*, *Daily News*, *New York Post*, *Village Voice*, and craigslist. The broad range of job listings allows for extensive coverage of the entry-level labor market in New York. From the available population of job listings, we took a simple random sample of advertisements each week. Testers in each team applied to each job within a twenty-four-hour period, randomly varying the order of the applicants. Our dependent variable recorded positive responses in which a tester was either offered a job or called back for a second interview. Callbacks were recorded by voice mail boxes set up for each tester. For more information about the research design and methods, see Pager, Western, and Bonikowski (2009).

Results

Two key findings emerge from the audit results. First, as in earlier research, a criminal record has a significant negative impact on hiring outcomes, even for applicants with otherwise appealing characteristics. Across teams, a criminal record reduces the likelihood of a callback or job offer by nearly 50 percent (28 vs. 15 percent). Second, the negative effect of a criminal conviction is substantially larger for blacks than for whites. As shown in Figure 1, the magnitude of the criminal record penalty suffered by black applicants (60 percent) is roughly double the size of the penalty for whites with a record (30 percent). This interaction between race and criminal record is large and statistically significant, which indicates that the penalty of a criminal record is more disabling for black job seekers than whites. The intensification of the criminal record effect among blacks is consistent with earlier audit research (Pager 2007) and points to special barriers facing blacks in the transition from prison to work. Employers, already reluctant to hire blacks, appear particularly wary of blacks with known criminal histories. In the remainder of this article, we examine the sequence of interactions that lead to this ultimate pattern of results. As job applicants pass from the point of application to an interview, and from an interview to an offer, we witness some of the underlying dynamics that may shape employers' decision making and result in the systematic disadvantage of blacks with criminal records. **[*200]** FIGURE 1 THE EFFECT OF RACE AND CRIMINAL BACKGROUND ON EMPLOYMENT OPPORTUNITIES

The importance of personal contact

One of the ways that job applicants can build rapport with employers is through the interview process. Though typically brief for low-wage jobs, interviews provide opportunities for applicants to demonstrate communication skills and commitment to work. For employers concerned about soft skills not reflected on a resume, even a brief interaction can provide important information about the capacity of an applicant. Especially in the case of stigmatized applicants, personal contact may serve an important means of counteracting employers' initial stereotypes. As employers learn more about the person behind the category (e.g., ex-offender, black man), their comfort level with the applicant in question is likely to increase.

The evidence from our audit study indeed confirms that personal contact with an employer has a substantial impact on hiring outcomes. Restricting our sample to cases in which both team partners had the same level of contact with an employer, we find that testers who interact with employers are between four and six times more likely to receive a callback or job offer than those who do not; and personal contact reduces the effect of a criminal record by roughly 15 percent (see the appendix). ² Personal contact thus seems to play an important role in mediating the effects of criminal stigma in the hiring process. At the same time, **[*201]** this pathway to rapport-building may not be equally available to all applicant types. Although all testers in the study were instructed to request to speak to the person in charge of hiring and to proceed as far as they could in the interview process, some met with more success than others. In particular, race has a significant effect on the likelihood of personal contact between

applicant and employer, with blacks roughly a third less likely to have the opportunity to interact with employers ($p < .001$). Employers appear to be screening on the basis of race in deciding whom to allow to proceed from application to interview (see Figure 2). By contrast, the effect of a criminal record has no discernable impact on the likelihood of interaction. Given that a criminal record is typically unobserved until an employer has spoken with the candidate and/or reviewed his materials, it is not surprising that this is typically not the basis of an employer's decision to interview.

The barriers that emerge in this very early stage of hiring are likely consequential for the disparities observed. With fewer opportunities for face-to-face contact with employers, black applicants are limited in their ability to demonstrate specific skills and attributes. Particularly in the case of black ex-offenders, for whom employers' concerns are likely particularly strong, limits on interaction reduce opportunities to contextualize a conviction or to demonstrate evidence of successful rehabilitation.

Quality of the interaction

Being granted an interview, or even a conversation, with the person in charge of hiring provides an important opportunity for establishing rapport. But the nature of that rapport also hinges upon what takes place during the interaction. Particularly for applicants with criminal records, the interview provides a key opportunity to assuage employers' concerns. In this respect, our testers had [*202] mixed experiences. The testers had a set script that they were instructed to convey to employers about their prior drug conviction and their commitment to rehabilitation. In some cases, employers were extremely receptive to discussing these issues, while in others, employers seemed uncomfortable or unwilling to broach the subject. In one interaction, for example, an employer inquired about the most recent job listed on Kevin's resume, which was at a correctional facility. Kevin reports,

I thought she was asking me what I did to get in there. I said, "It was for drug possession." She said, "No, not that. That's none of my business."

The employer then quickly moved on to discuss Kevin's previous work experience. It is unclear from this interaction what lingering doubts the employer may have had about Kevin's criminal background, but Kevin did not have the chance to explain further. FIGURE 2 THE LIKELIHOOD OF PERSONAL CONTACT WITH EMPLOYER, BY RACE AND CRIMINAL BACKGROUND

In another case, Anthony, an African American tester, reports,

As she looked over [my resume] I could barely hear her say, "Oh, I see." I don't know what it was in response to, but it was pretty quick so I would guess it was my conviction. . . . She then just looked up at me and said, "I'll give you a call." It seemed like she ended it a bit abruptly.

[*203] Some employers seemed uncertain about what was legally or socially appropriate to ask about prior convictions, and others seemed simply uncomfortable with the topic or considered it outside of the realm of employment-related concerns. In these cases, it is difficult to interpret the employers' response to the criminal background, and the applicant typically had less opportunity to account for the stigmatizing record or address employers' underlying concerns.

In other cases, employers' concerns about the criminal record are more transparent. Worries about legal liability, for example, came up in this interview with Chad, an African American tester:

When I finished the application I was interviewed by . . . a large white man with a thick mustache. He shook my hand, invited me to have a seat, and began to look over my resume. He said, "First, I need you to explain this . . . correctional facility and parole officer reference." I told him that I was convicted of a drug charge-- possession with intent to sell. "I can't hire you," he said. He went on to explain that a lot of things can happen and the liability is too great. He said, "Let's say you got into a fight with a guy and you were in the right. The police come and run your background, yes, now you're in the wrong, even though you may have been right. It wouldn't be good for you and it wouldn't be good for us. I couldn't hire you."

Sometimes, employers' negative reactions are less explicit, but their concern over the prospect of hiring an ex-offender is clear nevertheless. For example, Kevin, a white tester, reports his experience at a specialty foods store:

I noticed a sign on the door which read, "Help wanted, part-time, some experience." . . . A few minutes later a man came out. . . . He told me that he had a great part-time position [and] there could be some full-time positions opening [in] a while. He pointed at my... application . . . and said, "Why did you write parole?" I said that I was currently on parole. [He] then looked me in the eye and said, "Did you commit a crime?" I said yes. He then looked down at the sheet and said that he really wasn't hiring right now.

Kevin's conviction record seemed to catch the employer by surprise. Within seconds, the many signals pointing to a job opportunity (help-wanted sign, "great part-time positions," etc.) disappeared, as the employer decided he was no longer hiring, or at least not hiring Kevin.

Despite these unpleasant experiences, not all employers reacted negatively upon noticing a criminal record. In fact, on a number of occasions, testers encountered extremely sympathetic employers. For example, Kevin records his experience in applying for a job at a car dealership:

He saw the correctional facility [on my resume] and said, "We're an Equal Opportunity Employer. We don't care about this. About 75 percent of the people in this business have a record anyway."

Kevin describes the end of the interview:

He said he was going to call me. Then he said, "I know what you are thinking. This asshole is never going to call me. I will call you. Not because you have good sales experience but just because you need a chance."

[*204] This employer appears sympathetic to the plight of an ex-offender looking for work. In fact, the employer seems willing to privilege the desire to give Kevin a second chance over his need for workers with relevant experience. This employer called Kevin about the job two days later.

To be sure, many of the sympathetic responses received by testers in the criminal record condition simply reflect the preexisting attitudes of employers, independent of the interaction. Employers who feel sympathetic toward exoffenders are likely to express such sympathies in

conversations with ex-offender applicants. But above and beyond employers' predispositions, we observe some evidence that the interaction itself can work to clarify and shape the employers' interpretation of the criminal record. For employers who have ambivalent feelings about hiring ex-offenders, or who have anxieties about particular kinds of ex-offenders, interaction with the candidate allows the employer to interrogate these concerns directly. In one case, for example, Keith, a white tester, has an extended conversation with the manager at a furniture rental store:

After finishing the application I brought it back to [the employer], along with my resume. He invited me to take off my backpack and have a seat. He began looking over the res./app. and his first question was, "Were you selling or using?" I told him, "Using. It was a minor thing. A stupid mistake and I'm now clean." He was sympathetic saying, "I gotcha. It was a question, not a criticism." [The employer then asked him a few questions about his driver's license and driving history.] He invited me to sit with him out at the door while he smoked. When we got there he informally sat me down and lit up. He turned to me and said, "So why should I hire you instead of one of the forty-seven other guys I got coming to me?" I told him, "I'll work hard for you, bust my ass. It's a condition of my parole that I work." He said, "But do you want to work?" I answered, "Yeah, I'm looking to get back into society . . ." He interrupted, "You want to get your shit together." "Yeah," I said. . . . The conversation ended with him saying, "My inclination is to say yes" (regarding hiring me). He added, "My bosses, the owners, are a little more close-minded than me. . . . Look, you paid, you don't have to pay for it the rest of your fucking life. People make mistakes. I'll get you my card."

[*205] This employer expresses some open-mindedness about Keith's criminal background from the start ("It was a question, not a criticism") but also wants evidence that taking a chance on Keith would be warranted amid the large pool of candidates. The conversation seems to provide important reassurances to the employer, who ends the interview with an encouraging note.

In another case, Anthony, an African American tester, discusses his criminal background with the manager of a health care company:

[The employer] said, "I'm sure people must take double-takes [when they see the correctional facility]." I replied, "Yeah, that does happen sometimes." He told me that he knows the law, says I have to provide that information to a possible employer, but not to worry because he has had other employees who have "fucked up in the past." He said, "I feel safer knowing you're telling me up front than me having to wonder if you're gonna come here and tear shit up. Let's face it, interviews are bullshit. You can't know someone from a five-minute interview. So let's cut to the chase."

"How long were you in?" (Eighteen months)

"When'd you get out?" (A few weeks ago)

"Ok, so you're fresh out and trying to get back on track?" (Yes, I am)

"What'd you do?" (I had a small amount of drugs on me)

"So you were guilty?" (Yes, I was young and made some mistakes but I learned from them and am completely drug-free)

[Jokingly] "So you weren't innocent?" (No, it was my fault.)

"Don't worry, I find that those that messed up and want to set things right are better workers."

In this interaction the employer does acknowledge certain concerns about hiring someone with a record but seems to respond favorably to Anthony's honesty and, after learning more of the details of Anthony's background, offers him an encouraging response.

Thus, while a criminal record has a significant negative impact on employment prospects of job seekers, some employers are willing to look beyond the conviction, or to downplay its significance in the context of other information acquired during the interview. In these cases, a kind of empathy seems to develop between employer and job seeker, with goodwill often translating into a substantial improvement in employment prospects. Of course, the types of individualizing information employers look to are not always in the applicants' control. Race and ethnicity, in particular, appear to affect some employers' interpretations of the seriousness of the criminal background and the depth of empathy generated by the interaction. For example, Keith, a white tester, reports on his interaction with the manager of a restaurant supply company:

[The employer] sat me down and went over my application and resume. He first saw [the correctional facility] and asked about my working there. I told him that I had been incarcerated. In a lower voice he said, "What did you do?" I told him about my being caught with cocaine, my time served, my current sobriety, which my parole officer could verify, the fact that it was a mistake and I had learned my lesson. At this point he said, "Zarriello . . . what is that, Italian?" I said, "Yes," and could immediately tell he was [*206] now on my side. He asked more questions like, "What happened exactly?" I told him I was in a car with some ex-friends that was pulled over and we were all searched and they found six grams in my possession. He asked, "You come from a nice Italian family? What do your parents think about this?" I told him they were disappointed but thought I had learned my lesson. He told me that "people make mistakes." He went on to say, "It would make me feel good to help a guy like you, more than just the rewards of doing my job, but good as a person if I can help someone."

This employer's emphasis on the value of second chances and the desire to help a young ex-offender get back on his feet are similar to sympathetic reactions we heard from other employers in interactions with both black and white testers. Here, though, we see the employer explicitly invoke Keith's ethnic background as the basis for solidarity and as a key turning point in the employer's reaction to the criminal background information, as Keith moves from being viewed as an ex-offender to someone from a "nice Italian family."

In a similar case, Kevin applied for a job with a staffing agency and was asked a number of detailed questions about his criminal history. Toward the end of the interview, Kevin reports,

[The employer] said, "Do you have Irish in you?" I said, "On my mother's side I do." He asked what else I have. I said, "French." He was delighted! He said he has Irish and French in him, too. He said we could be related because we are both from FrIreland [France and Ireland]. I said yes and laughed with him.

Kevin concluded his report by offering his impression of the interaction: "He really wanted to

help me out and seemed to be going to great lengths to find me a job."

Once again, the ethnic solidarity expressed in this interaction appears to help establish a positive rapport between candidate and employer. Conversations with employers thus simultaneously offer the opportunity to present personalizing information about the applicant's work ethic and commitment to rehabilitation but may also generate new bases for categorical distinctions.

Employers thus appear to offer a range of reactions to ex-offender applicants, varying in terms of employers' comfort level in discussing criminal backgrounds and their evaluative assessments of this information. To examine employers' responses more systematically, we coded tester interactions with employers according to the nature of their response to the criminal record information, based on narrative data provided by the testers. Focusing on testers with criminal records who had personal contact with employers (roughly 50 percent of all tests), we code responses as "ambiguous or no response," "negative response," and "sympathetic response."

Looking to the results in Figure 3, we see that overall employers are most likely to avoid talking about the conviction altogether. Between two-thirds and three-quarters of employers either avoided the subject of the criminal record altogether or gave little indication of how they viewed the information. By contrast, less than 10 percent of employers made explicitly negative comments. Although the hiring outcomes from the audit study indicate a large negative impact of a criminal record on employers' evaluations, we see little of this reflected in their explicit comments to job applicants. If expressing a clear valence, employers are more likely to offer sympathetic reactions, with roughly 35 percent of employers coded as sympathetic toward the ex-offender applicant.³ We see some evidence that blacks are more likely to receive a negative response (6 vs. 3 percent) and less likely to receive a sympathetic response (30 vs. 36 percent), though these differences are not statistically significant. Overall, these results point to a reluctance among employers to address the criminal record issue head-on, or to reveal their reaction to the record to the applicant in question. Our final question, then, considers the extent to which these differential responses in interaction correspond to differences in hiring outcomes. **[*207]** FIGURE 3 EMPLOYER REACTION TO CRIMINAL RECORD, BY RACE OF APPLICANT

Relationship between type of interaction and employment outcomes

The nature of interaction between employer and applicant is significant primarily to the extent that it proves consequential for hiring. Matching interaction experiences with employment outcomes provides some leverage on the pathways through which ex-offenders find opportunity. Figure 4 presents the percentage of applicants with criminal records who received a callback or job offer, by race of the applicant and type of employer response. Not surprisingly, employment outcomes are most favorable among those who received a sympathetic response from employers. These employers are not simply paying lip service to the value of second chances but demonstrate an actual willingness to hire ex-offenders. Among those who receive sympathetic responses from employers, whites are more likely to receive an actual callback or job offer (42 vs. 32 percent), although this difference is not statistically significant. **[*208]** FIGURE 4 THE LIKELIHOOD OF A CALLBACK OR JOB OFFER, BY RACE AND INTERACTION TYPE

Showing even more consistency between interactions and outcomes, employers who express negative reactions to applicants with criminal records in no cases made offers or callbacks to these applicants. The group with less consistent results includes employers who offer no reaction or ambiguous reactions to the criminal background. Among these employers, we see a large racial difference in outcomes, with white applicants roughly three times more likely to receive a callback or job offer relative to blacks who have similar encounters (29 vs. 8 percent). Relative to those who receive a sympathetic response, the penalty associated with limited or no discussion about the criminal record is roughly 30 percent **[*209]** for whites; for blacks, this limited interaction appears far more consequential, resulting in 75 percent fewer callbacks or

job offers relative to those who received a sympathetic reaction. Though we cannot directly interpret employers' underlying reactions, this evidence is consistent with the role of stereotypes inhibiting the acquisition and impact of personalizing information. If employers who are concerned about the record among black applicants choose to remain silent about the issue, the applicant then has little opportunity to anticipate or address the employer's concerns. Where for white ex-offenders this reduced communication does not appear overly consequential, black ex-offenders seem to face substantially lower employment prospects as a result.

Conclusion

The results of this study show a strong reluctance among employers to hire applicants with criminal records, especially when considering black ex-offenders. Despite the many appealing personal characteristics of our testers, employers often appear to base their decisions on the more salient markers of race and criminal background. What is perhaps more noteworthy in these data relates to the cases in which testers with criminal backgrounds are given a chance at employment. Employment prospects improve significantly for applicants who have a chance to interact with the hiring manager, and more so among those who elicit sympathetic responses in the course of those interactions. Surely, some of this variation is attributable to preexisting characteristics and preferences of the employers, with little or no effect of personal contact. Employers who are eager to hire will be more likely to meet with applicants on the spot, and those who are sympathetic toward ex-offenders will be more likely to express such sentiments in the course of interaction. Still, we suspect that the interaction itself plays a nontrivial role in this hiring process. Employers have many reasons to be concerned about applicants with prior histories of incarceration. Concerns about theft, violence, and drug use are all relevant, not to mention the more mundane concerns over worker reliability and performance. Personal contact with an applicant cannot reveal all of these issues but can help to provide some signals as to the disposition of the applicant and can help the employer develop a "gut feeling" about whether this individual is likely to diverge from the stereotype of the ex-con.

Unfortunately, the ability to have such a hearing does not appear available to all applicants. Blacks are significantly less likely to be invited to interview by employers, offering them fewer opportunities to present indicators at odds with their stigmatized group membership. Furthermore, although the distribution of reactions from employers is roughly similar among black and white applicants with criminal backgrounds, actual employment outcomes differ for those who have little opportunity to discuss their criminal record: among whites, these limited interactions are not overly consequential; whereas for blacks, job opportunities appear substantially reduced.

[*210] These findings must be contextualized in light of the sampling design of the study, which focused exclusively on jobs obtained through formal classified listings. Given that many job seekers find employment through social networks and other informal channels, our analysis may understate opportunities for personal contact made possible through mediated contacts. However, evidence on social networks in employment suggests racialized consequences of these pathways as well, with blacks less likely to obtain quality leads to employment from their networks relative to similarly situated whites (cf. Royster 2003). Racial disparities in access to social networks have also been shown in the case of ex-offenders (Sullivan 1989). These informal methods of job search behavior, therefore, may result in greater evidence of racial disparities in employment following incarceration than what is reported here.

Overall, these findings point to the importance of rapport-building in the employment process, particularly for applicants with stigmatizing characteristics. In light of these findings, policy intervention should aim to defuse stigma and provide employers with more information about their prospective workers. Initiatives that facilitate the matching of workers with employers in ways that help to overcome these initial barriers may have a substantial impact. Job referral services that act as labor market intermediaries who vouch for job applicants represent one important policy approach to bridging this divide. Certificates of rehabilitation and public

education campaigns might also weaken the effects of stereotyping.

As incarceration rates have increased over the past few decades, official criminality compounds the stigma of race and deepens the economic disadvantage of young African American men. Instead of merely adding to the deficits of low-skill black men, a criminal record modifies the effect of racial discrimination, which raises the bar to employment higher for blacks than similarly situated whites. In this context, we can understand the growth of incarceration rates, and the racial disparities that characterize them, as producing a new form of institutional racism with wide-reaching economic effects.

[*211] APPENDIX

THE EFFECT OF PERSONAL CONTACT ON THE LIKELIHOOD OF A CALLBACK/JOB OFFER AND THE MAGNITUDE OF CRIMINAL STIGMA

No Interaction with Employer

	No Record (NR)	Criminal Record (CR)	Ratio 1 (NR/CR)
White	8.82	5.88	1.50
Black	10.00	2.82	3.55

No Interaction with Employer

Both Testers Interacted with Employer

	n	NR	CR	Ratio 2 (NR/CR)	n	Percentage Change in CR Effect
White	34	44.44	35.19	1.26	54	-0.16
Black	70	41.86	13.95	3.00	43	-0.15

NOTE: First two columns of each section represent rates of positive response (callback/job offer) for testers by race and criminal status. Percentage change in the effect of a criminal record (final column) is calculated as: (ratio 1-ratio 2)/ratio 1.

[*212] References

- Allport, Gordon. 1954. *The nature of prejudice*. New York: Doubleday Anchor.
- Anderson, Elijah. 1999. *Code of the streets: Decency, violence, and the moral life of the inner city*. New York: Norton.
- Bureau of Justice Statistics. 2002. *Recidivism of prisoners released in 1994*. By Patrick Langan and David Levin. Washington, DC: U.S. Department of Justice.
- . 2004. *Reentry trends in the U.S.* Washington, DC: U.S. Department of Justice.
http://www.ojp.usdoj.gov/bjs/reentry/reentry_contents.htm#contents.
- Crocker, Jennifer, Brenda Major, and Claude Steele. 1998. Social stigma. In *The handbook of social psychology*, ed. D. Gilbert, S. Fiske, and G. Lindzey, 504-53. Boston: McGraw-Hill.
- Fiske, Susan, and S. L. Neuberg. 1990. A continuum model of impression formation: from category-based to individuating processes: Influence of information and motivation on attention and interpretation. In *Advances in experimental psychology*, ed. M. P. Zanna, 1-74. New York: Academic Press.
- Holzer, Harry. 1996. *What employers want: Job prospects for less educated workers*. New York: Russell Sage Foundation.
- Lopoo, Leonard M., and Bruce Western. 2005. Incarceration and the formation and stability of marital unions. *Journal of Marriage and Family* 67:721-34.
- Moss, Philip, and Chris Tilly. 2001. *Stories employers tell: Race, skill, and hiring in America*. New York: Russell Sage Foundation.

Pager, Devah. 2003. The mark of a criminal record. *American Journal of Sociology* 108:937-75.

. 2007. *Marked: Race, crime, and finding work in an era of mass incarceration*. Chicago: University of Chicago Press.

Pager, Devah, Bruce Western, and Bart Bonikowski. 2008. *Race at work: Results from a field experiment of discrimination in low wage labor markets*. Princeton, NJ: Princeton University Press.

Petersilia, Joan. 2003. *When prisoners come home: Parole and prisoner reentry*. New York: Oxford University Press.

Royster, Deirdre. 2003. *Race and the invisible hand: How white networks exclude black men from blue-collar jobs*. Berkeley: University of California Press.

Sampson, Robert J., and John H. Laub. 1993. *Crime in the making: Pathways and turning points through life*. Cambridge, MA: Harvard University Press.

Sullivan, Mercer L. 1989. *"Getting paid": Youth crime and work in the inner city*. Ithaca, NY: Cornell University Press.

Travis, Jeremy. 2005. *But they all come black: Facing the challenges of prisoner reentry*. Washington, DC: Urban Institute Press.


[*213] Trope, Yaacov, and Erik P. Thomson. 1997. Looking for truth in all the wrong places? Asymmetric search of individuating information about stereotyped group members. *Journal of Personality and Social Psychology* 73:229-41.


Uggen, Christopher. 2000. Work as a turning point in the life course of criminals: A duration model of age, employment, and recidivism. *American Sociological Review* 65:529-46.


Word, Carl O., Mark P. Zanna, and Joel Cooper. 1974. The nonverbal mediation of self-fulfilling prophecies in interracial interactions. *Journal of Experimental Social Psychology* 10:109-20.

Legal Topics:

For related research and practice materials, see the following legal topics:

Civil Rights Law > Prisoner Rights > Discrimination 

Criminal Law & Procedure > Witnesses > Criminal Records 

Criminal Law & Procedure > Sentencing > Guidelines > Adjustments & Enhancements > Criminal History > General Overview 

FOOTNOTES:

¶n1 Results from Pager (2003) suggest that providing information about a criminal record to employers who do not request the information does little to affect hiring decisions. Those employers who request the information are those most likely to use it.

¶n2 We restrict our sample here to cases in which both testers on a team received the same level of personal contact to better control for compositional differences between those employers more or less likely to interview candidates on the spot. By comparing the effect of a criminal record within teams where either both or neither tester interacts with the employer, we can better understand the ways in which personal contact may mediate the effects of stigma. This sample restriction has little effect on the substantive conclusions of the analysis.

¶n3 This proportion corresponds closely with the 33 percent of urban employers surveyed by Holzer (1996, 59) who report that they would "probably accept" or "definitely accept" an applicant with a criminal background.

Source: **Wisconsin > Search Law Reviews & Journals > US & Canadian Law Reviews, Combined** 

Terms: Dev! w/s Pager (Suggest Terms for My Search)

Focus: **Devah! w/s Pager** (Exit FOCUS™)

View: Full

Date/Time: Tuesday, October 11, 2011 - 10:53 AM EDT

In

[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)
Copyright © 2011 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.