Working Around the Law: Navigating Barriers to Employment with a Criminal Record

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Working *Around* the Law

- Want to obey the law but cannot ("legal double-bind")
  - Must use extralegal strategies in an attempt to ultimately comply with the law
- What are these strategies?
Background
Work at Reentry

- Employment is a key protective measure against recidivism (Petersilia 2003)
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People want to find “legit” work
- To make basic ends meet
- To repay debt
- To keep parole/probation officer happy
- To “make good” (Maruna 2001)
Work at Reentry

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- Deterioration of job-skills, social networks, and gaps in work history resulting from incarceration (Mukamal and Samuels 2002; Sabol 2007; Travis 2005, Western 2002)
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  - Deterioration of job-skills, social networks, and gaps in work history resulting from incarceration (Mukamal and Samuels 2002; Sabol 2007; Travis 2005, Western 2002)
  - Relegation to low-skill, low-wage “secondary” positions (Crutchfield and Pitchford 1997; Nagin and Waldfogel 1998; Sabol 2007; Western 2002)
Legal Double-Bind
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  - Legal Financial Obligations (“LFOs“) (Petersilia 2011)
    - Legal fees
    - Child support
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    - Jobs in original fields
    - Otherwise accessible positions (Harris and Keller 2005)
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    - Geographic restrictions
    - Association with other “felons”
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  - Requirement to report record on application
How do job seekers navigate this legal double-bind?
Methods
Orange County, CA

- 3rd most populous county in California
- 6th most populous county in the United States
- Over 3 million residents
  - 41.4% White
  - 34.4% Latin@
  - 20.5% Asian/PI
  - 3.3% Multiracial
  - 2.1% Black
- Economy v. National Average
  - Labor force participation: 66.3% v 63.7%
  - Unemployment: 4.1% v. 4.9%
  - Median household income: $75,998 v. $53,482
Recruited from OC Sheriff’s Department’s Early Release Program at time of release
- Participants completed in-jail programming in exchange for a 3-day kick
- Received a $15 gas gift card for participation

Approached 192 people
- 38 accepted
- 31 interviews completed
- Final sample of 30
The Sample

- N = 30
- Felony record holders*
- 18 years old or above
- Men and women

- Arrested / jailed in Orange County
- Orange County, Los Angeles County, San Bernardino County, and Riverside County residents

Gender

- Male: 73%
- Female: 27%

Race/Ethnicity

- White: 41%
- Latinx: 45%
- Black: 10%
- Multiracial: 4%
Analysis


- Audio-recorded and transcribed

- Inductively coded using grounded theory, grouped into “conceptual categories” (Glaser and Strauss 1967:30; Patton 1990)
Findings
Thinking About Release and Employment

“I have had sleepless nights in my [jail] cell ‘cause my [release] date was coming up, thinking, ‘What am I gonna do? What am I gonna do?’” – Turtle, 30

“It’s kinda scary with the charge I have on my record now; it’s kinda scary to think about work now. I don’t know, right now I just got out of jail and I have a little anxiety and—I’m a little emotional.”

-Michelle, 24

“It’s like trying to dig myself out of quicksand.”

-John, 35
Navigating the Barriers

1. Evading the Background Check
2. Working Under the Table and Off the Books
3. Returning to Illicit Work
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- **12 of 30 (40%)** intentionally lied to employers about their records
  - All 12 had initially been honest
“In the beginning they say, ‘Be honest, be honest.’ But then I started marking- I wouldn’t put nothing. I’d say, ‘No, I don’t have no felonies,’ and hope to God they didn’t check. You get to a point where it’s that level. **In the beginning you want to be honest, ‘cause you know, the program I was in, AA, and I’m going to church and I’m trying to do the right thing.** You have to be honest. They say, ‘be honest,’ and you do it. For 6 months you’re looking for a job everyday, I mean, getting turned down. And eventually you get frustrated and start writing ‘no,’ and you still don’t get it because they run a background check.”

-Hank, 50
1. Evading the Background Check

- Why Lie?
1. Evading the Background Check

- Why Lie?
  - Win the employer over during an interview
    - Let employer get to know them
    - Made mistakes in the past
    - Criminal record can be an asset
Not everyone’s perfect. But at the same time, there’s a person underneath there...there’s a person that wants a chance. And if a person’s coming to apply for a job, they’re asking for a chance. And I think a lot of employers need to remember that there’s a person behind that felony. **There’s a person that’s already paid their time, that’s already done their due, and they’re asking for a chance.**” - Casey, 37

‘Well, I have a felony and have been convicted for such and such. **But that’s my past, and I’m trying to change myself, right?** To improve. And this is a start right now.’” – Ron, 21

“It’s the way I carry myself and how I sell myself and show myself to other people that, you know, I made mistakes...um, there’s certain things like the felonies that hold me back, but that doesn’t make me the person I am today. It just shows that I **can be more of service to you than someone that hasn’t been through that much tragedy.**” – Tony, 31
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  - “It’s just simple. Frankly, I need these days of work.”
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    - 50/50 chance, but better than no chance?
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“I got hired and I was stoked, like, “Cool man.” And I went, they showed me around, I met everybody. **And it was embarrassing**, you know what I mean, when after a couple days, like “Man, what happened?” I kept calling them, and they sent a letter in the mail, like “Sorry. Whatever whatever...” And then I started looking and it showed why: it was a copy of my background check. They hire me and then they run it. They’ll hire me, I’ll work one day, and then they’ll let me go. So [now] I don’t even bother...”

- Dylan, 28
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- But 7 of 30 participants explicitly wanted to have a “paper trail”
  - Health Insurance
  - Keep parole officer happy
  - Rent or buy a home
  - Regain custody of children
2. Working Under the Table and Off the Books

- “Remedial” jobs (low-skill, low-wage work), often outside the individual’s original field

- Off-the-books or temporary staffing work
  - 8 of 30 participants relied upon off-the-books work
  - Relying upon temporary employment / staffing agencies
2. Working Under the Table and Off the Books

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  - 7 of 30 had negative experiences with temp agencies
“They’re just temporary work. That’s how these employers get away with saving money, so to speak. [...] Like, medical and all that stuff. That’s why a lot of companies are teaming up with agencies, for that sole purpose of hiring temporary workers, cuz they’ll never run out. They don’t have to give nobody raises. One year? All right, you’re gone. Just constantly, it’s like a revolving door: next, next, next, next, next, next.”

– Dylan, 28
Temp Agencies

- Trouble finding agencies that are truly “felon friendly”
- **7 of 30** had negative experiences with temp agencies
- **5 of 30** reported dealing with predatory agencies (often in telemarketing)
- Toxic or criminogenic work environments
2. Working Under the Table and Off the Books

- Temp Agencies
  - Trouble finding agencies that are truly “felon friendly”
  - 7 of 30 had negative experiences with temp agencies
  - 5 of 30 reported dealing with predatory agencies (often in telemarketing)
  - Toxic or criminogenic work environments
2. Working Under the Table and Off the Books
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Drug Use
2. Working Under the Table and Off the Books

Drug Use

Drug Sales
2. Working Under the Table and Off the Books

Drug Use

Sexual Harassment

Drug Sales
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  - **6 of 30 (20%)** turned to unemployment insurance or support from family or friends
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- Crime as a last resort:
  - Homelessness
  - Addiction / relapse
  - Desperation or hopelessness about job prospects
3. Returning to Illicit Work

- 16 of 30 participants gave up on the search for legitimate work
  - 6 of 30 (20%) turned to unemployment insurance or support from family or friends
  - 10 (30%) returned to higher-paying illegal activities

- Crime as a last resort:
  - Homelessness
  - Addiction / relapse
  - Desperation or hopelessness about job prospects
It gets to that point where you are changing, and if you’re **trying to do the right thing** and get work and support yourself. “And you can’t find a job and you’re putting out 10 to 15 applications a day. Something’s gonna give, It’s kinda like, you get out and you have the world against you cuz you gotta scramble to find a place to sleep. [...] After a while, it’s kinda like, “Forget it, I’m just gonna go back to what I normally do,” because at some point you have to eat, sleep, and, you know, normal life things.

-Casey, 37
Future Directions
Future Directions: Policy

- Ban the Box
  - Help people get past the “gate-keeping” function
  - Prevent hopelessness that drives some to crime
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- But some will still experience delayed rejection
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- But some will still experience delayed rejection
- How can we address the longer-term aspects of employment, beyond initial hire?
Future Directions: Research

- Predatory temp agencies and telemarketing companies
  - How common is this? 5 of 30 here...
  - What is it about criminal justice involvement that puts people in this position?
  - Coercive work for people with criminal records
Future Directions: Research

- Dissertation:
  - What is the prevalence of adults on parole in Los Angeles that have experienced coercive work and what is that experience like?
  - How do parolees perceive the mandated work requirement and how does it impact their perception/experience of work?
  - How do people navigate the looming threat of legal sanctions while on parole and how does it impact their employment opportunities?
Thank You
Key Resources