Employer Attitudes About Criminal Histories

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Objective: Although the individual placement and support (IPS) approach has demonstrated superior competitive employment outcomes for people with severe mental illness, practitioners report that job placement for people with criminal convictions is particularly challenging. The current study examined employer hiring decisions and attitudes regarding job applicants with felonies. The main purpose of the study was to identify the percentage of employers who had knowingly hired applicants with felonies, and if the hiring patterns differed by employer type. Method: Twelve employment specialists from nine states interviewed 128 employers about their past hiring practices. Two IPS trainers coordinated the project with the specialists. Results: Survey findings did not support common assumptions held by employment specialists about employer attitudes. Sixty-three percent of employers surveyed said that they had knowingly hired at least one person with a felony conviction. Further, few businesses had written policies that would prohibit the hiring of people with felony convictions. Conclusions and Implications for Practice: Employers' reported reasons for hiring individuals with felony convictions provide a framework to help job seekers improve their prospects for favorable hiring decisions. Employers suggested that relationships with employment specialists can also facilitate the hiring of applicants with felonies.

Keywords: employers, criminal histories, individual placement and support (IPS), severe mental illness

Institutionalization in psychiatric hospitals has decreased dramatically over the last half century (Lamb & Bachrach, 2001), accompanied by a correspondingly large increase in incarceration of people with severe mental illness (SMI). The prevalence rate for people with SMI in correctional facilities in the United States has been estimated between 6% and 16% (Steadman, Osher, Robbins, Case, & Samuels, 2009), at least twice the 3% rate for the total population. Criminal justice involvement is even higher among clients with SMI receiving community mental health treatment (Fisher et al., 2006). In a recent study, 53% of clients disclosed prior criminal justice involvement during intake interviews to a psychiatric rehabilitation agency (Frounfelker, Glover, Teachout, Wilkinnis, & Whitley, 2010).

Employment is critical for participation in mainstream society and community integration. Unemployment leads to isolation, depression, substance abuse, and other negative outcomes (Blustein, 2008). For those with a criminal justice history, unstable employment predicts continued criminal conduct (Visher, Winterfield, & Coggeshall, 2005). Ex-offenders with jobs commit fewer crimes than ex-offenders without jobs, and those with higher earnings commit fewer crimes than those with lower earnings (Bushman & Reuter, 2002). Yet rates of gainful employment are extremely low for both clients with SMI and individuals with criminal justice histories. Among clients with SMI in the public mental health system, employment rates are about 15% (Rosenheck et al., 2006; Salkovskis et al., 2007); employment rates for the general ex-offender population are less than 35% (Holzer, Raphael, & Stoll, 2003).

Nevertheless, most people with SMI and/or criminal justice histories want to work (Frounfelker, Wilkinnis, Bond, Drake, & Devitt, 2011; McQuilken et al., 2003). Barriers to employment are similar in both groups (Groger, 1995; Holzer et al., 2003; Morris, Sumner, & Borja, 2008; Pettit & Lyons, 2002; Rosenheck et al., 2006). These include stigma and discrimination (Corrigan, Lanser, & Rusch, 2009), inadequate education (Holzer, 1996), fear of losing benefits (MacDonald-Wilson, Rogers, Ellisson, & Lyass, 2003), and lack of access to vocational and mental health services (Drake & Essock, 2009). Employer liability is a further barrier associated with criminal justice history. One report suggests that corporate policies affect an estimated 65 million Americans with criminal records, who are automatically excluded from being hired at some of the best-known United States companies (Rodriguez & Emshellem, 2011). State and federal laws bar employers from hiring people convicted of certain offenses in protected occupations (e.g., child care, health care, and security services). An employer's willingness to hire varies by industry, creating a barrier for clients whose job skills or preferences conflict with these policies (Connerley, Arvey, & Bernardy, 2001; Fahey, Roberts, & Engel, 2006). Moreover, many employers are more concerned about their repu-
tation and customer base than legal issues stemming from illegal or problematic behavior (Fahey et al., 2006).

Over the last two decades, a specific model of supported employment, individual placement and support (IPS), has become the standard approach adopted in many states (Becker et al., 2011). IPS is based on eight principles: eligibility based on consumer choice, focus on competitive employment, integration of mental health and employment services, attention to client preferences, work incentives planning, rapid job search, systematic job development, and individualized job supports (Drake, Bond, & Becker, 2012). Systematic reviews have concluded that IPS is substantially more effective than other vocational approaches (Bond, Drake, & Becker, 2008).

IPS programs are receiving increasing numbers of referrals of clients with criminal justice history (Frountelker et al., 2010). Mirroring their clients’ pessimism, employment specialists worry if employers will hire applicants with a criminal justice background. At present, the policies and practices of employers in hiring ex-offenders are poorly understood and often based on hearsay. One qualitative study found that employment specialists often focused job searches on small, independently owned businesses, believing that these employers would be more receptive because they typically use informal hiring procedures, often without conducting background checks (Whitley, Kostick, & Bush, 2009). A survey study found that service-based industries most often hired clients with a criminal justice history (Whitfield, 2009).

Although few IPS studies have reported employment rates for clients with a criminal justice history, one IPS chart review study found that clients with a criminal justice history achieved similar employment rates as clients without this background (Frountelker et al., 2010). Because clients with SMI and criminal justice history represent a sizable and highly vulnerable subgroup, the mental health field urgently needs to develop or adapt evidence-based employment strategies for this population. A modified approach to job development is likely needed. The first step is to understand the employer perspective.

This study examined employer attitudes toward people with a criminal justice history. We sampled a wide range of employers to assess whether type of business affected employer willingness to hire. For example, we wondered if employment specialists were correct in believing that small, independently owned businesses would be more willing to hire a person with a felony than a corporation. Our goal was to learn from employers what was most influential in their decisions to consider applicants with felonies.

**Method**

**Overview**

We used a two-stage strategy for identifying and surveying employers regarding their beliefs and hiring practices. First, we ensured geographic diversity by identifying interviewers from states in different regions of the country. Second, within each state, we identified employment specialists to conduct interviews. We reasoned that successful employment specialists would be the ideal recruiters of informants, given that their job development duties prepare them to identify and build rapport with employers.

**Interviewers**

Trainers from 12 states within an IPS learning collaborative (Becker et al., 2011) each nominated one employment specialist to serve as an interviewer. We used five criteria to select interviewers: at least one year’s experience as an employment specialist, demonstrated good employment outcomes, comfort initiating employer contacts, commitment to the IPS model, and interest in helping people with criminal histories to find employment. We did not operationally define “good employment outcomes.” Instead, we deferred to state trainers to use their own judgment to select above-average performers. This selection process yielded 12 employment specialists from nine states (four from the Northeast, four from the Midwest or Great Plains, and one from the West Coast).

**Respondents**

We asked each interviewer to complete at least 10 face-to-face employer surveys. Survey respondents were persons with hiring authority, such as general managers, business owners, and human resource managers. Selection of employers was left to the discretion of the interviewers, although they were encouraged to survey a diverse sample of employers, including those who hire for entry-level positions as well as those who hire for skilled positions. Interviewers were free to choose to interview employers they had worked with in the past. We did not track information about interviewers’ prior contacts with survey respondents.

**Survey Structure**

The survey protocol was a semistructured interview administered in face-to-face meetings with employers. Interviewers asked each respondent to indicate type of business, whether it was independently owned, and the number of employees. The interview included the following questions related to justice involvement: “Have you ever hired a person who had a felony? If so, do you remember the type of conviction? Why did you decide to hire that person? What factors convinced you to hire? Do you remember how long it had been since that person’s conviction? Are you more likely to consider a person with a record for some positions over others? What advice would you give to vocational counselors who are trying to help people with records? Is the type of conviction a factor in hiring? What is your company policy for hiring people with justice involvement records?” We did not specifically ask employers about their attitudes or hiring practices regarding people who had both criminal histories and SMI, but focused only on criminal histories.

**Coding Responses**

After the surveys were completed, the first two authors held a day-long meeting with the employment specialists. At the meeting, the interviewers helped to summarize data from the surveys. For instance, the question, “Why did you decide to hire the person [with a criminal justice history]?” yielded 73 employer responses, which were then classified into thematic categories. Some employers declined to answer some of the questions on the surveys. For example, when asked about the type of conviction(s) that an employee had, some employers said they believed that information
to be confidential, whereas others said that they never knew or could not remember the convictions.

Results

Sample

The sample consisted of representatives from 128 businesses. The number of surveys conducted by each interviewer ranged from 9 to 13 surveys. Forty (34%) employers reported that their businesses were corporations, seven (6%) reported that the organization was a nonprofit or not-for-profit, and 70 (60%) reported that the business was independently owned. (Eleven surveys were missing this information.)

Previous Hiring Decisions

Eighty-one (63%) employers reported that they had knowingly hired a person who had at least one felony conviction, including 22 (55%) of 40 corporations, four (57%) of seven nonprofits, and 46 (66%) of 70 independently owned businesses. Independently owned businesses were no more likely to have hired a person with a felony than corporations, \( \chi^2(1, n = 110) = 1.24 \). Many independently owned businesses employing a person with a felony were franchises. Regarding type of business, 12 (80%) of 15 restaurant managers, 10 (67%) of 15 retail managers, six (86%) of seven grocery store managers, and six (100%) of six hiring personnel in manufacturing businesses reported that they had hired a person with a felony.

Previous Hiring Decisions by Type of Conviction

Of the 81 employers who reported hiring at least one person with a felony conviction, 63 (78%) shared information about the type of conviction. Sixteen employers did not report the type of offense, either because they thought that information was confidential, did not remember the type of offense, or said that only managers in the corporate office knew the type of conviction. Some employers reported more than one type of conviction, either because they had hired more than one person with a felony background, or because they hired a person with multiple felonies. Employers reported the following convictions for people they had hired: drug-related offenses, 15 (24%); driving under the influence, 11 (17%); theft, 10 (16%); assault, eight (13%); sex offenses/sexual assault, seven (11%); domestic violence, four (6%); armed robbery, two (3%); and murder, two (3%). There was one report each for the following types of convictions: reckless driving, criminal trespassing, manslaughter, and a gun-related offense.

Time Since Last Conviction

Of 81 employers reporting hiring someone with a felony history, 57 estimated length of time since the applicant’s last conviction at the time of hire. The other 24 (30%) either did not remember the length of time or chose not to respond to this question. Time since last conviction was varied; 9 (16%) were hired within a few months after prison release, 11 (19%) after one year, nine (16%) after two years, six (10%) after three or four years, and 14 (25%) after six years or more.

Reasons for Previous Hiring Decisions

Seventy-three employers explained their reasons for hiring applicants with convictions. Some employers provided multiple reasons, as shown in Table 1. Thirty-one (42%) employers reported that they hired a person with a felony because the person had the qualifications to do the job (experience, skills, or training). Sample statements included: “He had the skills that were necessary to do the job,” and “I hired these two because one knew how to weld and the other had 10 years machining experience.”

Sixteen (22%) employers talked about the basic job-seeking skills. For example, good interview skills, including expressed enthusiasm for the job and appropriate dress. Good follow-up during the hiring process was also seen as positive. For example: “Initially, I didn’t know. But the resume looked good and the person demonstrated that he was willing to do whatever was needed to get hired by showing prompt phone call and email responses, was more than ready for interviews, and showed enthusiasm for the job during the interview.”

Thirteen (18%) employers said they decided to hire because someone who had a connection to the employer had referred the applicant. Some sample statements included: “The person was a good interviewee and had good experience. He also came highly recommended by one of my mechanics,” “I knew his parole officer and talked to him personally,” and “The person seemed like a good person who sincerely wanted to work. He had an employment specialist working with him with whom I had a prior relationship. I have hired people with felony backgrounds before, but it helped having someone who knew the person and was willing to back him.”

Eleven (15%) employers said that they believed that the person had changed and, therefore, they were willing to give the person a second chance. For example: “This person was very convincing when he told me he had lost most of what he really cared about because of some very poor choices. He told me he needed to work so he could feel normal again. He asked me to take a chance on him,” and “I was sure the person had changed his life for the better. He took responsibility for what he had done and was adamant about wanting to have a chance to prove himself.”

Ten (14%) employers commented on the length of time since the person’s last conviction as one of the reasons that led to their hiring decision. Sample statements included: “The criminal record was in their past, usually over 10 years or so. I saw a change in the person and thought they would be a good employee because of their willingness to learn and their positive attitude.”

<table>
<thead>
<tr>
<th>Reason for Hiring</th>
<th>Frequency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualifications to do the job</td>
<td>31</td>
<td>42%</td>
</tr>
<tr>
<td>Good interviewing skills</td>
<td>16</td>
<td>22%</td>
</tr>
<tr>
<td>Reference from a person known to the employer</td>
<td>13</td>
<td>18%</td>
</tr>
<tr>
<td>Belief that the person had changed</td>
<td>11</td>
<td>15%</td>
</tr>
<tr>
<td>Length of time since last conviction</td>
<td>10</td>
<td>14%</td>
</tr>
<tr>
<td>Sincere/honest about conviction</td>
<td>6</td>
<td>8%</td>
</tr>
<tr>
<td>Belief that applicant would be dependable</td>
<td>5</td>
<td>7%</td>
</tr>
<tr>
<td>Conviction was not related to the job</td>
<td>3</td>
<td>4%</td>
</tr>
</tbody>
</table>
Six (8%) employers said that the person demonstrated sincerity and honesty when explaining the criminal record. For example, one employer said, "The person was open and honest about her past." Another employer reported, "He did his time, paid his dues. He was up front—talked about it."

**Employer Policies for Hiring Applicants With Convictions**

Fourteen employers out of the total 128 employers surveyed chose not to share information about written hiring policies regarding applicants with criminal histories. Of those who did answer, 75 (66%) said that they did not have a formal hiring policy regarding applicants with criminal convictions. Twenty (18%) said that they had a policy not to hire applicants with felonies. Eleven (9%) reported policies that prohibited hiring applicants with certain types of felonies, and five (4%) had policies regarding the length of time since the last conviction.

**Background Checks**

Asked if they conducted background checks before hiring applicants, two employers chose not to answer. Among 126 responding, 93 (73%) said that they did, and 33 (27%) said they did not, either because they didn’t care about previous convictions or because they trusted job applicants to be honest when completing applications.

**Hiring for Specific Positions**

Employers were asked if they were more likely to hire a person with a felony for certain positions over others. Seventy-six out of 128 employers provided a response. Some employers did not respond because they said they would never hire a person with a felony at all. Forty-five (33%) said that they would consider the type of conviction in relationship to the position. For example, "I’m more likely to hire a person with a felony for the dock area, loading and unloading trucks."

**Employer Advice for Employment Specialists**

Employment specialists received advice from 116 employers on how to help jobseekers with convictions. Some employers shared more than one idea, as shown in Table 2. Thirty-eight employers (33%) recommended that employment specialists should encourage jobseekers to be honest and upfront. For example, one employer said, "Tell employers. It’s better for the information to come straight from the source rather than a background check."

Twenty-two (19%) employers suggested that employment specialists should help jobseekers think about the way they talk about their justice-system involvement. Specifically, each jobseeker should take responsibility for his or her actions. They also said that it is important that the person speak directly to the employer. Some examples include: "Make sure that the person who needs the job is able to explain what he has done to change.” "When I get a stack of 200 applications, a person with a criminal record doesn’t have a chance unless they make a personal connection. They need to make a personal appearance,” and "Get the person ready to talk about his past criminal issues and assure the employer that these things are in the past and now the person is ready to get on with a new life."

Fifteen (13%) employers suggested that the employment specialist should help the jobseeker describe how he has changed. For example, "Talk about the steps they are taking to better their lives" and "Show improvement in the person’s life, positive changes."

Thirteen (11%) employers said that jobseekers would be more likely to be hired if an employment specialist would introduce the person to the hiring manager. For example, "I prefer individuals who were open about what happened and showed that they were getting ongoing help and support. I want to see the positive change they’ve made in their lives.” Another employer suggested, "Counselors should sell the person. Vouch for them."

**Discussion**

**Lessons Learned**

The surveys from this project dispelled a number of myths about felony convictions and employment. Contrary to common assumptions, most employers have knowingly hired at least one person with a felony. Further, most employers did not have written policies about hiring applicants with criminal convictions. Finally, independently owned businesses were no more likely to hire a person with a felony than corporations.

The most important lesson from these surveys is that there are steps jobseekers can take to improve their chances of being hired. Employers said that people with legal records are most likely to be hired if they make face-to-face contact with employers and are prepared to talk about both their job skills and justice-system involvement. Further, employers said that it was important for jobseekers to be upfront about criminal histories. Employers were not interested in hiring people who did not appear willing to take responsibility for their actions. Employers stressed that the way a jobseeker describes his efforts to move his life forward after justice-system involvement can be sufficient to convince employers to hire if the business doesn’t have strict policies about criminal records. Because only a small number of employers in this survey
had strict policies, it appears that there are opportunities to sway employers' opinions about individual jobseekers.

Other recommendations from employers included having references from trusted sources. Examples included employment specialists, probation or parole officers, clergy, or another person who knew the job applicant well. Employers also suggested that jobseekers follow basic job-seeking strategies, such as filling out job applications completely, showing enthusiasm for the job, and appearing clean cut while applying for work. Finally, employers suggested that jobseekers think about their convictions in relation to the jobs for which they applied. For example, a person with a recent theft conviction would not be likely to be hired for a position that involved handling cash.

Implications for Employment Specialists

Based upon reported past hiring practices and recommendations from employers, employment specialists should focus on the following strategies: (a) help clients make face-to-face contact with employers; (b) help clients prepare to talk about skills and strengths related to the job for which they are applying; and (c) help clients practice the way they will talk about prior convictions and efforts to avoid legal problems in the future. Because employers receive many applications for each open position, candidates with criminal histories may be screened out if they don't have a chance to make a personal connection with employers and describe what they have done to move their lives forward since their convictions. Employment specialists can develop relationships with employers by asking for short meetings to learn more about their businesses, and then ask employers if they would be willing to meet a person who could be a good match for the business. While developing relationships with an employer, employment specialists should not ask if the employer would consider hiring a person who had a felony. Instead, employment specialists should, recognize that most employers make those decisions on a case-by-case basis. Employers often base their decisions on how jobseekers describe what he or she has learned from experience, and how he or she is working to avoid legal problems in the future.

Another strategy employment specialists can use to help clients meet employers is to accompany clients as they turn in applications (or follow-up on applications) and ask to speak to a manager. To prepare for the in-person meetings, specialists should help clients think of ways to describe their skills and experience as they relate to the available position. They can explain to clients that employers reported that they made hiring decisions based upon whether they felt applicants had the right skills to do the job, even when the job applicants had legal system involvement.

Finally, employment specialists must help clients rehearse how they will explain their legal system involvement. Ideally, jobseekers would bring up the fact that they have a legal history, take responsibility for their actions (e.g., "I made some bad choices") and explain how they are changing their lives to avoid legal problems. For example, clients can explain how treatment has helped; others may be able to talk about better supports, education, involvement in church or volunteer activities, and so forth. Because many people have shame about their legal histories, employment specialists can offer to accompany them to meet with employers and to vouch that the applicant is trying to move his or her life in a positive direction.

These adaptations are consistent with IPS principles. For example, one IPS principle is rapid job search. Employment specialists could help clients rehearse statements about their legal history during the first few weeks after IPS enrollment, assisting them practice and refine those statements while conducting the job search. Another IPS is that client preferences are important. In regard to acting as a reference for clients and helping clients with job interviews, employment specialists allow clients to decide what to disclose to employers. The adaptation to IPS would simply be that the employment specialist would focus on helping the client practice explaining what had happened in the past, how his or her life had changed, and why he or she would be a good employee now.

Study Limitations

The most serious limitation was selection bias in choosing employers. Employment specialists likely chose many employers they assumed to be sympathetic to applicants with felonies. But employment specialists told us that they did not have prior relationships with all of the employers they surveyed. Moreover, the survey sample included employers such as banks and childcare centers known for policies prohibiting employment of applicants with felonies.

The survey focused the inquiry on applicants with at least one felony conviction. However, we know that when conducting background searches, employers often see records for misdemeanors and, in some states, arrests. The survey did not include questions about how employers might view misdemeanors, arrests, or multiple convictions.

Another limitation concerned social desirability. Employers may have wanted to be seen as fair-minded, for example, when they said, "We hire candidates who are the best qualified, rather than basing hiring decisions on criminal histories." On the other hand, it is plausible that an employer who did not want to hire people with criminal histories would not say anything to encourage an employment specialist to come back with job applicants who had felonies.

We intentionally focused interview questions on felony history only, recognizing that the question of hiring someone with both mental illness and criminal justice history is a more complex question. Moreover, the Americans with Disabilities Act forbids employers to ask applicants about psychiatric history, suggesting that employers are often unaware of mental health status.

A final limitation was that the survey did not include questions about why employers declined to hire applicants with felonies. Employer's reasons for not hiring may have provided information that was as instructive as reasons for hiring people with felonies.

References


