

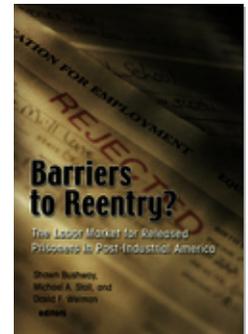


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= Chapter 4 =

The Effect of an Applicant's Criminal History on Employer Hiring Decisions and Screening Practices: Evidence from Los Angeles

HARRY J. HOLZER, STEVEN RAPHAEL,
AND MICHAEL A. STOLL

Between 1988 and 2000, the nation's incarceration rate doubled, from about 250 to nearly 500 per 100,000 persons. The Bureau of Justice Statistics (BJS) estimates that approximately 9 percent of all men will serve some time in state or federal prisons, with considerably higher figures for blacks (about 30 percent) and Latinos (16 percent). These trends are especially pronounced for California and, within California, for Los Angeles. California houses a disproportionate share of the nation's recently released prisoners. In 2001, roughly 23 percent of the 600,000 prisoners released during the year resided in California, though the state accounted for only 11 percent of the national population. What's more, nearly one-third of the 140,000 California state prisoners released in 2001 returned to Los Angeles County.¹

Reintegrating this growing population of ex-prison inmates into noninstitutionalized society is a top policy problem faced by state and local governments throughout the nation. Reintegration failures often result in additional crimes committed by ex-inmates (Raphael and Stoll 2004), further incarceration spells for released inmates, and, given the racial composition of ex-offenders, a greater degree of racial socioeconomic inequality (Holzer, Offner, and Sorenson 2005).

Gainful employment opportunities for ex-offenders are important for facilitating the successful reintegration of released inmates. How-

ever, suitable employment opportunities for ex-offenders are likely to be scarce, relative to the supply of ex-offenders, for a number of reasons.² To start, having served time is likely to diminish workers' value to potential employers, for the workers' human capital may depreciate while they are incarcerated, as they fail to accumulate additional work experience, and as incarceration may negatively affect the "soft skills" that employers value.

Beyond these supply-side effects, however, ex-offenders are also likely to encounter reluctance among potential employers to hire workers with criminal history records. Employers in businesses that entail frequent customer contact may avoid hiring ex-offenders in the belief that former inmates are likely to victimize customers, exposing the employer to potential legal liability. Moreover, some employers in certain industries and hiring into certain occupations are legally prohibited from hiring ex-offenders.

In earlier work on employer demand for ex-offenders, we demonstrate many of the demand-side barriers that ex-offenders face and the impact of employer sentiments on hiring outcomes. Specifically, using establishment surveys (establishments are businesses that hire workers) from the early 1990s we documented the strong reluctance of employers to hire ex-offenders, the types of employers that will and will not hire ex-offenders, as well as the interaction between employer aversion to ex-offenders and screening behavior. With respect to the latter topic, we document the extent to which employers formally screen the criminal history records of applicants or informally screen by statistically discriminating against applicants with demographic characteristics (such as race and gender) perceived to be correlated with the likelihood of having a criminal past (Holzer, Raphael, and Stoll 2004, 2006a, 2006b).³ While instructive, these earlier research efforts relied on fairly crude measures of employer sentiment regarding ex-offenders and a very vaguely worded question regarding whether the employer checks criminal backgrounds.

In this chapter we analyze a more recent survey of employers in the Los Angeles metropolitan area that includes considerably more detailed information regarding employer sentiments about ex-offenders, actual hiring behavior with respect to ex-offenders, and the methods used to screen the criminal histories of applicants. With this new survey we present empirical evidence regarding a number of basic questions that could not be answered with existing employer data. For example, does employer willingness to hire ex-offenders vary with the nature of the offense committed? Does an employer's stated aversion to ex-offenders correlate with actual hiring behavior? How exactly do most employers check the criminal histories of applicants, and at what point in the hiring process?

We investigate these questions using a survey of employers in Los Angeles carried out during the year 2001. While many of the results confirm our earlier findings, we are able to paint a more nuanced portrait of how employers consider criminal history records in making hiring decisions. Our analysis reveals that, although a substantial fraction of employers indicate that they would probably not hire an ex-offender, a sizable number are willing to consider mitigating factors, such as the type of offense committed and when the offense occurred. This suggests that employer demand for ex-offenders, though low, may be more flexible than previously believed. In addition, we find that the use of criminal history checks has increased considerably over the past decade, with a substantial fraction of employers using private services to perform such checks. Finally, we investigate the correlates of the use of criminal background checks and the likelihood that employers have recently hired an ex-offender. In general, larger establishments with more formal human resource systems screen the criminal backgrounds of employees. Regarding hiring, firms that are legally prohibited from hiring ex-offenders, as well as employers hiring into jobs involving customer contact, the handling of cash, and interaction with children are considerably less likely to hire felons.

Description of the 2001 Establishment Survey

Our data come from a twenty-minute telephone survey of 619 establishments in Los Angeles, conducted between May 2001 and November 2001. Our survey focuses on Los Angeles employers for a variety of reasons. Los Angeles is a large and populous metropolitan area in a state with a large incarcerated population. Moreover, nearly a third of recently released prisoners return to Los Angeles County (the geographic boundaries of our sampling area).

At the time of the survey, the local unemployment rate stood at a thirty-year low. However, while the survey was in the field, the Los Angeles economy began to weaken, along with the national economy, with the manufacturing sector suffering the most pronounced slowdown. Moreover, the time frame of the survey brackets the September 11 terrorist attacks. These events are likely to have affected employer willingness to hire ex-offenders, perhaps negatively. We explore this possibility later in the chapter.

Our sampling strategy and survey instrument closely resembles those used in the earlier establishment survey, which we analyze in our prior research.⁴ Employers were sampled from lists compiled by Survey Sampling Inc., primarily from telephone directories. This list was stratified ex-ante into four establishment-size categories, where size refers to

the number of employees. We used a random-stratified sampling strategy to select employers whereby establishments were sampled across strata in proportion to the amount of regional employment accounted for by the establishment-size category. Within strata, we sampled establishments at random. Thus, the sample is representative of the distribution of the workforce in the Los Angeles region across establishment-size categories without any need for additional size weighting.

Telephone interviews were conducted with the person in the establishment responsible for entry-level hiring. Establishments were screened according to whether they had hired an employee into a position not requiring a college degree over the previous year—but this screen eliminated no firms from our sample. The overall survey response rate was about 65 percent, in the range of other similar recent firm surveys (Holzer and Stoll 2001).

The survey contains extensive information on the establishment's characteristics (for example, size, industry, presence of collective bargaining, minority ownership status, and the racial composition of its applicants) as well as on the characteristics of the most recently filled job that did not require a college degree. This includes the screening and hiring practices of employers used in filling the job and the task and skill requirements for the job, among other factors. Most important, the survey also contains a number of questions regarding employer demand for ex-offenders.

In this paper we focus principally on employers' stated willingness to hire ex-offenders, their actual hiring of ex-offenders, and the methods that employers use to screen the criminal history records of job applicants. Concerning willingness to hire, we asked all respondents whether they would accept an applicant with a criminal record for the last noncollege job filled. The possible responses included "Definitely will," "Probably will," "Depends on the crime," "Probably not," and "Absolutely not." We also asked about the acceptability of various types of applicants with criminal records, varying the type of felony. In addition, we asked employers the following question: "Suppose you were contacted by an employment agency that was trying to place young males with criminal records. Do you currently have any open positions that you might consider filling with this group of workers?" Here, the possible responses are simply "Yes" or "No." To gauge employers' actual hiring of ex-offenders we ask whether the employer knows of any instance over the past year where the business hired a male with a criminal background. Possible responses to this question include "Yes," "No," and "Don't know."

With regard to employer screening practices, we ask a number of detailed questions to ascertain whether, the extent to which, and the manner in which employers perform criminal background checks of

prospective employees. First, we inquire about the frequency with which employers check the criminal backgrounds of applicants, with possible responses including "Always," "Sometimes," and "Never." We also include a series of questions concerning whether the employer checked for the last filled noncollege position, whether they were legally required to do so, from what source they gleaned information on the applicant's criminal background, and when in the hiring process they conducted the check.

To be sure, our measures of employer demand are not perfect; they have some obvious shortcomings that merit discussion. For example, our measures of employer willingness to hire ex-offenders rely on what employers say rather than their actual behavior. This measure of employer preferences and demand is relatively uncontaminated by inter-establishment variation in the supply of ex-offenders they face; but this subjective variable might understate or overstate actual employer demand for ex-offenders. With respect to our measure of actual hiring, whether a firm has hired an ex-offender in the last year will reflect a mix of demand-side as well as supply-side factors that might influence access of such workers to these firms. To the extent that ex-offenders are geographically clustered or rely on limited information networks in seeking employment, actual hiring may understate true demand. Nonetheless, a comparison of stated and actual demand for ex-offenders should be quite instructive. Moreover, given that both measures reveal a fairly strong reluctance to hire ex-offenders, such concerns do not compromise the results presented below.

In addition to the conceptual difficulties associated with trying to measure employer demand, there are several other concerns that deserve mention. The first concerns the exact definition of "criminal background." For the purposes of this study, a person has a criminal history record if he or she has been previously convicted of a felony, regardless of whether the person has served time in prison. The questions in the survey inquire about the prospective and actual hiring of those with criminal records. Thus, we cannot say with certainty whether our results accurately reflect employer sentiments with regard to released inmates. However, we are able to examine the extent to which employer responses depend on the nature of the applicant's offense and on whether the applicant has recently served time.

An additional issue involves whether employers know they have hired ex-offenders. If employers don't ask, employees have a clear incentive not to tell. Nonetheless, there are reasons to believe that most employers are likely to be aware of whether they have hired men with criminal records. As we document below, about half of the employers in this survey actually check for criminal backgrounds, and another 20 percent check sometimes. Moreover, previous work using similar

employer surveys show that a large fraction of employers (about 30 percent) have contact with employment agencies that attempt to place disadvantaged workers, including ex-offenders, into jobs (Holzer and Stoll 2001). Finally, employers face a host of incentives to screen the backgrounds of their employees, including being able to claim the Work Opportunity Tax Credit (though we find that not many employers claim such credits) and limiting exposure to legal liability under the theory of negligent hiring.⁵ Moreover, as we will document below, employers reveal a very strong aversion to hiring those with criminal records, and thus one would expect employers to act on this aversion.

Thus, a fair share of employers, but certainly not all of them, are likely to know whether they have hired an ex-offender. However, employer uncertainty might bias our estimates of actual hiring downward.⁶ Moreover, we have little information regarding how this bias is likely to vary with employer characteristics.

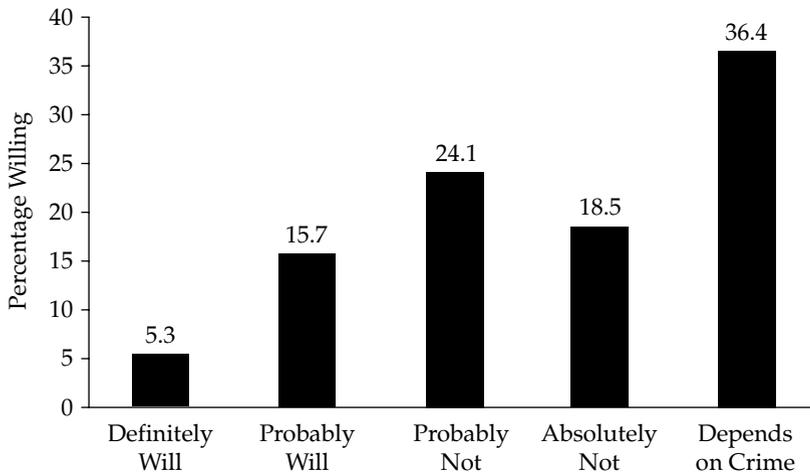
Results

We present results in the following section on employer willingness to hire offenders and on their use of criminal background checks.

Employer Willingness to Hire and Actual Hiring of Ex-Offenders

Figure 4.1 presents the distribution of employer responses to the question about employer willingness to accept an applicant with a criminal record. Over 40 percent of employers indicate that they would “probably not” or “definitely not” be willing. Only 20 percent of employers indicate that they would definitely or probably consider an applicant with a criminal history. On the other hand, approximately 35 percent of employers indicate that their willingness depends on the crime of the applicant. This latter category is the modal response.

While these figures are not directly comparable to those from our earlier analysis of an establishment survey from the early 1990s, the general patterns do suggest that employer willingness to accept applicants with criminal histories did not increase significantly over the 1990s, a period corresponding with a sustained economic boom.⁷ This apparent relative stability may reflect an effect of September 11 on employer willingness to hire offenders, or perhaps the beginning of the economic slowdown. Alternatively, this lack of an increase in demand for ex-offenders with a tightening labor market may reflect the continuing shrinking of those sectors (such as manufacturing) where such demand is relatively high. However, some of our earlier research compared employer responses from a survey done from 1992 to 1994, when

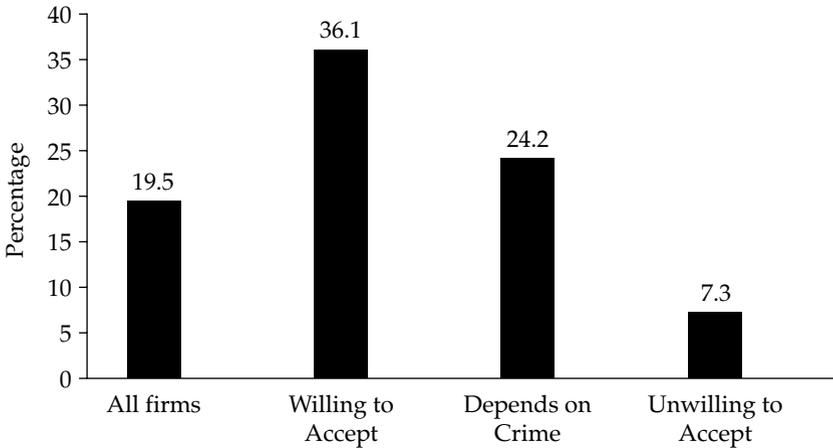
Figure 4.1 Employer Willingness to Accept Applicants with a Criminal Record into Last-Filled Noncollege Job, 2001

Source: Authors' computation of data from employer survey in Los Angeles, 2001.

the economy was weak, to those from one done for 1998 to 1999, when the economy was strong, and found little difference in employer willingness to hire those with criminal histories.⁸ Thus, these results confirm our earlier findings that the demand for ex-offenders is low and does not exhibit a great deal of sensitivity to business cycles.

To put these employer responses in perspective, it is useful to compare the patterns in figure 4.1 to the results from similarly worded questions on employer willingness to accept applications from other groups of low-skilled and possibly stigmatized workers, such as welfare recipients, applicants with a GED but no high school diploma, applicants with spotty work histories, and applicants who have been unemployed for a year or more. Approximately 93 percent of employers indicate that they would definitely or probably hire former or current welfare recipients, 97 percent indicate that they would probably or definitely hire workers with a GED in lieu of a high school diploma, 66 percent indicate that they would hire workers with a spotty employment history, and 80 percent indicate that they are likely to consider an application from an individual who has been unemployed for a year or more. In contrast, only 20 percent of employers indicate that they definitely or probably would accept an application from an ex-offender. Even if we add the "depends on the crime" response to willing, the fraction of employers that would consider ex-offenders (55 percent) is

Figure 4.2 Percentage of Employers Who Hired Ex-Offenders In Preceding Year, by Willingness to Accept Applicants with Criminal Records, Measured in 2001



Source: Authors' computations.

still well below that for these other groups. Moreover, note that the one group for whom demand is particularly low, those with spotty work histories, is likely to overlap considerably with the population of former inmates.

These results confirm our analysis of several other establishment surveys, with the one difference being our ability to identify a large group of employers who are willing to consider the particularities of the applicant's criminal past. Nonetheless, these subjective responses to this question may not reflect actual hiring practices, and thus are subject to some uncertainty. To explore whether stated willingness is indicative of actual hiring practices, figure 4.2 presents the fraction of employers that have hired at least one ex-offender over the past year, conditional on their stated willingness to consider ex-offenders.⁹

About 20 percent of employers responded that they hired at least one ex-offender over the past year.¹⁰ For purposes of comparison, roughly 30 percent of employers indicated that they had hired a former welfare recipient over the past year.¹¹ For employers who indicated that they would definitely or probably hire an ex-offender (grouped into the category "willing"), 36 percent hired an ex-offender in the previous year. For those who responded "Probably not" or "Definitely not" (here grouped into the "unwilling"), the comparable figure is only 7 percent.

For those responding that it depends on the crime, 24 percent hired an ex-offender over the past year. Thus, both measures of employer demand paint a fairly consistent picture of who will and who won't hire those with criminal histories; the two measures thus validate each other.

Our results are broadly consistent with evidence from Devah Pager (2002), who found limited employer demand for offenders in her audit study of employers in Milwaukee.¹² While the percentages of offender applicants who actually received callbacks or offers from employers in her study—especially for blacks—are lower than in ours, it is important to remember that her applicants were competing against others who were not part of the study, and this no doubt limited the numbers of callbacks or offers they received. Indeed, even among the white non-offender applicants in her study, only about a third got callbacks from employers. On the other hand, it is impossible for us to gauge the interaction between an applicant's race and his criminal history, since self-reported employer attitudes about race are notoriously unreliable in this kind of large-sample survey format.

Our results also differ somewhat from those reported by Pager and Lincoln Quillian (2005), who report little correlation between how employers answer survey questions on their willingness to hire offenders and their actual hiring behavior in audit studies. Our survey results indicate stronger correlations between reported willingness to hire and actual hiring, perhaps reflecting our much larger sample sizes and our broader measure of hiring activity.¹³

To explore how establishment and employer characteristics vary with employer willingness to hire ex-offenders and actual hiring practices, table 4.1 displays averages of establishment characteristics, stratified by the responses to our two principal demand measures. Establishment characteristics include industry, size, vacancy rates, the percentage of jobs that are unskilled, establishment location, whether the establishment checks criminal background, is union, or is nonprofit, and whether the establishment is minority-owned.¹⁴

There are several clear patterns shown in table 4.1. First, the distribution of industries among those most willing to accept ex-offenders is skewed toward manufacturing, construction, and transportation; these are precisely the industries that are likely to have fewer jobs requiring customer contact. Moreover, the distribution of establishments that actually hire ex-offenders is similarly skewed, which follows from the strong correlation between willingness to hire and actual hiring of ex-offenders in these industries. We also find that establishments willing to hire ex-offenders are disproportionately those with a large fraction of unskilled jobs (> .200). On the other hand, we find that the service-

Table 4.1 Means (Standard Deviations) of Firm-Level Characteristics, by Employer Willingness to Accept Applicants with Criminal Backgrounds and Actual Hiring of Ex-Offenders Last Year

Characteristics of Employer	All	Willing to Accept	Depends on Crime	Unwilling to Accept	Have Hired	Have Not Hired
Industry						
Manufacturing	0.171	0.230	0.142	0.162	0.242	0.154
Retail	0.186	0.213	0.194	0.166	0.233	0.174
Service	0.435	0.344	0.436	0.470	0.308	0.465
Construction	0.034	0.049	0.028	0.036	0.058	0.028
Transportation, communications, and utilities	0.053	0.057	0.085	0.028	0.067	0.051
Firm Size						
1 to 19	0.172	0.190	0.176	0.174	0.085	0.192
20 to 99	0.422	0.397	0.373	0.488	0.402	0.427
Over 100	0.406	0.413	0.451	0.339	0.513	0.380
Job vacancy rate	0.030 (0.071)	0.039 (0.087)	0.023 (0.044)	0.033 (0.084)	0.022 (0.046)	0.031 (0.076)
0.000	0.560	0.545	0.542	0.577	0.547	0.563
0.001 to 0.040	0.235	0.231	0.276	0.195	0.291	0.222
Over 0.040	0.205	0.223	0.182	0.228	0.162	0.216
Percentage of jobs for unskilled	0.337 (0.334)	0.389 (0.353)	0.330 (0.333)	0.307 (0.321)	0.426 (0.359)	0.315 (0.325)
0.000	0.460	0.402	0.460	0.494	0.350	0.487
0.001 to 0.200	0.189	0.189	0.227	0.170	0.200	0.186
Over 0.200	0.351	0.410	0.313	0.336	0.450	0.327
Central city	0.312	0.254	0.322	0.312	0.283	0.319
Always checks criminal background	0.444	0.287	0.531	0.433	0.442	0.445
Collective bargaining	0.240	0.200	0.232	0.263	0.291	0.228
Not-for-profit	0.213	0.131	0.213	0.263	0.158	0.226
Minority-owned	0.216	0.295	0.175	0.215	0.192	0.222

Source: Authors' computations of employer survey data from Los Angeles, 2001.

sector establishments are disproportionately represented more among those unwilling to accept and among those that have not hired ex-offenders.

Table 4.1 also reveals some firm characteristics whose association with the employer's stated willingness to accept ex-offenders differs from their association with actual hiring behavior. Most important, establishments that always check criminal backgrounds are disproportionately represented among those that say they are not willing to ac-

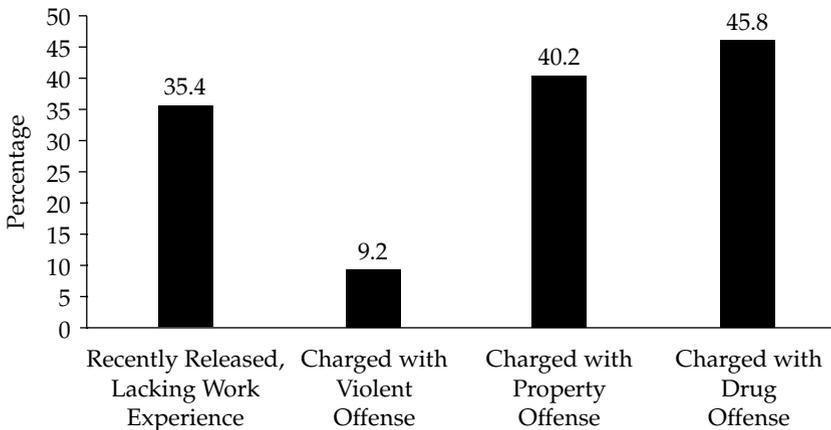
cept applicants with criminal records. This pattern is different for the actual hiring measure. Establishments that always check criminal backgrounds are equally represented among those firms that have hired ex-offenders and those that have not, suggesting that criminal background checking is not correlated with the actual hiring of ex-offenders at the firm.

There are a number of potential explanations for this latter pattern. For example, given that our measure of actual hiring is whether the firm has hired an offender at least once, the lack of a relationship between hiring and checking may reflect positive correlations between such hiring and establishment size (which we do find) or the numbers of ex-offender applicants across firms.

Alternatively, it may be that employers use criminal background checks not necessarily to exclude all ex-offenders from consideration (at least for jobs where ex-offenders are not legally barred from employment) but to select applicants that are least likely to steal, harm a customer, or expose the employer to the risk of a negligent-hiring lawsuit. This would imply that the characteristics of ex-offenders employed at firms that check should differ from the characteristics of those employed at firms that don't. This would also indicate that the likelihood of hiring may be augmented by the use of formal screening devices. We probe this latter hypothesis by examining the relationship between actual employer hiring outcomes and indicators of whether the employer uses private sources for checking criminal history records, whether their willingness to hire ex-offenders depends on the type of crime, and whether they display a propensity to seek additional information about the criminal backgrounds of applicants.

Potential support for the preceding explanation is provided in table 4.1. The data show that employers who indicated "Depends on the crime" are among those who disproportionately check the criminal backgrounds of their applicants. This suggests that their willingness to hire any individual from this group is conditional on specific information about the ex-offender. A formal criminal history review is likely to reveal a host of factors that help such employers assess the risks of hiring an ex-offender, such as how recently the offender was released from prison, the offense committed, the number of prior criminal convictions, as well as whether they have any work experience.

Figure 4.3 provides information on whether employer willingness to hire ex-offenders varies with offender characteristics. The responses depicted reflect those of employers who either are willing to hire or indicate that their willingness depends on the particulars of the applicant. The survey asks employers about their willingness to hire offenders who are recently released from prison and lack work experience, and their willingness to hire offenders by the offense committed (that

Figure 4.3 Percentage of Employers Willing to Hire Ex-Offenders, by Characteristics of Offenders, 2001

Source: Authors' computations.

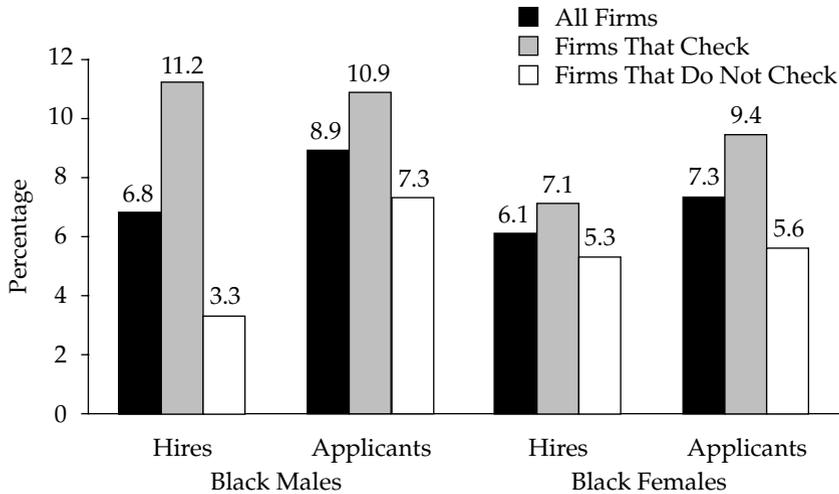
is, a violent crime, a property crime, or a drug offense).¹⁵ There are other factors that are likely to matter to employers but that were not part of our survey, including whether the offender has multiple offenses, is on probation, or is bonded.

The results show some predictable patterns. Employers are strongly averse to hiring ex-offenders charged with violent offenses. Employers also seem somewhat averse to those who are recently released from prison and without work experience, though we are unable to specify which of these is a more important factor driving this response. Employers seem less averse to those charged with property or drug-related crimes.

This variation by offender characteristic indicates that employer demand for nonviolent offenders may be somewhat more flexible than previously believed. Employers are clearly less averse to those charged with drug offenses. Over the 1990s, much (though not all) of the dramatic rise in the prison population was driven by increases in drug-related offenses, a disproportionate share of them charged to young black men. On the other hand, employers report being more averse to hiring ex-offenders charged with violent crime, but violent criminals make up a smaller and declining fraction of all offenders (Holzer, Raphael, and Stoll 2006a).

Thus, this variation in employer demand by category of offense could have important implications for the employment opportunities

Figure 4.4 Proportion of Recently Filled Jobs (and Applicants) into Which Black Men and Women Were Hired by Use of Criminal Background Checks, 2001



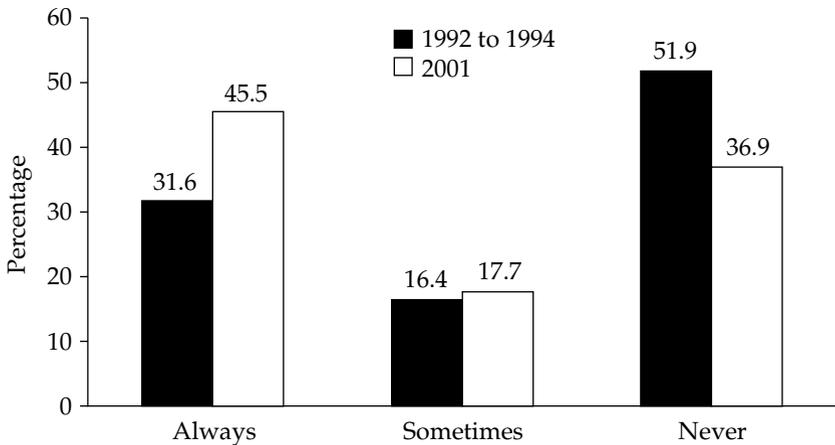
Source: Authors' computations.

of offenders. Specifically, it may create situations in which third-party intermediaries might provide more detailed information about offender backgrounds that convinces employers to hire applicants who otherwise might be turned away.

Employers' Use of Criminal Background Checks

The results thus far indicate that employer willingness to hire ex-offenders is limited, but this willingness is in part conditional on the characteristics of ex-offenders. How do employer screening practices reflect their aversion to applicants with criminal records? Some employers may use proxies of criminality, such as race, age, sex, and perhaps residential location (among others) in their hiring decisions to exclude ex-offenders from employment. Our previous research finds that this practice seems prevalent among employers who do not use criminal background checks (Holzer, Raphael, and Stoll 2006b), and significantly decrease the likelihood that African American applicants are hired. Using this more recent data for Los Angeles, figure 4.4 reproduces this result. The figure presents the proportion of recent hires as well as the proportion of the applicant pool that is black for firms that check criminal history records and firms that do not. Separate tabula-

Figure 4.5 Frequency with Which Employers Check the Criminal Backgrounds of Applicants, 1992 to 1994 and 2001



Source: Authors' computations of employer survey data, 1992-94 and 2001.

tions are provided for African American men and women. As can be seen, checking is positively correlated with hiring black applicants, and the difference between firms that check and those that don't is largest for African American men. Moreover, the differences in hiring outcomes (for men) exceed the difference in their proportionate representation in the applicant pool.

Hence, this evidence strongly suggests that employers who do not check for criminal backgrounds engage in a form of "statistical discrimination" against black men more broadly, based on their aversion to hiring offenders as well as their very limited information about exactly which individuals in their applicant pool have this characteristic.¹⁶ This pattern occurs despite the fact that black men are overrepresented among those with ex-offender backgrounds. Given this fact, we should have expected the hiring of black men to decline with employer's use of criminal background checks. Apparently, the additional information revealed by background checks of prior criminality among black male applicants is lower than employers' subjective assessments.

Besides crude statistical discrimination, employers can act on their aversion to those with criminal backgrounds by conducting criminal background checks. Figure 4.5 presents the distribution of employer responses to the question concerning the frequency with which employers check the criminal background of job applicants. In addition, we present the distribution of these responses to the exact same ques-

tion asked in the earlier employer survey data collected in Los Angeles from 1992 to 1994. The earlier survey likely collected data on this question before the emergence of Internet services that provide low-cost criminal background checks.¹⁷

The results show that the use of criminal background checks among employers in Los Angeles rose substantially during the 1990s. For example, while 32 percent of employers always checked during the early 1990s, the comparable figure for 2001 is 45 percent. Moreover, the proportion of employers that never check declined from 52 percent to 37 percent.

As to what explains the increased use of this screening device, we can offer a few possible explanations. Prime among them would be the decline in costs and the ease with which criminal history records can be ordered from private services online. Moreover, this decrease in costs is likely to interact with employer fears about negligent hiring lawsuits. To protect themselves from these lawsuits, employers may be increasingly using criminal background checks. While we cannot evaluate these claims with the current survey, understanding this screening tool and its increased usage is clearly a fruitful area for future research.

An interesting question deriving from the results in figure 4.5 concerns whether the increased usage of criminal background checks over the 1990s occurred equally across different types of establishments. To explore this question, table 4.2 shows the percentage of firms that indicate that they always checked in the earlier and later surveys, after the samples were stratified by industry, establishment size, location, and by whether the establishment is unionized and whether it is nonprofit. The table also presents the difference in means within each category across the two surveys.

The results show that checking increased over this time period in most of these categories of establishments. However, we find variation across categories in the differences in checking over this time period. Checking increased rather dramatically in retail trade, manufacturing, in large firms (over one hundred employees), and in the suburbs. On the other hand, checking decreased in construction and wholesale trade industries, and increased nominally in small firms, who are also among the least likely to check, in 2001.

Given the increase in checking over the 1990s, one might wish to assess whether employers check because they think they are legally required to or because they find checking a valuable screening device. Many states, including California, require background checks for certain jobs and occupations from which ex-offenders are legally barred, a group that includes many that involve interaction with children or the elderly. There is also some evidence that the proportion of jobs from which ex-offenders are legally barred has increased (Legal Action Center 2004). This alone would drive an increase in employer checking.

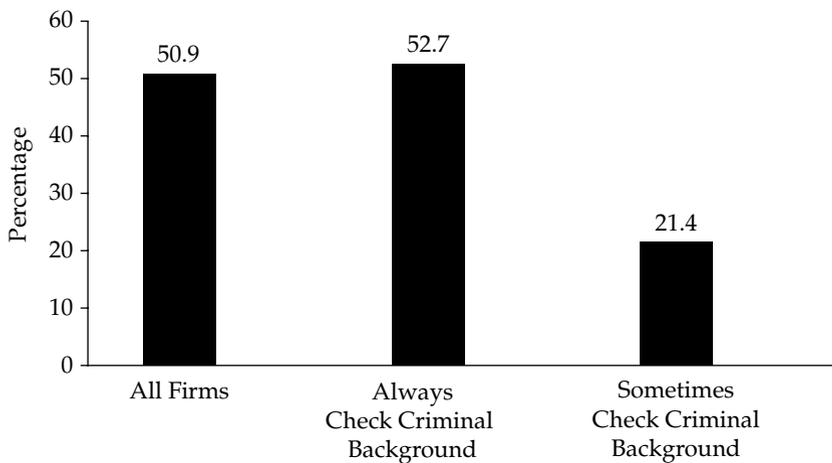
Table 4.2 Percentage of Firms that Always Check Criminal Backgrounds of Applicants, 1992 to 1994 and 2001

Characteristics of Employer	Percentage of Firms that Always Check		Difference In Checking
	1992–1994	2001	
Industry			
Construction	36.1	28.6	-7.5
Manufacturing	14.6	33.0	18.4
Transportation, communications, and utilities	45.3	51.5	8.2
Wholesale trade	21.2	20.6	-0.6
Retail trade	26.6	46.1	19.5
FIRE	46.7	59.4	12.7
Service	39.9	50.9	11.0
Firm size			
1 to 19	19.6	21.2	1.5
20 to 99	31.6	41.8	10.2
Over 100	39.6	57.3	17.7
Location			
Central city	33.1	44.0	10.9
Suburbs	30.5	44.6	14.1
Collective bargaining			
Not-for-profit	49.0	58.3	9.3
	60.8	65.2	4.4

Source: Authors' computations of employer survey data, 1992 to 1994 and 2001.

Although we do not have information from the earlier survey regarding whether employers are legally required to screen out offenders, we do have some information from the more recent survey. Thus, while we cannot speak to whether legal mandates are driving the changes observed in figure 4.5, we can at least assess how important such mandates are in determining employer use of these screens. Figure 4.6 displays the employer response to the question regarding whether employers check because they perceive that they are legally required to do so.¹⁸ The question was asked of those who say they checked backgrounds in filling noncollege jobs.

Figure 4.6 shows that about half of employers indicate that they were legally required to conduct the criminal background check for the most recently filled noncollege position. We also display this information stratified by the distribution of employer responses to the question of how often employers check criminal backgrounds generally. We find that a little over 50 percent of employers that always check believe that

Figure 4.6 Percentage of Employers Legally Required to Check Criminal Backgrounds, 2001

Source: Authors' computations.

they are legally required to do so, whereas the comparable figure for firms that sometimes check is about 20 percent. Thus, compared with firms that check sometimes, firms that always check seem much more likely to do so because of a perceived legal obligation.

Of course, we are unable to disentangle whether employers are actually required to check or whether they simply perceive they are required to check. We can, however, gain some insight into this question by examining the different methods employers use to perform background checks. In California, employers who were statutorily required to check backgrounds for certain jobs had to use the public repository to do so and were not allowed to use private sources. Though not shown here, the data indicate that 56 percent of employers who indicate that they were legally required to check used criminal justice methods (which is consistent with the use of public repositories), while 31 percent of these used private methods. This compares with 19 and 67 percent, respectively, for checking employers who indicate that they were not required to check. Thus, these results suggest that a majority of employers who indicated that they were required to check provided accurate answers.

What firm characteristics are associated with criminal background checking, and do these characteristics differ for firms where employers indicate they are legally required to check? In table 4.3, we examine

Table 4.3 Means (Standard Deviations) of Firm-Level Characteristics, by Whether Firm Checks Applicants' Criminal Background

	All	Always	Sometimes	Never	Legally Required
Industry					
Manufacturing	0.171	0.127	0.187	0.224	0.025
Retail	0.186	0.193	0.150	0.188	0.117
Service	0.435	0.498	0.477	0.341	0.742
Construction	0.034	0.022	0.037	0.045	0.008
Transportation, communications, and utilities	0.053	0.062	0.065	0.040	0.050
Firm size					
1 to 19	0.172	0.081	0.183	0.284	0.078
20 to 99	0.422	0.396	0.423	0.450	0.379
Over 100	0.406	0.522	0.394	0.266	0.543
Vacancy rate					
	0.030 (0.071)	0.037 (0.086)	0.035 (0.071)	0.019 (0.049)	0.049 (0.110)
0.000	0.560	0.444	0.548	0.704	0.371
0.001–0.040	0.235	0.300	0.221	0.167	0.302
>0.040	0.205	0.256	0.231	0.130	0.328
Percentage of jobs for unskilled workers					
	0.337 (0.334)	0.301 (0.314)	0.333 (0.324)	0.387 (0.359)	0.248 (0.279)
0.000	0.460	0.484	0.486	0.417	0.533
0.001 to 0.200	0.189	0.229	0.140	0.157	0.258
Over 0.200	0.351	0.287	0.374	0.426	0.208
Central city					
Always checks criminal background	0.444	1.000	0.000	0.000	0.975
Collective bargaining	0.240	0.317	0.190	0.163	0.435
Not-for-profit	0.213	0.313	0.168	0.112	0.525
Minority-owned	0.216	0.160	0.308	0.247	0.167

Source: Author's computations of employer survey data from Los Angeles, 2001.

establishment characteristics, stratified by employer responses to the question concerning the frequency with which employers check criminal backgrounds generally and whether they are legally required to do so. The results indicate that establishments that are large, are in the service sector, are in the central city, or are not-for-profit, as well as those with collective bargaining agreements, are overrepresented among those firms that always check. On the other hand, manufacturing, smaller or minority-owned firms, or those with a larger percentage of unskilled jobs are overrepresented among those firms that never check.

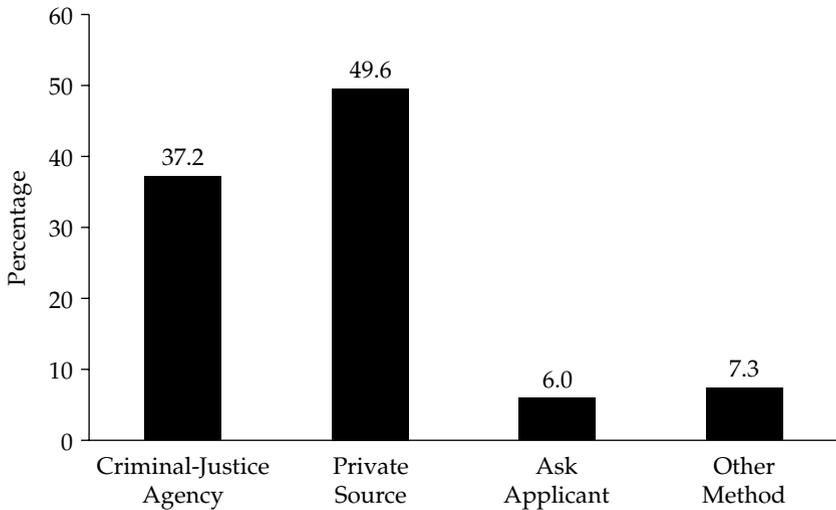
These results are consistent with our earlier work and suggest that firms in industries with greater customer contact, with more formal human resource systems, and that are closer to ex-offender populations are more likely to run background checks (Holzer, Raphael, and Stoll 2004). These patterns are similar for firms in which employers indicate that they were legally required to check.

Taken together, these results suggest that the greater propensity of certain categories of firms to always check (for instance, large or service firms) is at least partly prompted by their perception of legal requirements. Given the very widespread legal barriers to employment in many occupations that occur in most states, it is perhaps not surprising that legal requirements drive a great deal of employer behavior in this regard. But these findings also suggest that the laws that prevent employers from hiring offenders might need to be reviewed, in light of the strong negative effects they appear to have on the ability of ex-offenders to gain employment, as we shall document later.

The substantial increase over the 1990s in the proportion of establishments that always check the criminal histories of applicants suggests that the growing availability of low-cost checking services in the private market may be in part driving this increase. Although we do not have data for the earlier survey on the method by which employers check backgrounds to fully explore these factors, our 2001 survey does ask this question. Figure 4.6 shows the method by which employers check criminal histories for those that perform background checks. The data show that nearly 50 percent of employers in Los Angeles in 2001 use a private source to check criminal backgrounds of applicants. Nearly 40 percent use criminal-justice agencies such as the attorney general's office and the police. Interestingly, only 6 percent of employers gather this information by asking the applicants themselves.

The data in figure 4.7 do suggest that the availability of low-cost criminal background checking services has played a part in the increase in checking over time, especially since there were few such services available during the early 1990s. Of course, the increasing availability of these services may have allowed the latent demand for these services by employers to be realized. Moreover, this demand may have increased over the 1990s as employer awareness of the growing presence of ex-offenders in the low-skill labor supply increased as well.

There has also been little evidence to date on when employers conduct criminal background checks. Figure 4.8 shows employers' responses to a question pertaining to when in the hiring process a criminal background check is conducted. The vast majority of employers who check criminal backgrounds do so before they fill the position. About 20 percent of employers check criminal backgrounds after they have filled the position, while a small fraction, about 5 percent, check

Figure 4.7 Method by Which Employers Check Applicants' Criminal Backgrounds, 2001

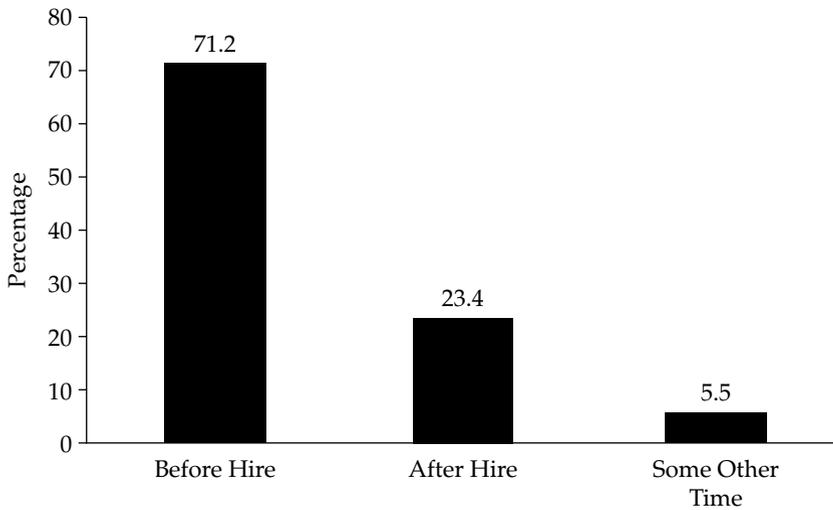
Source: Authors' computations.

at some other time. Though not shown here, our data also show that employers who check after they have filled the position mostly do so during the employees' probationary period.

Thus, employers check criminal records before most ex-offenders have had a chance to demonstrate their ability to successfully hold the jobs to which they are applying. The potential negative effect of such information on the employment prospects of offenders is thus reinforced.

Finally, and as noted earlier, our survey was conducted over the period of May 2001 to November 2001, during which time the events of September 11 took place. In fact, about 62 percent of our surveys were completed before September 11, leaving a substantial fraction that were completed thereafter. These events no doubt raised awareness about the backgrounds, in particular criminal backgrounds, of individuals, and perhaps increased employers' concerns about the risks associated with hiring ex-offenders. Figure 4.9 presents some data on employer responses pre- and post-September 11 to the questions on the hiring of ex-offenders and whether they perform criminal background checks. The data show that employers report no difference in hiring ex-offenders over the past year pre- and post-September 11, which is expected—since these events came well after much of this hiring had

Figure 4.8 Timing of Employers' Criminal Background Checks of Applicants, 2001



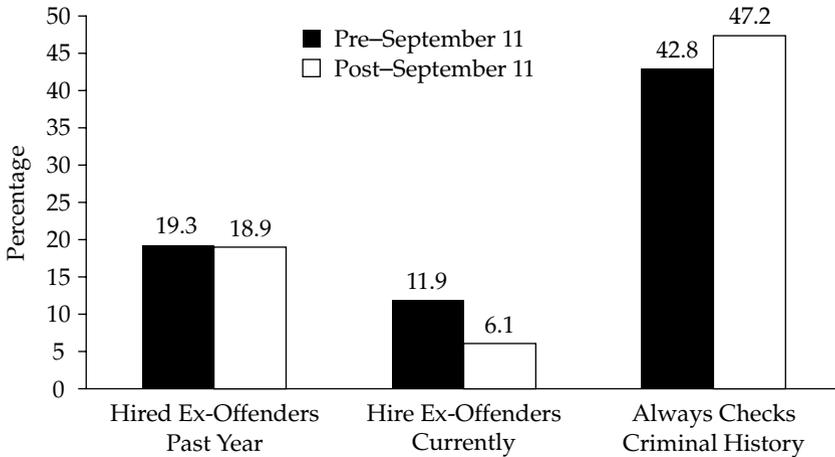
Source: Authors' computations.

taken place. However, when asked whether they would consider hiring ex-offenders currently, about 12 percent of employers surveyed before September 11 indicated that they would, while only 6 percent of employers surveyed afterward said they would. In addition, a slightly higher fraction of employers indicated that they always check criminal backgrounds of applicants after September 11.

Effects of Firm Characteristics and Employer Attitudes on the Use of Criminal Background Checks and Hiring of Ex-Offenders

Given the large number of employer attributes that appear to be correlated with whether firms conduct background checks and their actual hiring of ex-offenders, we investigate the independent partial correlations of these characteristics with our outcomes using multivariate analysis. Table 4.4 presents estimation results from logit regression equations in which the dependent variables are whether the firm checks the criminal background of applicants or whether the firm hired at least one ex-offender over the past year. We do not examine factors related to employers' willingness to hire ex-offenders, since these are highly correlated with their actual hiring (and since estimates using this alter-

Figure 4.9 Percentage of Employers Responding to Questions Concerning Hiring of Ex-Offenders and Use of Background Checks Before and After September 11, 2001



Source: Authors' computations.

native dependent variable that are not reported here yielded qualitatively similar results).

Most of the independent variables in the models are those listed in tables 4.1 and 4.3, already described. However, in the second specification of these regressions, we include variables that measure the tasks involved in the most recently filled job at the establishment. These tasks include customer contact, and the handling of children, cash, and expensive merchandise.¹⁹ We include these to further investigate the extent to which certain tasks, or those that might engender greater employer concern about whether an ex-offender is hired into that job, are associated with checking backgrounds and hiring ex-offenders. One concern with adding these variables into the model is that, because they measure these tasks for the last-filled job rather than at the firm level (that is, average tasks at the firm), they may be flawed as measures of general firm screening and hiring practices. Thus, we include these in a separate model specification. Still, to the extent that the tasks of the last-filled job are highly correlated with measures of the average tasks at the firm, we should be able to detect their association with these factors.²⁰

Many of the results in table 4.4 confirm findings from our earlier tables. Employers who are willing to hire ex-offenders are also those

Table 4.4 Regression Results for Whether Firm Checks Criminal Background of Applicants and Whether Firm Hired an Ex-Offender Over the Past Year

Characteristics of Employers	A. Checks Criminal Background		B. Hired Ex-Offender Over Past Year	
	1	2	1	2
Industry^a				
Manufacturing	-1.102*** (0.462)	-1.186*** (0.483)	1.161* (0.650)	1.163* (0.652)
Wholesale trade	-1.601*** (0.593)	-1.784*** (0.614)	0.657 (0.776)	0.555 (0.799)
Retail trade	-0.665 (0.449)	-1.043** (0.471)	0.791 (0.671)	0.931 (0.690)
Service	-0.679 (0.426)	-0.918** (0.436)	0.277 (0.668)	0.282 (0.674)
Construction	-1.132* (0.664)	-1.315** (0.680)	1.521* (0.838)	1.456* (0.841)
Transportation, communications, and utilities	-0.442 (0.571)	-0.666 (0.594)	1.110* (0.678)	1.114* (0.680)
Firm size				
1 to 19	-1.640*** (0.334)	-1.679*** (0.345)	-0.966** (0.432)	-0.938** (0.444)
20 to 99	-0.613*** (0.210)	-0.658*** (0.215)	-0.170 (0.258)	-0.159 (0.260)
Vacancy rate				
0.000	-0.764*** (0.248)	-0.709*** (0.253)	0.251 (0.326)	0.225 (0.330)
0.001 to 0.040	-0.331 (0.293)	-0.297 (0.299)	0.275 (0.365)	0.229 (0.369)
Percentage of jobs unskilled				
0.000	0.310 (0.247)	0.393 (0.253)	-0.315 (0.307)	-0.323 (0.311)
0.001 to 0.200	-0.265 (0.235)	-0.205 (0.245)	-0.616** (0.303)	-0.634** (0.314)
Central city	-0.290 (0.214)	-0.241 (0.219)	0.017 (0.265)	-0.024 (0.270)
Collective bargaining	0.277 (0.238)	0.193 (0.245)	0.223 (0.280)	0.262 (0.289)
Not-for-profit	0.716*** (0.261)	0.627** (0.273)	-0.155 (0.341)	-0.075 (0.352)
Minority-owned	-0.016 (0.236)	-0.002 (0.243)	-0.161 (0.292)	-0.103 (0.297)

(Table continues on p. 140)

Table 4.4 *Continued*

Characteristics of Employers	A. Checks Criminal Background		B. Hired Ex-Offender Over Past Year	
	1	2	1	2
Preference for ex-offenders				
Willing to hire	-0.613*** (0.250)	-0.549** (0.262)	1.683*** (0.297)	1.705*** (0.303)
Depends on crime	0.413** (0.212)	0.442** (0.216)	1.116*** (0.281)	1.093*** (0.285)
Post-September 11	0.322* (0.194)	0.321* (0.196)	-0.272 (0.245)	-0.237 (0.243)
Checks criminal background	—	—	0.177 (0.252)	0.183 (0.256)
Tasks of job ^b				
Customer contact	—	0.591*** (0.239)	—	0.458* (0.282)
Handle cash	—	0.050 (0.284)	—	-0.573* (0.349)
Handle expensive merchandise	—	0.161 (0.202)	—	0.240 (0.244)
Handle children	—	0.480* (0.284)	—	0.594* (0.365)
Log Likelihood	-346.41	-337.31	-255.28	-246.88
N	587	587	587	587

Source: Authors' computations.

Note: Standard errors are in parentheses. Financial Services is the reference group for industry and unwilling to hire ex-offenders is the reference group for employer preferences.

^aCoefficient results for agriculture and mining are suppressed.

^bCoefficient results for phone tasks, reading and writing tasks, math tasks, and computer tasks are suppressed.

***statistically significant at the .01 percent level, **at the .05 percent level, and *at the .10 percent level.

who are less likely to check criminal backgrounds, while those who indicate that it depends on the crime (or those who may want more information about ex-offenders) are more likely to check. Also, checking is more likely to occur after September 11, even after other relevant factors are taken into account. Other results in table 4.4 are fairly consistent with those reported in table 4.3. That is, establishments in manufacturing, construction, and wholesale trade industries, and smaller establishments are less likely to do criminal background checks. Nonprofits,

on the other hand, are more likely than for-profits to conduct checks. Thus, even after controlling for relevant factors, these results suggest that firms in industries with less customer contact and without more formal human resource systems (that is, larger firms) are much more likely to check criminal backgrounds.

The role of customer contact in influencing checking is more directly illustrated in the second specification, which adds the tasks variables to the model. Employers filling jobs involving customer contact and interaction with children are more likely to check criminal backgrounds. Including these variables does not appreciably affect the coefficients of the other variables in the model except those for industry. Here, employers in the retail trade and service industries are now less likely to check (than those in the financial services and real estate sector), once job tasks are taken into account. This suggests that employer concerns about ex-offenders harming customers, or legal requirements (as in the case of job tasks involving children), are likely driving such industries to conduct background checks.²¹

Panel B presents regression results where the dependent variable is an indicator of whether the employer hired an ex-offender over the past year. These results are largely consistent with the unadjusted results presented in table 4.1, as well as with the regression results for checking backgrounds. Firms in manufacturing, construction, and transportation industries (those industries where checking is relatively scarce) are more likely to have hired an ex-offender over the last year. Moreover, firms with a large share of unskilled jobs are also more likely to have hired. Interestingly, smaller firms are less likely to have hired an ex-offender, even though they are less likely to check criminal backgrounds. This result is consistent with our work on statistical discrimination on the basis of perceived criminality, since smaller firms are disproportionately represented among firms that don't check and are unwilling to hire ex-offenders (Holzer, Raphael, and Stoll 2006b). Finally, firms that are willing to hire ex-offenders and whose preferences for ex-offenders depend on the crime are more likely to have hired an ex-offender than unwilling employers, confirming our results presented in figure 4.2. As expected, we do not find a September 11 effect on hiring ex-offenders over the past year, since these events came well after much of this hiring had taken place. We do find such an effect on whether employers would hire ex-offenders currently, though we do not show results of these regressions here.

As in our comparison of means, performing a criminal background check is not associated with the hiring of ex-offenders over the past year. Again, there could be a number of reasons that account for this as we discuss above. Most prominently, firms that do not do back-

Table 4.5 Coefficient Estimates on Criminal Background Checking Variables for Full Sample and by Employer's Willingness to Hire Ex-Offenders (Dependent Variable = Hired Ex-Offender Over the Past Year)

	1 Full Sample	2 Willing to Hire	3 Depends on Crime	4 Unwilling to Hire
Checks criminal background	0.177 (0.252)	0.072 (0.498)	1.133** (0.529)	-0.579 (0.589)
Legally required to check				
Yes	-0.589* (0.359)	-0.543 (0.639)	-0.314 (0.590)	-0.480 (0.624)
No	0.681** (0.279)	-0.718 (0.674)	1.260*** (0.465)	1.117 (0.724)
Method of checking ^a				
Criminal-justice agency	-0.637 (0.404)	-1.417** (0.739)	-0.597 (0.604)	-0.453 (0.922)
Private sources	0.619** (0.295)	0.698 (0.455)	0.823* (0.475)	0.531 (0.750)
N	587	118	198	217

Source: Authors' computations.

Note: All regressions include independent variables listed in table 4.4, specification 1. Reference variable in all equations is firm does not check backgrounds of applicants. Standard errors are in parentheses.

^aCoefficient results for "Ask applicant" or "Other method of checking" are suppressed because of small sample sizes.

***indicates statistically significant at the .01 percent level, **at the .05 percent level, and * at the .10 percent level.

ground checks are less likely to know the criminal status of their workers. This factor is likely to lead to conservative estimates of its association with hiring ex-offenders, or, depending on the extent to which checking is actually negatively associated with hiring, will bias the coefficient toward being positive or zero.

The second specification adds the tasks variables to the model and shows some anticipated results. Employers filling jobs that are more likely to involve customer contact, handling cash, and interacting with children are much less likely to have hired ex-offenders over the past year. Moreover, the inclusion of these factors does not affect the other variable coefficients.

Finally, table 4.5 presents logit estimation results from different versions of the hiring models presented in table 4.4, where the dependent variable is whether the firm has hired an ex-offender in the past year and where use of criminal background checks is an independent variable that is specified in a variety of ways. Here, we only present the

coefficients on the background check variables, since all other results are similar. We experiment with three separate specifications: (1) the model in table 4.4 that specifies only whether the firm checks; (2) an alternative where dummy variables for being legally required to check and not being legally required to check are substituted for checking (and where the reference category is those who do not check); and (3) a model where those who check are captured by a set of dummies indicating the method used to check criminal backgrounds. We present these additional estimates to further investigate a number of hypotheses discussed above about the relationship between checking, hiring ex-offenders, and employer behaviors. The estimates are also presented for the entire sample of employers, and then separately for those stating that they are willing to hire offenders, that they are unwilling to hire them, or that it depends on the crime.

The first row presents logit coefficient estimates when the basic criminal background checks variable is used. Column 1 presents the results for the full sample (reproduced from table 4.4), and again shows no statistical relationship between checking and hiring ex-offenders. Columns 2 through 4 show the estimates for the subsamples stratified by employer willingness to hire ex-offenders. These coefficients are presented to examine the hypothesis of whether some employers—namely, those who indicate that their willingness to hire ex-offenders depends on the crime—use background checks not necessarily to completely exclude ex-offenders from employment but to generate information about specific offender characteristics that can help guide their employment decisions.

The coefficient on doing background checks for those employers who say that their willingness to hire depends on the crime is positive and significant, offering some support for the above hypothesis. This result appears to be driven by those employers who indicate that they are not legally required to check and who use private sources. Note that these employers (those whose willingness to hire depends on the crime) are also those most likely to check backgrounds, as we document above. On the other hand, the association between checking and hiring ex-offenders is negative for those who indicate that they are legally required to check, as expected.

Finally, we investigate whether employers use background checks to protect themselves from negligent-hiring lawsuits. For employers motivated by this reason, use of such checks is likely not to completely exclude ex-offenders from employment. We investigate this question by examining the relationship between private checking and hiring ex-offenders. If employers use such checks as a kind of protection mechanism, they are more likely to use private sources of checking because they are cheap and quick. The results are consistent with this idea and

show that use of private sources of checking is significantly and positively associated with hiring ex-offenders in the full sample and especially for those employers who indicate that their willingness to hire depends on the crime. We do not find this relationship for employers who use criminal justice agencies to do such checking. In fact, we find a significant, negative association between checking with such agencies and hiring of ex-offenders for willing employers as anticipated.

Conclusions

In this paper, we analyze employer demand for ex-offenders using a recent employer survey taken in Los Angeles in 2001. We analyze not only employer-stated preferences to hire offenders but also the extent to which they actually do so. In addition, we examine employer behavior and practices that might limit the employment prospects of ex-offenders, namely the extent to which employers check criminal backgrounds of job applicants they are considering. This examination also considers the extent to which such checking has increased over time, the methods that employers use to do such checking, and when they check during the hiring process. In most instances, we investigate the firm characteristics that correlate with these measures of employer demand. Finally, we also examine differences in employer behaviors and attitudes toward ex-offenders pre- and post-September 11.

We report several findings here. First, consistent with previous studies, employers' stated willingness to hire ex-offenders is still very limited, even relative to other groups of disadvantaged workers (such as welfare recipients). Despite the boom of the 1990s, employer demand for offenders does not seem to have risen much over time. Also, this willingness appears to have been negatively affected by the events of September 11.

Nonetheless, employer aversion to ex-offenders seems to vary with the characteristics of the offenders. Employers report being less averse to those charged with drug or property offenses, and more averse to those who have been charged with a violent crime or are recently released from prison and lack work experience.

Moreover, we find evidence that employers' stated willingness to hire ex-offenders correlates with their actual behavior, thus putting greater confidence in our demand measures for this group. Employer willingness to hire is highly correlated with establishment characteristics in predictable ways that are consistent with previous research, but our work here shows that such correlations appear to translate into their actual hiring of ex-offenders. For instance, employers' willingness to hire ex-offenders in establishments with a high percentage of un-

skilled jobs or in manufacturing, construction and transportation industries is correlated with their actual hiring of them.

The results further show that employer tendencies to check criminal backgrounds have increased over (and maybe since) the 1990s, perhaps in response to the events of September 11. Over the 1990s, this increase in checking occurred most dramatically in retail trade, manufacturing, suburban, and large firms. This increase in checking appears to be driven at least partly by legal requirements to do so. In fact, our results show that about half of firms that check criminal backgrounds indicate that they do so because this is legally required. A near majority of firms use private services when they conduct criminal background checks, and over half of employers check before they hire an applicant.

But there seem to be other factors at play as well. Our results suggest that checking may have increased because of employer fear of negligent-hiring lawsuits or perhaps from greater employer desire to know more about ex-offender backgrounds in making intelligent risk-assessed employment decisions about this group, especially given their growing presence in society over this time period. Consistent with these ideas, we find that employers who use private sources of checking (which are quick and cheap and can act as a protection mechanism against such lawsuits) are actually more likely to hire ex-offenders than employers that use criminal-justice agencies to check methods or who do not check at all. Moreover, we also find that employers who indicate a strong desire to know more about the backgrounds and characteristics of ex-offenders that they may consider for employment are more likely to check backgrounds than most other employers. They are also more likely to hire ex-offenders than other employers despite their use of background checks during employment screening.

These results not only are interesting in their own right but also raise a number of important questions. For instance, how accurate is the criminal history information that is provided by private services, many of whom are Internet-based?²² Do such services provide information on arrest, conviction, or imprisonment? Are the apparent effects of September 11 on decreasing employers' willingness to hire ex-offenders and increasing the frequency with which they check backgrounds relatively short-lived or long-term trends?

Our findings also suggest a number of important implications for policy. For instance, some advocates seek to suppress the information to which employers have access regarding criminal records. But it is possible that the provision of more information to these firms will *increase* their general willingness to hire young black men, as we show here, and since we have previously found evidence that employers who do not have such information often engage in statistical discrimination

against this demographic group (Holzer, Raphael, and Stoll 2006a, 2006b).

The provision of more information (assuming it is accurate) might even help men who have criminal records. Indeed, our data suggest that a large fraction of employers want more information about the characteristics of ex-offenders to help them make employment decisions with respect to this group. Labor-market intermediary organizations are one of a number of potential agencies or methods that can provide such information to employers about the nature of the offense committed by offenders, and about any productive work experience that they might have gained before or since release.²³ In fact, the relatively lesser aversion employers express to those ex-offenders with some recent work experience suggests some potential returns to the provision of such experience, in the form of publicly provided “transitional jobs,” to those leaving prison.

Some public funding for organizations that provide this information to employers, as well as various services or work experience to the offenders, might therefore be appropriate. Furthermore, given that so many employers check backgrounds and often refuse to hire ex-offenders because they are legally required to do so, some review of these legal barriers—particularly the laws that prevent employers from hiring them into specific occupations and industries—might be in order as well.

This research was made possible by grants from the Charles Stuart Mott and Russell Sage foundations.

Notes

1. These data are reported from the Bureau of Justice Statistics (2001) and the U.S. Census Bureau (2002) for California.
2. Several studies have analyzed the labor-market consequences of involvement in the criminal justice system by testing for direct effects on future employment and earnings of being arrested (Grogger 1995) or of serving time (Freeman 1992; Kling 1999; Kling, Weiman, and Western 2000). These studies tend to show that arrests and imprisonment are both associated with lower employment and earnings, evidence consistent with an effect of incarceration on the general employability of former inmates.
3. A limited number of questions on willingness to hire ex-offenders have also been included in other employer surveys that we administered in the late 1990s. See, for instance, Harry J. Holzer and Michael Stoll (2001).
4. Holzer developed and administered this survey, called the Multi-City Telephone Employer Survey (MCTES). MCTES includes observations on 3,220

employers in four cities (approximately 800 per city): Atlanta, Boston, Detroit, and Los Angeles. The Los Angeles portion of this survey used the identical geographic sampling unit as that used in the survey we report on here. See Holzer (1996) for an extensive discussion of the survey methods and data.

5. In fact, our survey asked of those employers who had hired an ex-offender over the last year whether they claimed the Work Opportunity Tax Credit (WOTC) when hiring ex-offenders; and only 21 percent of employers indicated that they did.
6. While the category of "Don't know" should, at least in principle, fully capture any such uncertainty about ex-offender status of workers, it is still possible that many employers assume no criminal record when they are not aware of one.
7. Similarly worded questions are included in our earlier employer survey, 1992 to 1994, for Los Angeles. However, our current survey is slightly different, for it includes a "Depends on the crime" response, whereas our previous survey does not. Still, if we examine the extreme response categories to this question, we find that in Los Angeles, for both 1992 to 1994 and 2001, about 20 percent of employers indicate that they will absolutely not accept ex-offender applicants. Alternatively, 13 percent of employers in 1992 to 1994 indicate that they definitely will accept ex-offender applicants, whereas 5 percent of employers responded this way in 2001.
8. See Holzer, Raphael, and Stoll (2006a). Those data showed little increases in willingness to hire within the Detroit or Los Angeles metropolitan areas, but significantly more willingness to hire in Milwaukee than elsewhere. While some of the differences between Milwaukee and other areas might reflect the extreme tightness of the labor market that they experienced in the past decade, it is also possible that the cross-sectional differences reflect variation in attitudes, political climate, and other such factors.
9. Alternatively, we compare the current prospective overall demand for ex-offenders defined in figure 4.3 with actual overall demand for ex-offenders over the past year, arguably a more direct comparison. We find that the correlation is positive (.35) and statistically significant at the 1 percent level of confidence.
10. Of the employers that had hired at least one ex-offender over the past year, our survey shows that about 70 percent of these employers indicated that the ex-offenders they hired had work experience since being released from prison, and 21 percent of employers used the WOTC when hiring them, as noted earlier. The low level of use of the WOTC in hiring ex-offenders indicates that the efficacy of these tools will be limited without more outreach to firms or assistance from intermediaries in helping them obtain it.
11. Of course, these differences in actual hiring between ex-offenders and welfare recipients are determined by supply as well as demand. And surely, welfare reform as well as a strong economy pushed many welfare recipients into the labor market by the time our survey was administered. But if anything, there is more downward bias in the percentage reported for welfare recipients, as the previous recipient status of many who had been on welfare but left the rolls will be unknown to employers.

12. See also Pager and Bruce Western (2005) for similar results in an audit study of employers in New York City.
13. Pager and Quillian surveyed only employers in Milwaukee who had been audited by Pager in her earlier work; the sample of employers who actually responded to this survey is much smaller than ours in Los Angeles. Furthermore, our measure of actual employer hiring of offenders is based on any hiring over the previous year, and not just employer response to one matched pair of auditors.
14. Unskilled jobs refer to jobs that do not require any particular skills, education, previous training, or experience.
15. These questions are asked of employers who indicated that they are currently willing to hire ex-offenders; employers who indicated that they are currently not willing to hire ex-offenders are excluded. It is likely that their responses to their willingness to hire ex-offenders currently are influenced by the characteristics of ex-offenders as well.
16. It is, of course, possible that the observed correlation between tendency to check backgrounds and the hiring of blacks is not causal. In Holzer, Raphael, and Stoll (2006b), we test for whether the observed correlation remains after controlling for a wider range of employer and job characteristics, and whether it can be found in a "difference-in-difference" analysis of the effects of background checking on hiring for those who are and are not willing to hire ex-offenders. The observed relationships are robust to all such statistical tests. The analysis in that paper thus suggests a causal relationship between checking and the hiring of blacks.
17. For instance, companies such as Pinkerton Security Services, provide criminal background checking services for as little as \$15.
18. Of course, we are unable to verify employer responses regarding whether they are actually required to check by law. Hence, these responses can be interpreted as employers' perception of their legal responsibility to check.
19. These tasks also include those for the use of the phone and computer, and those involved with reading, writing, and math. The results of these task variables are suppressed in table 4.4 since they were never significant and are not the focus of this analysis.
20. Of course, in these regressions it is difficult to assess whether the characteristics of firms or other employer attributes that we include have a causal effect on checking or on hiring ex-offenders. For example, employers who do background checks may be less willing to hire ex-offenders, as we document. Alternatively, background checks may objectively screen out ex-offenders, especially for those that use criminal justice agencies to do such checks. In truth, we cannot really distinguish between these two important interpretations of the results shown here. But even if the results are correlative and not causal, it is still useful to know the extent to which checking and hiring ex-offenders is associated with these employer attitudes and firm characteristics.
21. Though not shown here, we also examined whether the firm characteristics and employer attitudes differ by how and when criminal background checks are conducted, controlling for the relevant characteristics. Of firms that did background checks, manufacturing and minority-owned firms

- were less likely to do so because they were legally required, whereas non-profits and unionized firms were more likely to do so for this reason. With respect to when and how employers checked criminal backgrounds, there were few differences across firms in these except that nonprofits and minority-owned firms were more likely to use criminal-justice methods.
22. See Shawn Bushway et al. (chapter 6, this volume) for a thorough examination of this question about the accuracy of criminal background checks.
 23. In fact, organizations such as the Center for Employment Opportunities in New York and the Safer Foundation in Chicago, as well as America Works and the Welfare-to-Work Partnership, are now playing those roles for ex-offenders.

References

- Freeman, Richard B. 1992. "Crime and the Employment of Disadvantaged Youth." In *Urban Labor Markets and Job Opportunities*, edited by George Peterson and Wayne Vroman. Washington, D.C.: Urban Institute Press.
- Grogger, Jeffrey. 1995. "The Effect of Arrests on the Employment and Earnings of Young Men." *Quarterly Journal of Economics* 110(1): 51–71.
- Holzer, Harry J. 1996. *What Employers Want: Job Prospects for Less-Educated Workers*. New York: Russell Sage Foundation.
- Holzer, Harry J., Paul Offner, and Elaine Sorenson. 2005. "Declining Employment Among Young Black Less-Educated Men: The Role of Incarceration and Child Support." *Journal of Policy Analysis and Management* 24(2): 329–50.
- Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2004. "Will Employers Hire Ex-Offenders? Employer Perceptions, Background Checks, and Their Determinants." In *The Impact of Incarceration on Families and Communities*, edited by Mary Pattillo-McCoy, David Weiman, and Bruce Western. New York: Russell Sage Foundation.
- . 2006a. "How Do Crime and Incarceration Affect the Employment Prospects of Less-Educated Young Black Men?" In *Black Males Left Behind*, edited by Ron Mincy. Washington D.C.: Urban Institute Press.
- . 2006b. "Perceived Criminality, Background Checks, and the Racial Hiring Practices of Employers?" *Journal of Law and Economics* 49(4): 451–80.
- Holzer, Harry J., and Michael A. Stoll. 2001. *Employers and Welfare Recipients: The Effects of Welfare Reform in the Workplace*, San Francisco: Public Policy Institute of California.
- Kling, Jeffrey. 1999. "The Effect of Prison Sentence Length on the Subsequent Employment and Earnings of Criminal Defendants." Woodrow Wilson School of Economics Discussion Paper no. 208. Princeton: Princeton University.
- Kling, Jeffrey, David Weiman, and Bruce Western. 2000. "The Labor Market Consequences of Mass Incarceration." Paper presented at the Urban Institute Reentry Roundtable. (October 12 to 13).
- Legal Action Center. 2004. *After Prison: Roadblocks to Reentry*. New York: Legal Action Center.
- Pager, Devah. 2002. "The Mark of a Criminal Record." Paper presented at the American Sociology Association Conference. Chicago (August 15 to 19).

- Pager, Devah, and Lincoln Quillian. 2005. "Walking the Talk: What Employers Say v. What They Do." *American Sociological Review* 70(3): 355–80.
- Pager, Devah, and Bruce Western. 2005. "Discrimination in Low-Wage Labor Markets: Evidence from an Experimental Audit Study." Unpublished manuscript. Princeton University.
- Raphael, Steven, and Michael A. Stoll. 2004. "The Effects of Prison Releases on Regional Crime Rates." *Brookings-Wharton Papers on Urban Affairs*, 5: 207–56.
- U.S. Bureau of the Census. 2002. 2000 U.S. Census of Population. Washington: U.S. Department of Commerce.
- U.S. Department of Justice, Bureau of Justice Statistics (BJS). 2001. Criminal Offenders Statistics. Washington: Bureau of Justice Statistics