

**Title: On the Job or in the Joint: Employment outcomes and criminal justice contact**

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### **Abstract**

Existing research has shown that the rise of incarceration that occurred during the prison boom had a substantial effect on the ability of former inmates to retain and procure employment. Given that the jail population grew in line with prison incarceration during this period, the effects of less severe forms of criminal justice contact should be investigated. The conditions and circumstances that render long-term incarceration impactful are also present for arrests, convictions and jail stays. Contact of any form causes separation from society, which can hinder the attainment and maintenance of employment. Furthermore, the stigma from a criminal or arrest record can inhibit employment prospects due to the proliferation of background checks for potential employees. Using the NLSY97, this project explores employment outcomes as a result of arrests, convictions and jail stays. Preliminary results suggest that both employment and wages are negatively affected across all lower level forms of contact.

### **Extended abstract**

Since the early 1980s, the incarceration rate in both jail and prison has climbed from 221 to 726 per 100,000 people (Western & Pettit, 2010). The rapid and steady increase of incarceration that characterized the contemporary prison boom has sparked an emerging scholarship, investigating the causes, consequences and costs of imprisonment on individuals, communities and institutions. The bulk of the empirical work, however, has focused on the effects of long-term incarceration in prisons, finding significant and detrimental outcomes in employment, health, family relations, educational opportunities and housing over the life course (Pager, 2003; Kruttschnitt, 2010; Massoglia & Uggen, 2010; Comfort, 2007). Given that the jail population grew in with the prison incarceration during this period, delving into the effects of less severe forms of criminal justice contact seems significant, especially considering the potential impacts on a wider demographic than is captured in the prison population. According to the Bureau of Justice Statistics (BJS), the jail population rose steadily throughout the last twenty years, but growth slowed since 2009. As of the most recent census of jail facilities for mid-year 2010, the jail population stands at 748,728 inmates. In the 12 month period ending in June 2010, almost 13 million people were admitted to local jails. While this has largely remained unstudied, some of the potential mental and physical health consequences could be seen in a variety of institutional and organizational spheres in society. The current project seeks to explore the possible effects of other forms of criminal justice contact such as arrests – both with and without conviction – and short term incarceration in a jail setting on employment.

The deleterious effect of felony imprisonment on employment has been well-documented, suggesting a substantial effect of a criminal record on the career prospects and earning potential of former inmates (Pettit & Western, 2004, 2010; Western, 2006; Uggen, 2000, 2008; Stoll & Bushway, 2008; Grogger, 1995; Pettit & Lyons, 2009). I expect to find similar detrimental outcomes in employment prospects for individuals who experiences less severe forms of criminal contact. The existing literature suggests that time out of the labor force and the indelible stigma of a criminal record facilitates subpar outcomes for former offenders seeking employment. First, absence from the labor force can result in either the termination of current employment or the denial of wages due to the absence, especially in terms of an arrest. In the current project, a jail stay, regardless of length, is thought to result in a break in current employment, leaving current employment in jeopardy. According to the Bureau of Justice Statistics (2002), 71% male jail inmates were employed (both part and full time) at the time of their arrest and booking into the jail institution. About 41% of inmates reported monthly incomes of \$1000 or more, with only 6% receiving welfare benefits before their arrest. Increased duration of a jail stay due to inability to post bond or an extended sentence prolongs the absence from employment, potentially resulting in termination of employment and further alienation from a viable labor market. If arrested

individuals are employed in the secondary labor market (Crutchfield, 1989), the lenience for leaves of absence, if only for a day or two, may not be present given the transient nature of this type of employment. The average jail stay for those arrested for a misdemeanor offense is about forty-eight hours (Potter et al., 2011). Without immediate access to a telephone, even a short stay in jail may result in a reprimand, at best, or a termination of employment in the worst case.

Prior research on the impact of arrests on employment suggests a moderate effect on employment that accounts for black/white differentials in the rate of joblessness (Grogger, 1992). In a follow-up study, Grogger (1995) assesses the role of arrests on both employment prospects and earning potential, finding that the detrimental effects are moderate and short-lived. According to Grogger, the analysis suggests that such outcomes are not the result of a causal effect of arrests; rather other unobserved characteristics are driving both criminal backgrounds and labor market behavior (70). In contrast, Freeman (2008) asserted that jail terms had significant long-term effects on both earnings and future employment prospects. Grogger maintains that these empirical differences may be a result of sample differences between the two studies; Freeman analyzed the employment and earnings potential for individuals with longer records while Grogger assessed those with both short and long sentences. Therefore, the effect of arrests and short-term incarceration may hinge on the time spent in jail as opposed to the average transient stay of less than forty-eight hours. However, even a relatively short detention may pose a threat to the retention of current employment and the accessibility of future job opportunities.

The existing research shows that the relationship between employment and imprisonment operates either on the basis of the overarching stigma of a criminal record or the loss of viable job skills. The time spent in jail, however, is often not long enough to result in the decline of job skills. Rather, time out of the labor force, even temporarily, can result in the loss of a current job, while the stigma from any contact with the criminal justice system that results in a record affects future employment opportunities and prospects. According to current research, a criminal record signals to potential employers that the individual is not trustworthy and that their performance and attendance will be inconsistent, posing a danger to the company's bottom line. Even short-term incarceration for a misdemeanor offense suggests a certain level of precariousness, with employers rationally opting for employees without potential complications. Grogger (1992) cites Sullivan's (1989) ethnographic work that documents the employment futures of young men after an arrest. Sullivan finds that employment was terminated due to chronic absenteeism, with the men attempting to conceal their contact with the criminal justice system and their subsequent need to attend legal proceedings for his case. For the unemployed men in his sample, Sullivan finds that they would not apply for employment until all court hearings were finished to avoid numerous absences from their job. Such decisions often resulted in a spotty work record, making the young men less attractive to prospective employers. The effect of an arrest, and subsequent jail stay, brands the individual as a potential risk, whether because of possible theft or due to extended periods of absence.

The role that misdemeanor convictions play in terms of employment, however, has not been fully explored. As stated previously, the audit study conducted by Uggen et al. (2008) reinforces the salience of a criminal record, even for a non-violent misdemeanor conviction, on the potential for gainful future employment. The study also explores the persistent race effect that undergird employment decisions, showing that African Americans, with or without a misdemeanor conviction record, are subject to more severe employment penalties than their white counterparts. The ease of accessing criminal and arrest records has increased the utilization of such criterion to evaluate potential employees. Stoll and Bushway (2008) assert that the increased use of background checks does not necessarily result in restrictions to employment for former felons. Rather, they find that employers who are not legally required to perform background self-report using the information as an information-gathering technique rather than a strike against hiring. On the other hand, Stoll and Bushway find that employers who are legally bound to check criminal histories are more likely to predicate their decision to hire on the presence or absence of a felony record. The ubiquitous availability of these records, and oftentimes for arrests and convictions in the distant past, has the potential to affect employment prospects especially for those individuals who are marginalized from the labor market due to racial discrimination (Pager, 2003, 2007; Pager & Quillian, 2005). In her audit study and subsequent extended analysis, Pager (2003, 2007) posits that the felon label

and stigma erects barriers to future employment and self-sufficiency, affecting the possibility of recidivism as well as outcomes throughout the life course. Through the intensive audit process, Pager concluded that criminal records do in fact affect employment prospects for both racial groups. For whites, Pager found there was a significant effect of disclosing imprisonment history, with 34% of white testers without criminal records receiving a callback, when compared with 17% of those with a criminal record (955). Among African American testers without criminal records, 14% received a callback, compared with 5% of those with a record. As the numbers reflect, there seems to be a striking and critical disparity not only for those with a criminal record, but also for African Americans regardless of any history in the criminal justice system.

While some researchers, such as Stoll and Bushway (2008) find that employers self-report a tendency to hire those with felony records, similar outcomes have not been borne out in audit studies tapping into similar hiring behaviors. It may be that this is an evaluation of self-reported decision-making rather than an indicator of purposive hiring action. The reliance on self-reported behavior may explain the contradictory results, with the audit studies arguably measuring the demonstration of discriminatory behavior, which may not be subject to the same level of social desirability bias seen with self-reports of behavior. For example, Pager and Quillian (2005) find significant discrepancies between self-reports of employers' hiring practices and their actual decisions to employ ex-offenders. In their study, employers often reported the willingness to hire ex-offenders, but their actions in the audit portion of the study often differed markedly from their expressed preferences. Therefore, the divergence between words and actions may be driving the differential in outcomes between the audit study results and those of employer surveys. Pager and Quillian maintain, however, that the survey results are still equally useful in understanding the motivations behind employers' beliefs and perceptions of potential employees. However, it seems that the audit studies may provide a more suitable framework for ascertaining the potential effect of criminal records, even for low-level offenses, on employment opportunities.

In terms of the life course perspective, the precarious position of these men prior to the prison boom made them susceptible to engagement in the illicit underground economy or employment in low wage, low-skilled jobs. However, the rise of incarceration has further disadvantaged this population, leaving them with limited options when they return to their communities. Ties to work in the secondary labor market, where job stability and benefits are nearly nonexistent, are not able to provide the requisite control that will lead to desistance from further criminal offending (Uggen 2000; Sampson & Laub 2003; Fagan & Freeman 1999; Crutchfield 1989). Decreasing options in the legal labor market, due both to their former incarcerated status and the health of the current market, can force these marginal individuals into illicit work, which will leave them vulnerable to eventual reappréhension. Additional stints in prison will affect not only the individual offender, but will tear at the already fraying fabric that binds them to family and community. Goffman (2009) has suggested that the threat of outstanding warrants or parole violations similarly impacts the connection to the broader community and the interaction and trust in institutions and relationships. Therefore, the stain of a felony conviction has long-lasting and detrimental effects across the life course. Low-level incarceration for misdemeanor convictions may not erect such substantial barriers, however, any contact with the criminal justice system could result in a cumulative disadvantage over time. Only focusing on prison stays and felony convictions limits the scope of the analysis on the full effect of incarceration, both low-level and long-term, on the trajectory of former offenders.

## **Data & Methods**

Using the National Longitudinal Study of Youth (1997), I will evaluate the effect of arrests, convictions and short terms jail stays on employment, both in the form of income and the presence or absence of a paying job. The data set offers the ability to track respondents over time and assess their level of contact, if any, with the criminal justice system. To investigate these potential relationships, models will be constructed that use appropriate measures of these employment outcomes and various demographic and life circumstance controls. The measures for employment ask if currently employed and

current income level through fourteen waves of NLSY97 data. All models will control for basic demographic variables such as race, age, gender, marital status, presence of children in the household, immigration status, and education level. In addition, crime and delinquency-centered controls will be added, assessing the number of times the individual has been arrested and incarcerated. The models for employment will first be analyzed using binomial logistic models and then propensity score matching techniques will be employed. The models for income will be analyzed using logistical regression models and also a second round of propensity score matching models. The dependent variables consist of measures that record current employment status and wages from seasonal, part-time and full-time employment. The first set of models looks at the current state of employment and wages after an arrest without conviction while the second set evaluates employment and wages after an arrest with conviction. The third set of models assess the role of a jail stay in employment outcomes, with an additional measure that asks the respondent if they attribute their loss of their most recent job to their incarceration.