



LITERATURE REVIEW:
FAIR CHANCE
POLICY IMPACTS





Background

Fair Chance hiring and Ban the Box are policies that prevent employers from inquiring about an applicant's self-reported criminal history on job applications and delays when employers can run background checks for job applicants. This literature review examines the implementation of Fair Chance and Ban the Box laws and their subsequent impact on justice-involved individuals, employers, and their communities.

KEY TAKEAWAYS:

Fair Chance and Ban the Box laws effectively expand employment opportunities for justice-involved individuals and increase public safety.

Challenges with implementing Fair Chance laws include varying versions of the policies and lack of employer familiarity and support.

Fair Chance policies do not necessarily mitigate racial discrimination in hiring practices.

Recommended solutions to overcome shortcomings to these laws include increased training for justice-involved applicants and employers, adopting strategies to reduce racial bias and offering incentives for compliance.



Impacts of Fair Chance and Ban the Box Legislation

Fair Chance and Ban the Box are policies that prevent employers from inquiring about an applicant's criminal history on job applications and delays when employers can run background checks. As of 2019, "Ban the Box" policies have been adopted by 35 states, the District of Columbia, and approximately 150 cities and counties (Avery, 2019). Studies have found that these Fair Chance and Ban the Box policies have increased economic opportunity and public safety through increased employment.

Expanded Employment Opportunities

Evidence suggests that Fair Chance hiring laws have been successful in increasing the number of justice-involved new hires by reducing criminal stigmatization from the initial recruiting process. Early adopters of Fair Chance hiring legislations, such as the City of Minneapolis and Durham County of North Carolina, reported increases in the number of hires among applicants with criminal records after the policies went into effect (National Employment Law Project, 2016; Southern Coalition for Social Justice, 2014). When evaluating the effect of Ban the Box policies in New York City and New Jersey, researchers concluded that the policy "effectively eliminate[d]" the impacts of having a criminal record on an applicant's probability of receiving a callback (Agan and Starr, 2018). Ban the Box policies have been estimated to increase the probability of employment in the public sector by 5% for individuals with convictions (Craigie, 2020). Another study found that these policies can increase employment probability for older, low-skilled Black men and highly educated Black women specifically (Doleac and Hansen, 2016).

Increased Public Safety

Employment for justice-involved individuals has an extended effect on public safety in their communities. After the implementation of Hawaii's Ban the Box law, researchers found a decrease in recidivism due to increased job prospects. Individuals prosecuted in Honolulu County for a felony were 57% less likely to have a prior conviction and overall repeat felony offending decreased by 11.4% (D'Alessio et al., 2015). Similarly, Shoag and Veuger (2016a) identified a rise in employment for residents living in the top quartile of high-crime neighborhoods after Fair Chance legislation was passed.

Implementation Challenges

Lack of Familiarity and Support

Implementation of Ban the Box policies and Fair Chance laws are hindered by a lack of employer familiarity and support. An evaluation of Washington D.C.'s 2014 Fair Chance Record Screening Amendment Act found that many businesses in the area were unfamiliar with the law and employers indicated that there were insufficient government resources to inform them (Office of the District of Columbia Auditor, 2016). Similarly, employers have expressed fear of the potential risks associated with hiring applicants with criminal records (Von Bergen and Bressler, 2016). Compliance challenges can also be attributed to the variation of Fair Chance laws across municipalities. Some Fair Chance laws strictly apply to public employers, whereas others include private employers that meet specific criteria such as business size or industry (Nagele-Piazza, 2019). Additionally, certain laws outline different processes for employers, requiring specific actions before rescinding a job offer from a candidate with a criminal history. This can have implications for employers with employees that operate in multiple jurisdictions (Von Bergen and Bressler, 2016; Nagele-Piazza, 2019).

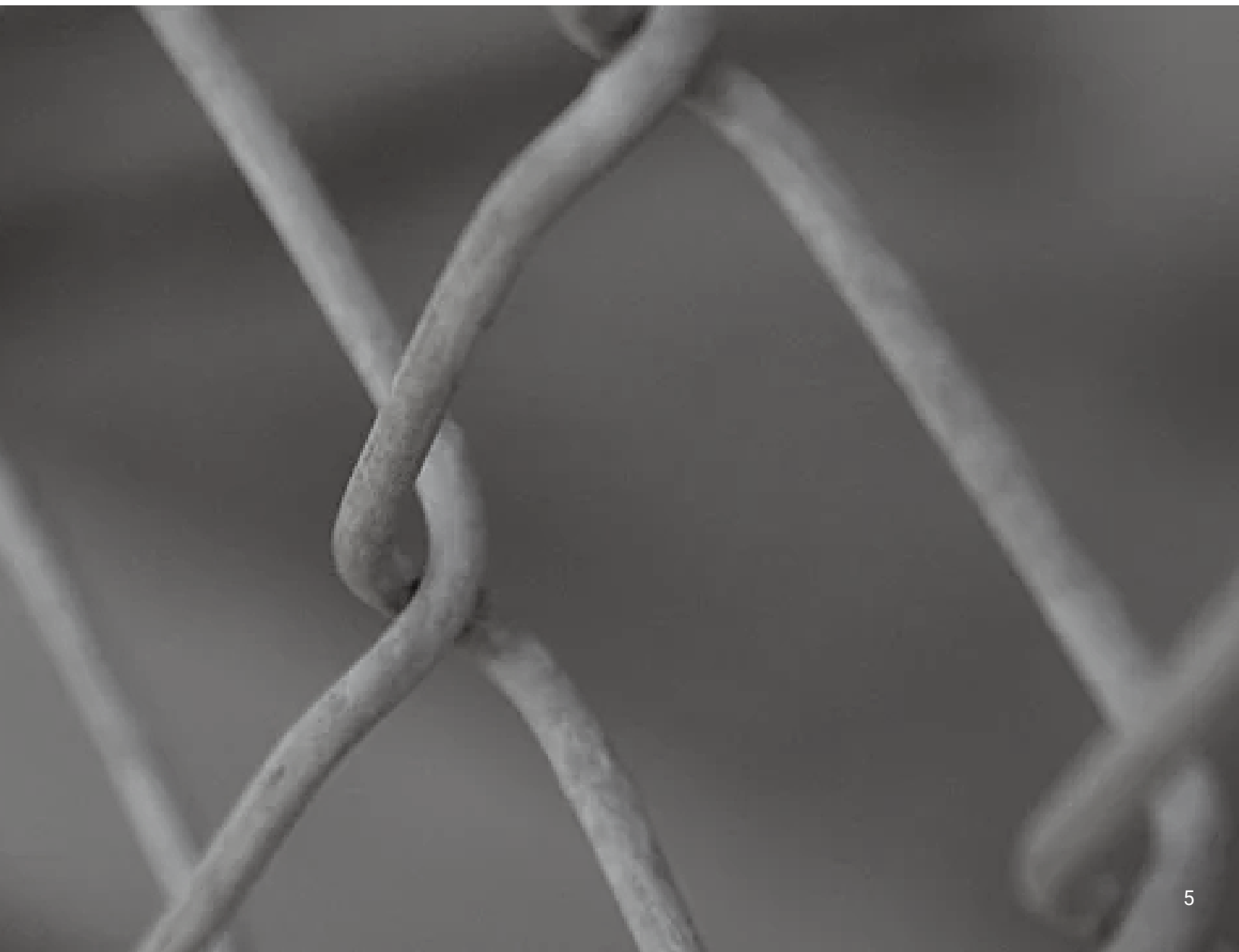
Equity Considerations

Bias and inequality in employment opportunity are intersectional and occur in tandem with other forms of discrimination. More broadly, studies show that White applicants are more likely to receive callbacks and be hired than Black applicants (Quillian et al. 2017; Cotton et al. 2008). Similarly, the impacts of a criminal record on employment opportunities more adversely affect Black job seekers than White job seekers (Pager and Western, 2009).

Even under Fair Chance laws, other forms of bias can persist. Studies have concluded that in the absence of a background check, employers use race as a proxy for perceived criminality, particularly if the employer is averse to hiring people with criminal records (Holzer, Raphael, and Stoll, 2006). Agan and Starr (2018) found that the callback disparity between White and Black applicants increased when Ban the Box legislation was implemented. White applicants received 7% more callbacks than similar Black applicants before Ban the Box and 43% more after the policy was implemented (Agan and Starr, 2018). Similarly, other research suggests that Ban the Box has decreased employment probability for young, low-skilled Black and Hispanic men (Doleac and Hansen, 2016). One study found that employers increased their job experience and education requirements for new hires after Ban the Box laws went into effect (Shoag and Veuger, 2016b).

The change also creates concern that these requirements could exclude women from job prospects "who are less likely to have been convicted of crimes," by decreasing their employment opportunities (Shoag and Veuger, 2016b, p.3). However, not all studies have reached the same conclusion. Craigie (2020) used triple-difference (DDD) estimation to test for racial disparities under Ban the Box policies, but found no evidence for statistical discrimination.

This research demonstrates that while targeted strategies, like Ban the Box laws, can increase hiring for certain groups, they do not alone necessarily address deeply rooted inequities. Justice-involved individuals with intersecting identities are subject to discrimination and bias based on each of their identities. Therefore, it is important for initiatives and policies that seek to expand employment opportunities for the justice-involved population to develop intentional strategies that acknowledge intersecting identities, including race and gender.





Recommended Solutions

Implementation challenges have led to recommendations to address the shortcomings of Fair Chance hiring and Ban the Box. These include:

Providing more training for employers and people with criminal records on Ban the Box policies to deter racial bias in hiring and non-compliance (Stacy and Cohen, 2017).

Ensuring employers follow the Equal Employment Opportunity Commission's (EEOC) guidance when considering applicant arrests or convictions to avoid unlawful discrimination (Von Bergen and Bressler, 2016; Stacy and Cohen, 2017; Hanks, 2017).

Encouraging employers to "blind themselves to names (and other potentially racially identifying information unrelated to job qualifications)" to remove bias (Agan and Starr, 2018, p. 230).

Offering incentives for reporting hiring violations. For example, in Washington D.C. if an individual files a complaint that is approved, the employer is fined and the employee is given half of the fine (Barthel, 2019).

Providing more employment services to re-entry populations and allowing justice-involved applicants to provide proof of rehabilitation (Stacy and Cohen, 2017; Hanks, 2017).

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