

**TOWARD A WORKING FUTURE:
UNDERSTANDING THE IMPACT OF
CRIMINALIZATION ON EMPLOYMENT**

**A Report prepared by Carolyn Greene,
Erin Ramsperger and Nicole Williams. March 2019.**

Toward a Working Future: Understanding the Impact of Criminalization on Employment

A Report prepared for the



on behalf of the Elizabeth Fry Society of Calgary



Authors:

Dr. Carolyn Greene (Athabasca University)
Erin Ramsperger (Elizabeth Fry Society of Calgary)
Nicole Williams (Elizabeth Fry Society of Calgary)

Table of Contents

Acknowledgements	- 3 -
Executive Summary	- 4 -
Introduction	- 6 -
<i>Criminal convictions and the right to work: Legislative context</i>	- 6 -
<i>Pardons and Record Suspensions: Eligibility and Barriers to Attainment</i>	- 8 -
<i>The impact of a criminal record</i>	- 11 -
<i>Criminal records and employment</i>	- 11 -
<i>Recidivism</i>	- 12 -
<i>Hiring Processes and Practices</i>	- 13 -
<i>Legal and Political Framing</i>	- 15 -
<i>Recommendations</i>	- 17 -
Methodology	- 18 -
<i>Data collection and Analysis</i>	- 21 -
Results and Discussion	- 23 -
<i>Experiences and Perceptions of Job Searching by those with a</i>	- 23 -
<i>Criminal Record</i>	- 23 -
<i>Barriers to finding employment: Stigma and feelings of shame</i>	- 24 -
<i>Discouragement</i>	- 25 -
<i>Where employment opportunities exist</i>	- 31 -
<i>Improving employment opportunities</i>	- 35 -
<i>Experiences and Perceptions of Community Organization Members</i>	- 37 -
<i>Impacts and Barriers</i>	- 38 -
<i>Stigma</i>	- 52 -
<i>Education</i>	- 55 -
<i>Legislation</i>	- 58 -
<i>Experiences and Perceptions of Employers</i>	- 60 -
<i>Perceptions of Risk</i>	- 61 -
<i>Overcoming Risk</i>	- 62 -
<i>Encouraging hiring</i>	- 72 -
Conclusion and Recommendations	- 75 -
<i>Recommendations for Legislative Change Regarding Discrimination of the Basis of Criminal History</i>	- 76 -
<i>Recommendations for educational initiatives that address criminalization and employment</i>	- 78 -
References	- 80 -

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Executive Summary

In Canada, whether an individual with a criminal record is able to find employment is largely dependent upon the province in which they are seeking work. While the Canadian Charter of Rights and Freedoms does provide some limited protection, the most influential pieces of legislation in this area are under provincial jurisdiction. The focus of this research was on employment and criminalization in the Province of Alberta. In Alberta, The Alberta Human Rights Act prohibits discrimination in employment based on a number of protected grounds including race, religious beliefs, disability, and sexual orientation. There is no protection against discrimination on the basis of criminal history, regardless of whether an individual was convicted, has been granted a pardon or a record suspension, or whether the crime is relevant to the job duties to be performed. This is in contrast with legislation in the Yukon, the Northwest Territories, Nunavut, British Columbia, Manitoba, Ontario, Quebec, and Newfoundland and Labrador, which all legislate some degree of protection on the grounds of criminal history. This research explored the issue of criminalization and employment by examining the experiences and perceptions of individuals seeking work while holding a criminal record, employer attitudes and experiences regarding hiring individuals with criminal records, and finally, community organization members that work with these employment seekers to help develop skills and achieve success in gaining stable employment with a criminal record.

The findings of this research suggest that people with criminal records experience considerable barriers when seeking stable employment, and a history of incarceration exacerbates these barriers. For those people recently released from prison, achieving and maintaining stability was considered a top priority to support their chances at success in finding and maintaining work. Stability was also a priority for those who, though not recently incarcerated, were dealing with

issues of addiction and/or mental health. Access and availability of diverse supports for employment seekers were additionally considered a priority, including assistance with both employment and non-employment related skills and experiences, such as employment skills training programs and emotional support programs. Individuals with criminal records do appear to have some opportunities to gain employment, however, these opportunities were often found to be less stable (temporary) and potentially have more risk (under the table work in various industries) relative to those available to their record-free peers. We found specific sectors more willing than others to consider hiring people with criminal records, including the service industry, construction, and other manual labour positions, such as landscaping. Employers indicated that they did perceive some risk in hiring individuals with criminal records, and that policy was needed to address bias and give direction for hiring practices. The report concludes with recommendations for improving opportunities for people with criminal records to find stable employment.

Introduction

Criminal convictions and the right to work: Legislative context

Within Canada, human rights protection is offered under the authority of the Canadian Charter of Rights and Freedoms, and the applicable federal or provincial human rights legislation. All human rights legislation must accommodate the protected grounds identified in the Canadian Charter of Rights and Freedoms. Section 15(1) of the Canadian Charter of Rights and Freedoms (1982) states: “15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” Because criminal conviction is not a protected ground in the Charter, there is no requirement to include it a protected ground in federal or provincial human rights legislation.

The Canadian Human Rights Act is the federal human rights legislation, and in the context of employment, it applies only to businesses that are federally regulated or federal government entities (Canadian Centre for Diversity and Inclusion, 2018). Section 3(1) of The Canadian Human Rights Act (1976-77) states: “For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered. Inclusion of offences for which pardons or record suspensions have been granted guaranteed protection for federally employed individuals (such as government workers) against discrimination on these grounds. However, provincial legislation is not obligated to include any grounds from the federal legislation, except those that also appear in

the Charter. Provincial and territorial legislation have jurisdiction over provincial and municipal governments, businesses, non-profit organizations and individuals within that province or territory (Canadian Centre for Diversity and Inclusion, 2018). Therefore, the majority of individuals in the workforce in Canada are governed by provincial or territorial human rights legislation, without the lawful right to appeal to federal legislation.

Provincial and territorial human rights legislation in Canada varies widely across jurisdictions, creating inequality in human rights protection for citizens of Canada based on geographical location within the country. The Yukon affords the most comprehensive protection against discrimination on the grounds of criminal conviction, with the Yukon Human Rights Act including “criminal charges or criminal record” as protected grounds, without any restrictions. In Quebec, The Charter of Human Rights and Freedoms (1982, s.18.2) provides protection in the area of employment: “No one may dismiss, refuse to hire or otherwise penalize a person in his employment owing to the mere fact that he was convicted of a penal or criminal offence, if the offence was in no way connected with the employment or if the person has obtained a pardon for the offence.” In British Columbia (The Human Rights Code, 1996) and Newfoundland and Labrador (The Human Rights Act, 2010), protection against discrimination in employment on the grounds of criminal conviction is protected if the offence is not related to the nature of the work to be performed. Neither of these acts require a pardon or record suspension as grounds for protection, though conversely pardons and record suspensions are not included and therefore may not be sufficient to guarantee protection. The Northwest Territories Human Rights Act (2002) provides protection in all areas on the grounds of criminal conviction, if the conviction is subject to a pardon or record suspension. The Nunavut Human Rights Act (2003) provides protection in all areas on the grounds of criminal conviction, if the conviction is subject to a

pardon. In Ontario, the Human Rights Code (1990, s.5(1)) protects against discrimination in employment based on “record of offences” which is defined as “(a) an offence in respect of which a pardon has been granted under the Criminal Records Act (Canada) and has not been revoked, or (b) an offence in respect of any provincial enactment”. Manitoba’s Human Rights Code does not include criminal conviction as a protected ground. However, the Manitoba Human Rights Commission will hear complaints of discrimination on the basis of criminal record in accordance with Policy I-12 (2002), which sets out interpretation guidelines for Section 9(1)a of the Code: “In this Code, “discrimination” means (a) differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit.” The remaining five provinces – Alberta, Saskatchewan, Nova Scotia, New Brunswick, and Prince Edward Island – do not provide any protection against discrimination on the grounds of criminal conviction (Canadian Centre for Diversity and Inclusion, 2018). Therefore, whereas the majority of Canadians in the workforce who reside in the Yukon, Quebec, British Columbia, Newfoundland and Labrador, Northwest Territories, Nunavut, Ontario, and Manitoba enjoy at least some human rights protection from discrimination on the grounds of criminal conviction, those who reside in Alberta, Saskatchewan, Nova Scotia, New Brunswick, and Prince Edward Island do not .

Pardons and Record Suspensions: Eligibility and Barriers to Attainment

The Criminal Record Act sets out the legislation regarding eligibility criteria and waiting periods for pardons or record suspensions. There have been two relevant, significant changes to the Criminal Record Act since 2010. Prior to June 2010, the Parole Board of Canada had the authority to issue “Pardons” with the following eligibility criteria: “After the expiration of any sentence including imprisonment, probation and the payment of any fine(s), the waiting period

is: 5 years – an offence prosecuted by indictment. 3 years – an offence punishable on summary conviction.” In June 2010, updates to the Act changed the waiting periods for “Pardons”:

Eligibility criteria: After the expiration of any sentence including imprisonment, probation and the payment of any fine(s), the waiting period is: 10 years – Serious personal injury offence (within the meaning of 752 of the Criminal Code); including manslaughter; an offence for which the applicant was sentenced to a prison term of 2 years or more, and an offence referred to in Schedule 1 that was prosecuted by indictment. 5 years – any other offence prosecuted by indictment and an offence referred to in Schedule 1 that is punishable on summary conviction. 3 years – an offence other than the ones mentioned above, that is punishable on summary conviction (Government of Canada, 2017). This change saw the introduction of longer waiting periods, but all offences remained eligible for pardoning.

In March 2012, the Safe Streets and Communities Act (2012) brought changes to the Criminal Record Act that included replacing the term “Pardon” with “Record Suspension”, and introducing further restrictions on wait times, as well as exclusion criteria for certain types of offences. The current Criminal Record Act states: Eligibility criteria: After the expiration of any sentence including imprisonment, probation and the payment of any fine(s), the waiting period is: 10 years – an offence prosecuted by indictment. 5 years – an offence that is punishable on summary conviction. A person is ineligible if they: have been convicted of an offence referred to in Schedule 1; have been convicted of more than three offences prosecuted by indictment, each with a sentence of two years or more (Government of Canada, 2017). The introduction of the record suspension, and the restricted eligibility criteria creates a large exclusion pool of individuals who would have otherwise been eligible prior to 2012. One important exception is in the case of retroactive application of the Act to residents of BC and Ontario. Residents of these

provinces are subject to the eligibility criteria that were in place at the time of their most recent offence. Current record suspension applicants who are residents of all other provinces and territories are subject to the current record suspension criteria outlined in the Criminal Records Act 2012, regardless of the date of their most recent offence (Government of Canada, 2017).

According to the Government of Canada, a record suspension:

1. Allows people who were convicted of a criminal offence, but have completed their sentence and demonstrated that they are law-abiding citizens for a prescribed number of years, to have their criminal record kept separate and apart from other criminal records.
2. Does not erase a convicted offence, but sets it aside;
3. Does not guarantee entry or visa privileges to another country;
4. Is flagged in CPIC for former sexual offenders.

Further, a record suspension can be revoked or cease to have effect if you are:

1. Convicted of a new indictable offence, or in some cases, a summary offence;
2. Found to no longer be of good conduct;
3. Found to have made a false or misleading statement, or hidden information when you applied;
4. Found to have been ineligible for a record suspension at the time the record suspension was ordered. (Government of Canada, 2018).

If an individual is eligible to apply for a pardon or record suspension, they must then begin the lengthy application process, which requires obtaining a criminal record from the RCMP in Ottawa, local police information checks from all places of residence within the past 5 years, court information for all offences, and military conduct sheets and immigration documents, if applicable. The applicant must complete a record suspension application form, and the

“Measurable Benefit/Sustained Rehabilitation” form along with an application checklist. Finally, the application package must be mailed along with a \$631 processing fee (Government of Canada, 2018). Additionally, there are fees associated with many of the application components, such as criminal record checks. Prior to the 2010 changes to the Criminal Record Act, the processing fee was \$50 (Canada Gazette, 2012). With criminal records creating barriers to employment, supported by legal discrimination on the grounds of criminal conviction in Alberta and four additional Canadian provinces, the cost of the applying for a record suspension becomes a gratuitous barrier on the path of already vulnerable citizens.

The impact of a criminal record

Criminal records greatly impact the lives of those convicted of criminal offences. The obstacles that a criminal record creates can impact individuals’ abilities to travel outside of Canada, find employment, and pursue their education. Further, due to the stigma surrounding criminal records, individuals may experience shame and embarrassment. For instance, individuals experiencing poverty often identify that their criminal record is a significant barrier to employment (Poverty Roundtable HPE, 2017). Although these individuals have served their time, many struggle with further punishment through discrimination in employment that result in poverty and sometimes homelessness. The impact of a criminal record cannot be understated and if we would like to successfully reintegrate individuals with criminal records addressing the challenges and discrimination these individuals may face in paramount.

Criminal records and employment

While the impact of a criminal record can be wide ranging, one of the most important consequences of a criminal conviction is the ability to find employment. Criminal record checks have become a standard requirement for many employers, volunteer organizations, and schools.

There are two types of criminal record checks; 1) standard criminal record check, and 2) vulnerable section criminal record check. The main difference between the two is that a vulnerable section records check involves a much more detailed background check that includes offences for which pardons have been granted and is meant to be used in cases where an individual is applying to work or volunteer with vulnerable persons.

While many individuals who have served their sentences will re-enter society and hope to become constructive citizens (McKay-Panos, 2017), evidence suggests that many will face significant barriers to employment and experiences of stigmatization and discrimination (Ali et al., 2017; D'Alessio et al., 2014; Lam and Harcourt, 2003; Reich, 2017; Westrope, 2018). For instance, the increased number of criminal background checks act as a substantial barrier to gainful employment and other opportunities for those who have criminal records (Selbin et al., 2017). Research suggests that employers discriminate against individuals with criminal records (Galgano, 2009) and may view these individuals as untrustworthy, lacking relevant job skills and possessing an inclination to steal (D'Alessio et al., 2014). Men, particularly, may face unique experiences of stigma as research has identified that the demands of the labor market are more favorable to women and women's criminal histories may be less stigmatizing as they are more likely to be imprisoned for nonviolent crimes (Galgano, 2009). While evidence suggests that steady employment and income can predict recidivism rates, stigma of a criminal record imposes numerous direct and indirect barriers to gaining employment.

Recidivism

Employment plays an important role in providing support and stability to individuals with criminal records as there is a clear correlation between gainful employment and reduction in future criminal acts (Galgano, 2009). This makes intuitive sense if we consider that in order to

maintain housing, and provide for oneself more generally, an income is needed. Being without a sustainable income can lead to increased stress and result in reoffending. Research suggests that gaining meaningful employment can reduce the amount of repeat offences among those who have a criminal history (D'Alessio et al., 2014) and can be a key catalyst to facilitating their abstinence from crime (Reich, 2017). Thus, employment is essential for the successful reintegration and rehabilitation of those who have criminal records; employers have the ability to provide individuals with criminal records an opportunity to demonstrate their readiness to stop offending and to counter stereotypes (Heydon and Naylor, 2018). Alternatively, when people are unable to gain employment, the likelihood of recidivism will have economic and social consequences that negatively impact both the individuals themselves and society (Westrope, 2018). By providing protection from discrimination on the basis of a criminal record, this can help reduce illegal acts and social assistance, both of which negatively impact society (McKay-Panos, 2017).

Hiring Processes and Practices

When employers are asked about the factors that influence their hiring decisions, relevant skills and traits are obviously important, yet the presence of a criminal record can be a deciding factor in many decisions to hire. Indeed, criminal records, even when unrelated to the position being hired to, can overshadow the relevant skills a prospective employee brings to the application. While some circumstances surrounding hiring with a criminal record may be out of the control of the employer and job applicant (for example, sexual offences that would exclude individuals from working with vulnerable populations), employers also noted circumstances where the job applicant might increase their chances of being hired with a criminal record (for example, being honest about their criminal history and showing remorse). In research by

Swanson et al. (2012), employers' indicated the following considerations when hiring individuals with criminal records: qualifications to do the job, good interviewing skills, reference from a person known to the employer, belief that the person had changed, length of time since last conviction, sincerity/honesty about conviction, belief that applicant would be dependable, and having unrelated convictions to the job. Further, another study identified that individuals who have criminal records can navigate the hiring process and minimize the effects of stigma by expressing remorse for their actions (Ali et al., 2017). Swanson, Langfitt-Reese, and Bond (2012) found that sixty-three percent of employers surveyed had knowingly hired at least one person with a criminal record. Further, few businesses had written policies that would prohibit the hiring of individuals with criminal records (Swanson et al., 2012). However, this does not ensure that employers have the tools to navigate and facilitate equitable hiring practices. Some have argued that eliminating questions about criminal records on initial job applications should be stopped. By eliminating this question at the earliest stages, it may reduce the chances that someone will be discriminated against because of a prior criminal record, and if such an individual was successful in making it past the initial application stage they may then be able to provide this information with greater context and address the factors employers are concerned about (for example, length of time since convicted, types of convictions, demonstrate change and remorse, etc.). This has come to be known as the Ban-the-Box (BTB) movement and it seeks to help decrease stigma during the first stages of job applications and aims to prevent employers from asking criminal-record-related questions to applicants (Agan and Star, 2017; Heydon and Naylor, 2018). Alternatively, pre-Ban-The-Box (BTB) policies ask applicants about their criminal past very early in the hiring process and are not given the opportunity to discuss their qualifications (Denver et al., 2017). BTB policies will change the timing of the employer's

inquiry, therefore allowing applicants to provide employers with their qualifications (Denver et al., 2017). Further, evidence from Hawaii has identified that BTB laws can successfully diminish repeat felony offending (D'Alessio et al., 2014). However, BTB policies alone will not solve the stigma that individuals with criminal records face when seeking employment and one must acknowledge that certain employment sectors (working with vulnerable persons) will legally require knowledge of a prospective employees criminal record.

Legal and Political Framing

Understanding the impact of criminalization on employment opportunities necessarily requires an understanding of the legal frame works established to protect both workers and employers when addressing issues of criminal records. Historically, the rationale behind criminal record keeping was to keep the police and the courts better informed when recidivists reappeared in the courts as reoffender (Thomas and Heberton, 2012). Interestingly, the use of criminal records by users other than the police and courts was minimal or non-existent until the 1940s and 1950s. During this time, criminal records began to be used for screening people for certain forms of employment and to decide who was and was not suitable and for certain types of jobs. In many jurisdictions, individuals will require a “spent” criminal record to gain employment (Lam and Harcourt, 2003). In order to be considered “spent,” the crime had to have happened as long as 10 years prior to the hiring date. People who have criminal records are only protected by Human Rights legislation when their convictions are spent, meaning that employers can discriminate on the basis of unspent convictions without the fear of being penalised. Human rights and statutes have provided those who have a criminal record with some protection against discrimination; however, the extent of such protection differs across jurisdictions (Lam and Harcourt, 2003). For instance, only 4 provinces within Canada provide protection from

discrimination on the basis of criminal record (McKay-Panos, 2017). Lack of such protection in Alberta acts as a barrier to employment as job applicants can be turned away if they have a criminal record. Similarly, in Australia, the influence of legislation, government policy, and industry regulation on employment stigmatizes those with criminal records and inhibits their ability to gain employment (Heydon and Naylor, 2018).

The laws and processes in place for addressing criminal records and employment can be somewhat complex for those unfamiliar with them. For this reason, organizations have sought to provide comprehensive overviews that provide both employment seekers and employers with the information they need to make employment related decisions. For example, the John Howard Society of Alberta (2000) developed a comprehensive guide that helped clarify the laws surrounding criminal records and employment in Alberta. For instance, this guide identifies that *The Access to Information Act* and the *Privacy Act* were both enacted in 1983 in Canada. These laws described limitations on the accessibility and disclosure of individual records, including criminal records, as well as accessibility of federal government information and protecting the privacy of Canadians. *Alberta's Freedom of Information and Protection of Privacy Act*, enacted in 1995, relates to information that is significant in the care of criminal records. The privacy acts aim to balance competing interests: public safety and the individual. These laws have set up numerous protections for right to privacy while also authorizing law enforcement agencies to disclose personal information of people considered dangerous. What this means is a criminal record screening acts as an 'invisible punishment' (Thomas and Hebenton, 2012) by continuing to punish individuals for crimes for which they have already received and completed judicial sanctions for. This is reflective of previous political framing of crime and control under the Conservative Party of Canada (CPC) (Mulrone and Jonathan, 2017). The CPC understood

crime as a rational choice, viewed offenders as 'bad' people, and implemented a criminal justice response that treated offenders as though they have no capacity to change, thus prioritizing punishment and exclusion. Political framing of criminal records, alongside civil rights legislation (or lack thereof), shape the lives of individuals with criminal records on an ongoing basis and it is for these reasons it is critical that the legal and political framing of criminal records be addressed more broadly.

Recommendations

Given the wide-ranging impacts of criminal records on employment opportunities, and the critical role that employment plays in reintegration, it is important that policy and programming initiatives be developed that increase job opportunities. We know that employment is the cornerstone for successful re-entry into society for those who have criminal records. However, many individuals who have criminal records stop looking for employment due to stigma. Research has found a number of areas where policy may be implemented or modified in order to increase employment opportunities for those with criminal records. It is imperative to obtain a better understanding of the lived experiences of searching for a job with a criminal record to manage stigmatized identities, unemployment, discrimination, and disenfranchisement. By expanding financial incentives for hiring individuals who have criminal records, this can also encourage employers to implement more equitable hiring practices. Successful re-integration of individuals with criminal records into society may require a combination of personal and structural elements, and may also begin in prisons, where opportunities for employment and partnerships between employers might be formed prior to release.

The research literature identifies several recommendations regarding the intersection between employment and criminal records. For instance, Westrope (2018) suggests that an anti-

discrimination statute should be adopted that bans discrimination within the employment context against people based on the presence of a criminal record. Similarly, seven recommendations are offered by Poverty Roundtable HPE (2017) that aim to reduce the barriers to employment, including developing a better understanding of the barriers that job seekers are facing, introducing policies and practices that encourage equitable hiring, and encouraging employers who have experience hiring people with criminal records to be more vocal to increase the likelihood that other employers will follow suit. Further, one article advocates for a more fair and effective use of criminal record information for employers and employment decisions, including considering whether or not a criminal record has any relevance to employment (Hickox and Roehling, 2013). In addition to HR and hiring policies, the literature also suggests that early interventions such as providing more legal supports and early record clearing can increase opportunities and improve employment outcomes for people who have criminal records (Selbin et al., 2017). Each of these policy recommendations is interwoven with many other factors and thus, the policy recommendations should be considered holistically. The response to discrimination based on a criminal record must reflect the individual and structural elements that shape hiring practices and experiences of discrimination in order to provide meaningful and long-term solutions.

Methodology

Our interest in pursuing this research arose through conversations between the Elizabeth Fry Society of Calgary staff and researchers about some of the challenges faced by adults pursuing employment opportunities while having criminal records in Calgary, Alberta. We first entered the field in the spring of 2018 to connect with and build rapport with potential research participants for this study. The researchers conducted interviews over a 9-month time period

with interviews concluding in the winter of 2019. We recruited participants from three focus areas: 1) individuals with criminal records who were currently seeking employment; 2) individuals working within community organizations that assist those with criminal records to find employment; 3) employers in a position to make hiring decisions. We recruited 22 participants seeking work, 11 participants working with community organizations, and 9 employers. We did not enter the field with a preconceived theoretical framework or a highly structured interview questionnaire, instead we remained open to the findings and letting the participants and data guide our questions and analysis as is consistent with a grounded theory approach.

We remained open to pursuing new themes as they arose, until we reached thematic saturation. Transcriptions and analysis were ongoing throughout the duration of the study. The themes identified in this research emerged from 42 semi-structured interviews with participants. The interviews ranged in length between 5 minutes 28 seconds to 72 minutes; with a mean length of 26 minutes 32 seconds. Interviews were conducted in a wide variety of public locations, such as public libraries, community organizations and centres, and local coffee shops/food establishments. Interviews were audio-recorded and transcribed by two research assistants. All identifiers were stripped from the transcripts in order to ensure complete anonymity of our participants. Establishing trusting relationships with participants was important for this research as a number of our participants felt some concern and embarrassment regarding their criminal records and the impact the record had on how people might see them. In addition, a number of our participants were either currently or previously involved in undetected criminal activity (of these the primary activity was illegal drug use).

The objectives of this study were to explore how criminal records impact individuals' ability and desire to achieve and/or maintain employment in the City of Calgary. The semi-structured interviews conducted focused on (a) experiences of job searches and employment, (b) willingness to seek employment and hire individuals with criminal records (c) identifying the challenges and potential solutions to finding employment. The interview questions were open-ended in order to allow participants to share their wide-ranging experiences with employers, clients, and job seekers. The interviews began with questions about participants experiences with the impact that a criminal record may have had on job-seeking experience, hiring practices, or approaches to supporting clients in seeking employment. Examples of the types of questions asked of our three participant groups follow. Interview questions for job seekers included things such as: How do you feel your criminal record has impacted your employment prospects?; How do you feel when you think about having to disclose your criminal record to a potential employer?; Have you ever disclosed your criminal record to an employer? If yes, expand on how; Did you provide details of the offences? What was the outcome of that disclosure?; What type of employment training or qualifications do you possess?; What types of employment positions have you sought?; Do you feel that you face barriers in addition to your criminal record that have impeded your employment search?; Have you considered going back to school for additional training or new opportunities? Interview Questions for Community Organizations included: What are the primary barriers that your clients face in finding stable employment?; How do you feel that a criminal record factors in to your clients employment opportunities?; What strategies do you use to help job seekers overcome the barriers presented by a criminal record. Interview Questions for Employers included: How do you approach an application from a prospective employee with a criminal record?; What factors would you consider in deciding to

hire a person with a criminal record?; If you have hired employees with criminal records, do you feel they are performance differences compared to typical employees? We do not have any other set interview questions, instead we used these initial questions and probed participants as they began to discuss issues they wanted to highlight regarding criminalization and employment.

Data collection and Analysis

This study explores the barriers to stable employment faced by those with criminal records in Calgary, Alberta. Interviews were conducted between June 2018 and January 2019. The study involved interviews of a total of 42 participants. Ethical approval for this project was granted by the Research Ethics Board at Athabasca University in 2018.

To recruit job-seeking participants, we relied on the application of a snowball sampling technique as well as posters placed in a variety of local community organizations and public spaces. Individuals who were interested in participating then contacted one of the members of the research team, at which point they were provided with a more detailed description of the project. If individuals were still interested in participating after receiving more information, a time was arranged to conduct the interview in person. Members of the research team reached out to a wide variety of employers and community organizations in person and via email. Interviews occurred in person and over the telephone with those who were able and willing to participate.

Our sample included three groups as mentioned previously. Within these groups, we interviewed 20 women and 22 men. Amongst the employment seeking group, we interviewed 9 women and 13 men. In 2017, women accounted for approximately 25% of all people accused in police-reported incident in Canada (Statistics Canada, 2019).). Therefore, our sample over-represents females in the employment-seeking group. Because sex or gender may be considered a factor in numerous relevant variables (e.g. public perception of people with criminal records,

differences in available correctional programming, differences in types of work sought, etc.) we must consider the potential impact on our final results.

All of our employment seekers had criminal records, and some of our participants also had current criminal charges being addressed in the Courts. The vast majority of these participants had previous convictions for assaults, drug-related charges, robberies, and administration of justice breaches. Of our community organization interviews, the organizations included justice-related organizations, homeless-serving agencies, and other non-profit agencies supporting vulnerable populations. While each of these agencies provided different supports to their clients, they were all able to speak to the ways in which they support clients seeking employment who have criminal records. Guided by Braun and Clarke (2006), we conducted a combination of deductive and inductive thematic analyses that allowed our interview data to guide theme development and identification that was recurrent throughout the interview data within the three separate interview groups (employment seekers, community organizations and employers). Analysis was ongoing and staged throughout the data collection phase of our research which was completed at the end of January 2019. Each stage involved the review of 2-10 interviews depending on the interview group. We immersed ourselves in the data at each stage by re-reading interview transcripts multiple times in order to identify initial free-codes that represented the data. This initial coding was completed by Greene, Ramsperger and Williams. The first stage of coding involved grouping interview data on broad themes, such as discrimination and risk. These themes were central to the purposes of the research project. The initial broad themes identified were then divided into sub-themes, such as stigma and shame. The coding of the interview data specifically involved multiple independent reviews of transcripts and identification of themes/sub-themes. Inter-coder reliability was tested by having

each author independently identify broad themes and sub-themes for each interview. The multiple reliability checks we conducted between four independent researchers resulted in total agreement on all themes and sub-themes. In following best practice recommendations from Braun and Clarke (2006), once themes and sub-themes were identified for all interviews, we again reviewed the interview transcripts to ensure all relevant data were explored in relationship to these themes and then refined themes and sub-themes within this context. Finally, after all data collection was complete, we had a research assistant independently review the interviews transcripts to ensure that the themes and subthemes reflected the participants views accurately and that the quotations selected to represent the themes/sub-themes were representative of the interview data. Once the interviews were coded, we conducted a second round of reliability checks. All coded interviews and selected quotations were independently assessed as to how well they related to the themes and sub-themes. These final checks resulted in complete agreement on the quality of the quotes as they related to their representation of the various themes and sub-themes that were identified. These theme and sub-themes are identified and discussed in the results section of this report.

Results and Discussion

Experiences and Perceptions of Job Searching by those with a Criminal Record

Understanding the lived experiences of individuals searching for employment with a criminal record is important for developing appropriate policy and programming to successfully address the stigmatization that is often internalized by those with criminal histories. The stigma associated with a criminal record can have detrimental impacts on the willingness of people to look for work and ultimately lead to disengagement from conventional employment

opportunities. In this section, we review the experiences and views of individuals looking for work while holding a criminal record. The themes that emerged from participants highlighted a number of important internal and external factors shaping the perceptions of our participants. For example, the internalization of stigma and shame; the feelings of being discriminated against; the struggle to maintain stability while looking to support themselves financially, and the discouragement felt when employment opportunities fall through. The experiences and perceptions of those looking for work with a criminal record are explored in more depth in the sections that follow.

Barriers to finding employment: Stigma and feelings of shame

A central theme throughout our participant interviews was the pronounced feelings of shame and lack of confidence that individuals experienced as a result of the stigma they faced in seeking employment with a criminal record. The inability to find work because of a criminal record was seen as challenging both emotionally and financially. As one participant stated, “It really, it affects you, I mean mentally and emotionally too, not only financially” (JS-F4). It was widely recognized by participants that a criminal record was something that made finding work difficult. As one participant stated, “Well, my confidence is definitely lower. I don’t really look forward to a lot of different things... but a criminal record is pretty big. You know what I mean? It’s... it works against me for sure” (JS-F16). Many participants feared having employers find out they had a criminal record. As one participant stated, “I was afraid that they would know, I’d be very embarrassed, ashamed” (JS-F3).

When the subject of a criminal record came up during the application or interview process (despite in some cases the convictions being decades old), it led to feelings of discouragement and exclusion. As one participant explains their experience with approaching an

employer after being disqualified for a position, “I went up to her [potential employer] afterwards and I said, does it matter that the charge was back in 1980 and I’ve had a clean record ever since and she said no, it doesn’t matter. Just the fact that you have a bad... a record, or whatever that’s not been pardoned and if it shows up then that, and I thought, I felt bad afterwards cause I thought I should have not said anything because maybe it would have...not come up, but you know there’s a chance that it would have, too. But the point that she said... if you have a record then that’s an automatic disqualification” (JS-F1). Another participant, after disclosing a previous criminal conviction to a potential employer, stated “They [potential employer] kind of froze and got a look of...a little bit of disgust and a little bit of something else, and said that thank you for sharing that and we’ll be in touch. And I didn’t hear back from them” (JS-F4). The employers’ rejections based on a criminal record left some participants feeling humiliated and discouraged from making themselves vulnerable to such perceived judgments.

Discouragement

“I went to go apply for a job...I was very, feeling very hopeful and excited about the career that I was going towards and at the end of the information session she basically said... if anybody has any criminal record, that’s an automatic disqualification” (JS-F1). The previous quote is an example of how searching for work can be quite discouraging for those with criminal records. Not surprisingly, these types of experiences led to feelings of discouragement and shame as participants faced the stigma of having a criminal record while trying to find employment. Participants reported intense feelings of shame when they recalled experiences of looking for work (and more generally when they discussed having a criminal history), in part because of the judgement they felt was directed at them from employers. As one participant stated, “... you’re getting judgement. And then it’s degrading at the same time cause who wants

to sit there thinking, yeah I know I made a mistake and now it's still there" (JS-F2). Another participant stated, "It's embarrassing. Because it, you know, it's not who you are now, it's who you were then and most of the time it was for survival reasons" (JS-F2). Another respondent stated, "[Job hunting]...brings up bad emotions, you're a failure...I disappoint myself, because I apply, and then when that [the criminal record] comes up, it just freaks me out. Cause that's ... all your past. There's a couple thefts in there, but who hasn't stole in their life, I'm sure everybody has, right. Any petty theft? It's just the big one that, but that's a long time ago so I'm thinking that they might over run that and think maybe we can let her in cause that's a while ago, right, that's a long time ago, it just doesn't look good on a piece of paper, it's scary...But I haven't been in trouble since" (JS-F3). Another respondent stated this about the experience of looking for work, "It's, yeah, it's making yourself completely vulnerable again to be judged and denied opportunities" (JS-F4). The prospect of putting oneself into situations where they feel vulnerable and anticipate negative judgments is likely to be hard for anyone, but would be amplified by the repeated rejections many of the participants had experienced.

It is discouraging when individuals try to find work and are rejected because of their criminal record. Participants experienced a variety of negative emotions as a result. As one participant stated, "It was not a good feeling, for sure, like I said, I hope I don't get emotional here, but- [pause] anyway, [pause] at the time, I guess like I left there and I just felt not good, you know, just really discouraged" (JS-F1). Probably most discouraging for participants was when they felt their honesty with employers about their criminal record was being used against them. As one participant stated, "once I mention a record it's like you know they beat around the bush and make it look like it's okay an then I don't get a call" (JS-F6). Another participant stated, "I did answer them truthfully and told them yes, and I never heard from them. Again, was

I disqualified because I answered truthfully or not? I don't know, right. Like you don't even get a call back on it... you know, at least have your application acknowledged, but you know when there's nothing you kinda think, well was that because of how I answered the application... So, it's the not knowing that can be really frustrating" (JS-F1).

The feelings of embarrassment, shame, and discouragement were considerable and led many to feel that they should not share their records with potential employers, but simply hope the record is not checked. Indeed, some respondents wondered whether they should be telling their employers about their criminal records at all. As one participant stated, "I'm thinking, I don't want to shoot myself in the foot again by saying anything like I did with this one job, I thought well maybe if I have a chance to put in a word for myself then maybe they'll have some compassion, you know? But then maybe if I hadn't said anything, maybe it wouldn't have showed up. I was kicking myself for that" (JS-F1).

The difficulty in deciding whether to tell a potential employer about one's criminal record was something many participants experienced. They reported vacillation between the desire to be honest, and the belief that their chances of landing employment might be better if they omitted the truth about their record. Part of the reason for this was the lack of success in finding work when they were honest about their criminal histories. As one participant stated, "You know, thinking, like why did I even say anything, maybe like it would have never showed up, you know. But at the same time, I wanna be honest" (JS-F1). Another participant stated, "Sometimes you almost wanna lie on the application form so that they don't go further, you don't want them to know... You've made a mistake in your past and you've improved yourself so I think you should be given a fair chance" (JS-F3).

In addition to the desire to avoid disclosing a criminal record, many participants reported that their employment-seeking experiences had left them feeling hopeless about future job opportunities. The shame and discouragement experienced during their employment search led a number of participants to self-sabotage employment opportunities or stop looking for work altogether, instead relying on social services or other means of meeting their subsistence needs. Participants often reported applying for jobs and being contacted for interviews; however, when individuals considered whether their criminal record disclosure would disqualify them, they decided to avoid pursuing those positions. As one participant stated, “I did apply, but then I, I didn’t want to lie to her, so I didn’t... And then another retail store, a clothing store, I didn’t want to tell them that I had theft... well, they called me and then I didn’t go because I didn’t want to lie... And I knew that if they asked me for a criminal record check it would come out, as, you know, they’d see it anyways, so I didn’t go through with it” (JS-F11). Another participant stated, “Most jobs for myself, if they ask for one (criminal record check), I won’t even, I won’t, I’ll just get scared, they’re not gonna hire me, it’s a waste of time” (JS-F2). Another identified, “It scared me. I just thought, I backed off right away, a stop sign went off and I thought, no, this isn’t for me, they’re not gonna hire me... So I didn’t pursue it any further” (JS-F3). Even when participants had successfully obtained a job offer, fear about the potential outcomes associated with disclosure of their criminal records caused them to abandon employment opportunities. As one participant stated, –“ I was hired with [name removed]... and I was chosen a candidate, I had the home study booklets about insurance and what not, and when I did return they were gonna do a criminal record check, so it scared me so I didn’t move forward” (JS-F3). Beyond abandoning potential job opportunities, some participants had given up on trying to find stable, full-time employment altogether. As one participant stated, “Now I don’t even apply for certain jobs

anymore. So we've been pretty much at temp agencies" (JS-F2). Further, some participants had given up on finding work entirely, as exemplified by a participant who shared "Because of my criminal record, I don't know, I never really tried to get a real job" (JS-F14).

When people are excluded from stable employment opportunities, they must turn to other means to meet their subsistence needs. If a criminal record is standing in their way of employment opportunities, they may become dependent on social assistance programs, or feel that returning to crime is their only option for survival. While the vast majority of our participants took whatever employment they could find, some of the participants received social assistance instead, and feared loss of benefits if they took on work. They reasoned that they could easily lose their job because of their criminal record and it was safer, or more consistent, to remain on social assistance. Some participants also reported that the financial challenges associated with persistent unemployment led them toward reoffending. As one participant stated, "When my unemployment runs out and I have no job, what do I do? I don't know...It's gonna lead me to being a criminal. You know? I understand on paper I am, but if we can't get out of it, it's gonna get worse" (JS-F6). Another participant stated, "...I had to use escorting a lot of the time...because it was my only [means of] survival" (JS-F18). Some participants contrasted the attractive nature of higher earnings associated with crime, such as drug dealing, relative to the often temporary, low-wage, but legitimate available employment opportunities. As one participant stated, "So it's like once, you know, like once you're in the system and once you're getting involved in that criminal underworld it's easy money, right. So, people look at it like why go work for 12 bucks an hour when I can go sell a piece of something and make a whole day's work, you know...once you're in it, it just feels like you can't get out, people just kinda give up [on legal employment opportunities]" (JS-F10).

While participants' reasons for failing to find employment were primarily related to challenges specific to having a criminal record, some participants were also aware of personal challenges that made finding and maintaining stable employment difficult. Addictions and/or mental health concerns were the most frequently cited personal barriers to employment. Some respondents reflected on the perceived difficulties their substance use had caused them. As one respondent stated, "...I have addictions issues. So, my mind is not nearly as sharp as it once was... So, I would be doing something with my brain. But because of the criminal lifestyle and the, uh, addictions... it just did some damage" (JS-F16). Another participant stated, "I'll always be an alcoholic. Like I can admit that now but I couldn't admit that 10, 20 years ago. So I don't know. Cause right now, crystal's my friend and you know, I do that. And that's what, you know, kinda slowing me down" (JS-F21). Many participants recognized that in order to achieve stability and maintain the physical capability to meet job expectations, they must first address their difficulties with addiction.

Some participants reflected on the impact addiction might have on the ability to maintain a permanent, full-time job. For instance, one participant suggested "Most people that are hardcore alcoholics know that they can't hold a real job so then they need ways to make money, most people panhandle or...some will find ways to do temp agency, but I mean there's no future in that. Mostly the people that do temp agency will get their money just so they can go get their fix of their alcohol or whatever right" (JS-F10). Often, the work available to individuals with criminal records, with or without addictions, is temporary or limited to specific industries, such as construction. As one participant notes, "...a lot of construction companies, landscaping, they don't look at criminal records..." (JS-F10). And while these opportunities for employment may be welcomed, they may come at a cost for those struggling to

overcome addiction. As one participant stated, "...you're working [for companies that hire individuals who have criminal records] with a bunch of criminals and criminals have addictions, and it's easiest to fall back into, that's why I left...That's exactly why I left. Cause you're trying to change yourself" (JS-F1). In addition to addiction, mental health issues and inaccessibility of treatment and medication presented additional barriers for some participants looking to stabilize prior to finding employment (see examples JS-F16; JS-F6; JS-F7; JS-F14).

Participants also perceived a lack of access to technology, such as computers and cell phones, as creating additional barriers to finding employment. As one participant stated, "I didn't take the job at the time because my computer wasn't working and I didn't have a cell phone. Things were just not good for me at that time. But I did get offered a position. I know I'm fully qualified and capable for doing that, more so than other candidates, so, it's just bad timing for that position at, like I said, it wasn't a job so much, it wasn't, it was not having a computer at the time and a cell phone and I couldn't operate without that" (JS-F3). Thus, beyond personal challenges with addictions and mental health, simple lack of access to technology limited employment opportunities for some participants.

Where employment opportunities exist

It was clear that many of the participants interviewed for this research had a wide variety of work experience throughout their lives, ranging from manual labour to healthcare, and customer service to human service (for examples, JS-F7; JS-F15; JS-F17; JS-F19; JS-F20). Yet, their work opportunities became severely limited when their criminal records came to light. Those that retained their positions often felt their criminal record created a shift in their employer's attitude, resulting in feelings of judgement. As one participant stated, "I did have employment...until they found out that I had a criminal record, and then basically, they didn't

fire me, but they were looking down their nose at me, they didn't respect me anymore” (JS-F7). Based on participant responses, it appears that employers who are willing to hire individuals with criminal records, or who forego the criminal record check process entirely, are concentrated in a limited employment market. Employment opportunities were typically in the service industry, warehousing, construction, and landscaping. Further, the work was typically temporary, and often part-time or casual. As one participant stated, “They (temp agencies) don’t look into history and they don’t really care, they just care about your skilled labor... As long as you show up on time every day, if they got work available, they send you out” (JS-F2). Another participant stated, “I do road construction and I do warehousing. I work for a temp company called [name removed]. They have only given me one raise in 30 years...So I'm not too happy with it. But I do the best I can. And it’s because of my criminal record that I am not allowed to move forward with my life” (JS-F8). Another participant stated, “I worked for a company [name removed], they hire people out of the pen...they start them off just over above minimum wage. And they know your history. But everyone you’re working with are all from jail... they give you like second chances cause they know where they’re hiring you from” (JS-F2).

And while employment opportunities may be welcomed by many, participants often reported challenging issues on the job. Many participants felt they were relegated to menial positions that did not take advantage of their skill sets. As one participant stated, “...based on that fact (having a criminal record), they put you in a certain area. You’re...not allowed to work around expensive equipment. You’re not allowed to work around money, it limits you”. The wage you’re expecting...they don’t pay you that...you’re getting minimum wage when you have all these skills. And you should be making more, like myself I should be making \$25 an hour, I used to be a welder, and all this stuff, I worked up North and stuff, was ticketed and everything.

[They] Take you from skilled laborer, to... just to just a laborer. Now they're looking at you, even though you're an honest... They're looking at you like you're a guilty criminal. And you're not worth us putting you in this position, so we'll leave you here... Let you push a broom... at minimum wage, when you're skilled labor... and you should be getting that pay rate" (JS-F2). A number of employees also experienced having the positions terminated through either firing or lay-offs, or having their positions and duties changed after a criminal record was disclosed. As one participant stated, "... you spend ten years like running jobs and doing complicated shit to fucking run a broom now" (JS-F7). Another participant stated, "When they found out I had a criminal record, I was laid off immediately, they can't trust me. Why? I don't know. I was doing, I was just doing the job well. Now I can't work for you anymore?" (JS-F2). For those that maintained their employment after a criminal record, participants faced difficulties once co-workers became aware of their records. As one participant stated, "All these guys were picking on me. I don't know why. I got along with them for 10 years and then all of a sudden it went haywire" (JS-F6). Another participant stated, "I'm like uh, yeah, I have a criminal record, B and E, no I'm honest about it, I don't try and hide it um but it's affecting me because I've had like a little bit of work experience with some foods and you know they [co-workers] didn't really get close to me or anything because they knew my criminal record. They kept their distance, what kind of like, I felt like an outcast, I was like oh, well, like you know, I was on drugs and I needed money and but I'm off and I don't, you know I haven't done that for a long time, I haven't stole in a long time. Yeah, it's kind of like impacted a little bit because they don't trust me and I kind of feel like an outcast" (JS-F19). Another participant stated, "...they [co-workers] started looking down their noses at me. They were like 'So how come you're going to court?' ... And then I'm like 'Well', and then I came clean about it because I'm like, you know, after 4 months

of working there [I thought] that it was safe to, that I'd built up my reputation enough to see that that's not me" (JS-F7).

Not all work was found through formal agencies or applications, as a number of participants also relied on connections in the community. In these instances, employment was gained through individuals' existing relationships with people that could assist them in finding work (For examples, JS_F5; JS_F6; JS_F9; JS_F12; JS_F13; JS_F14). As one participant explained, "I met the friend he connected me with the job, we all know each other, and we got along just like we went to high school. He introduced me to [Name] and you know okay start. And he got my foot in the door for driving" (JS-F6). Another participant stated, "Well I met his brother downtown in Edmonton...I was looking for work, you know, I was unemployed at the time and he said well my brother's got his own company and they do roofing and I gave him my number and I got a call one day he said, you wanna go to work, I said, doing what, he said, don't ask, if you wanna go to work, we'll come pick you up right now" (JS-F14). Others hoped that existing connections would be there once their legal troubles were over. As one participant stated, "I said I wanted to apply at [name removed] just to see what was gonna happen, because my old supervisor told me when you're done your craziness and your jail life come back and we'll hire you... so I'm hoping he remembers me" (JS-F9). While some participants leveraged existing relationships to find work, it did not appear that those employment opportunities provided greater stability than those offered through temporary work agencies, as they were often under the table and part-time.

Improving employment opportunities

One of the ways in which someone with a criminal record may improve their employment opportunities is through an application for a pardon. Yet, participants faced a number of challenges when they considered applying for a pardon. These challenges involved limited understanding of the process and lack of financial means to pay for it. As one participant stated, “I mean and I would have applied for a pardon and I was actually just looking into that just recently and then when I found out how much it was gonna cost, kind of put the brakes on” (JS-F1). The participant continues, “...there’s \$50 for another police record check that they have to do to make sure that there’s no recent charges and then there’s a fee for fingerprinting, and I don’t know what else is involved, there’s all these other steps and I’m assuming you have to pay something for every step you take” (JS-F1). The issue of multiple convictions was also relevant for many participants. As one participant expressed, “if they had pardons that you can, you know, like if you didn’t have to wait so many years...I think it went down to like \$700 and something? We’ve gotten tickets... it’s supposed to be at least five to seven years for you get a pardon. But...with transit tickets...it brings it back up to current, so there’s no reason you can even get a pardon, because you’re not eligible...It’s frustrating” (JS-F2). The notion that a criminal record cannot be overcome also led to a sense of hopelessness when faced with new criminal charges. As one participant stated, “Even though you might not be guilty of that charge. It’s better (to take a) Crown deal and you’d be offered less time... Yeah, so and then you’re convicted, so that’s automatically on your record regardless, so there’s no winning... So now I just make the deal and I’m like screw it, I already have a record anyway” (JS-F2). Finally, even if a pardon is granted, some participants were still unsure as to what it meant for them when seeking employment. As one participant asked, “...I don’t know? Should, like, if they ask if I

have any criminal record, do I tick off yes or do I tick off no?” (JS-F15). Under certain circumstances, understanding the pardon process may benefit participants from through improved access to employment opportunities.

Education and training are often-touted means of improving one’s employment prospects. And while they are important in a general sense, they can present additional challenges and may contribute to further exclusion and discouragement for people with criminal records. For example, education and training provided while incarcerated may be viewed with frustration by some. As one participant stated, “That’s what I don’t understand. They will put you through school and while you’re incarcerated, give you all these tickets, you get out and you can’t even use half of them, so what the hell’s the point?” (JS-F1). Other participants reported that they were limited in their educational pursuits because of their criminal records. As one participant stated, “Even for school programs, too. I wanted to go in for mental health, addiction program ...and once they wanted to have a criminal record check, I couldn’t even get into the school either. So, it wasn’t only in the workforce, it’s school as well” (JS-F3)”. Another participant stated, “...[the criminal record] affected my ability to get into school, I had to advocate for myself, I had people advocating for me, and now that I know that this [is on my record], I’ve been denied a volunteer opportunity, I’ve been denied a job” (JS-F4). It is worth noting that even when someone is able to gain acceptance into an educational program, once that program is completed the individual will still face barriers to employment due to their criminal record.

Despite the many barriers faced by people looking for work with a criminal record, many participants remained optimistic and expressed a desire for employers to give them a chance to prove that their criminal record does not define them. As one participant stated, “...just because you made a mistake in your past doesn’t mean that you’re a bad person” (JS-F16). It was very

important to participants that they feel they were valued and treated with respect in the workplace. One participant stated, “In my last position, I was there for almost five years, and never had an issue or concern and I was able to prove myself to that company...loyalty and everything...I’m a loyal person to them, and I’m willing to go above and beyond for that company. And that my own personal issues will not ever arise or become an issue at work and that generally, it was a one-time mistake and if given a chance, I’d be able to prove myself is what I’m saying” (JS-F17). Another participant stated, “... I’m not the same person I was when I was 20, right, you know, 58 years old and you’re still being looked at by an employer by, like you’re a criminal? You know, it’s like...why not sit down and talk to the person and find out a little bit about their history, right? I could understand if I had a trail of charges against me” (JS-F1). Another participant stated, “Even if you do have a criminal record, it’s just like, people still deserve a second chance, especially if you’re trying to like go out and bust yourself, and really like dedicate yourself for work. Like you show up on time every day and then like, you know, you work hard while others slacking off and you know like it’s just, it’s just not fair” (JS-F20). Despite the many barriers and personal challenges faced by people looking for work with a criminal record, many indicated a desire to improve their circumstances through gaining stable, full-time employment.

Experiences and Perceptions of Community Organization Members

Community organization participants came to us from a wide variety of not-for-profit organizations working with vulnerable and often criminalized populations. These organizations were responsible for aiding with employment skills development training, employment search assistance and placement, etc. We spoke with one organization responsible for supporting the successful reintegration of individuals with criminal records upon release from prison, with

employment a primary focus of the program. Another organization provides group-format instruction to individuals with criminal records to teach both hard and soft skills required to succeed in the job market. Some organizations were not focused on working with individuals with criminal records, but instead provide services primarily directed toward individuals experiencing homelessness, addictions, mental, or physical health concerns. However, criminality and barriers to employment have become secondary focuses, with these concerns prevalent amongst the client population. These organizations provide one-on-one job coaching, access to employers through direct referrals or job fairs, and referrals to external organizations to support the pursuit of employment or education. The themes that emerged from the community organization participants were similar to the employment seekers, and included things like barriers to employment (legislation, stability), the context of a person's criminal history, stigma etc.

Impacts and Barriers

While it is critical to hear from employment seekers about their experiences looking for work with a criminal record, it is equally important to gain insight from organizations on the barriers that their clients face and the impact associated with having a criminal record. As one participant points out, "We work with people in eliminating barriers to employment, whatever those barriers might be and it often starts with such simple things as not understanding of how the workplace functions with criminal records. Criminal records are one of the major barriers to employment that our clients face, that our current population face. Unfortunately there has been a lack of resources, for that matter, unfortunately there has been a clear lack of visible progress for a lot of clients in terms of moving towards eliminating those barriers and unfortunately this is something that we cannot impact well, as far as I know, this is controlled directly by the

government and the pardon process, getting into it, it's really expensive, it's really time-consuming. People come to us in the situations where they need help right now and in that case, we are find ourselves tied in terms of not being able to help them. So it's, criminal records are definitely a major barrier for our clients that we have no control over" (CO-F5).

One of the reasons for this is to better understand as well as to provide additional identification of the issues faced by those seeking work after criminal justice involvement. Not surprisingly, many of the issues raised by employment seekers were also raised by the community organization members working with individuals to build skills and help find employment for their clients. The direct impact of having a criminal record was seen as extremely negative, with the record having had significant impact on their clients' ability to achieve their goals in the community. These impacts included educational pursuits, facing discrimination by employers, and working in more precarious contexts.

Education is often touted as a means of improving employment prospects, yet for those with a criminal record this can become a far more challenging goal. Indeed, for some it may not be possible at all. For example, post-secondary programs that require practicums where a criminal record check is required can limit education possibilities for some. As one participant states, "It [the criminal record] impacts them constantly... even my clients who are interested in going back to school have to face not being able to do practicum with their record, because schools ask them if they have a criminal record, so before they can even get an education, they're faced with that" (CO-F4). These types of experiences are striking as many may not consider that educational opportunities may also be limited by a criminal record and this in turn further limits peoples' ability to improve their employment prospects.

Beyond educational opportunities, as not everyone has the resources nor the desire to return to school, the types of work that individuals with criminal records are able to secure tend to fall into specific fields. It is also worth noting that even employment seekers with previous post-secondary education are often unable to utilize that education in the work they find. As one respondent stated, "... the temporary employment is what I see as the sort of funnelling of people into labour jobs, service jobs...I've spoken to a lot of people with criminal records who have post-secondary education, so they've gone to college or they've gone to university and they have skills and they have knowledge but they're being funnelled into these low-skill jobs because it's basically the only thing that anyone's willing to take them" (CO-F5). One of the reasons for this, and probably one of the biggest concerns of participants was the lack of connection between the types of charges or convictions a person has and the types of employment they were considered for. Having a criminal record of any kind appears to set the stage for limited opportunity, with most employers failing to consider the relevance of the offence to the duties to be performed. As one participant states, "I would say discrimination just on the basis of a record, not related to the job duties that they're applying for is kind of the number one, the number one thing that's unique to this population, and then that's compounded by all the regular challenges and barriers that people would be having for looking for employment"(CO-F1). More specifically, this means that the mere presence of a criminal record in a general records check creates a significant barrier to employment, regardless of the content of that record.

Often, the type of work secured places individuals in somewhat vulnerable positions (as it is often temporary, potentially under the table and without benefits and/or other protections). Community organization members often highlighted the types of employers that were willing to overlook criminal records. These employers were typically found in the construction and service

industries. In addition, they often cited clients using temporary or day-labour type companies to help find work. As one participant explains, “I think traditionally... construction and trades are the most likely to support people with criminal records. We’re also finding right now manufacturing as well, so I send a lot of people to manufacturing- it just depends, it depends on what you’re doing, but a lot of manufacturing, a lot of trades, a lot of labour, so outdoor general labour type work. And the landscaping industry is massive. Like absolutely massive. We have found that the landscaping, if they’re motivated enough, they can actually make quite a bit of money and always have employment all year round. And these are individuals with considerable like criminal records, like considerable criminal records. So, I’ve found that they’re very open and the manufacturing and the construction trades. It just depends on who you’re working for cause, and what your position is. But for the most part, those are the best ones for us, because they pay a liveable wage and they don’t face too, too many barriers and they don’t work with sensitive information or sensitive populations, which is the biggest thing that a criminal record would prevent you from doing(CO-F7). Part of the reason for this is that these employers tend to be willing to hire where other employers are not. As another participant states, “...[it’s] easiest to get them to start off with...those labour temp agencies.... I was really surprised starting to work in this field, you know, one would think, oh, well entry-level jobs, Walmart, Tim Hortons, whatever and even there there’s barriers. So it’s really um, I don’t know if it’s like that specific agency, whoever’s running it or employer, um whatever their policies are that they want to make or whatever their opinions are but it really seems to be just sporadic places, all the way from entry-level positions that don’t want to hire you all the way up to, you know the more desired positions” (CO-F6). In part because many employers are unwilling to hire those with criminal records, it appears that individuals are funneled into specific fields where their record does not

prevent hiring and results in fairly well-paid employment (specifically in construction).

However, the success in these specific areas of employment may also have to do with other requirements faced by some clients. That is, some clients are required as a part of their parole or probation to find employment and are required to do so within a set time frame. As this participant explains, “Sometimes the conditions of these parolees are quite unrealistic. I have had a number of clients who were just given a month to find jobs and it was frustrating for them. They would tell us, we really need this, I’m working with everyone, there’s so many things I have to go through and a lot of them end up in jail. A lot of them just end up back, because they were not able to do it on time because the probation officers are not just able to give me a call often times, ... I can certainly explain that you know, ‘John’ has been doing his work, it’s just a matter of process, we don’t want to send ‘John’ to the temp agency, yes we work with temp agencies but we don’t want him to there, we want him to have continuous employment but if what it takes for him is a temp agency, in order not to get back to jail, ok, we’ll go through that process, well I’ll have him working in a temp agency while I’m working with him. The only thing is I need the willingness of the client to do that. Right? Often times if you’re working for a temp agency, it’s labour. Gets people extremely tired. By the end of the day, he doesn’t even want to see my face because he’s so tired. And then, not even seeing, you know, not even talking about any resume writing, or any applying for jobs. It’s a vicious cycle, unfortunately” (CO-F5).

Some community organization participants attributed the success of their client in construction to their desire to work hard when compared to their peers without criminal records. For example, one participant states, “What I find is that in construction and oil and gas you perform, your performance is not related, with scholarship...Because when you want to survive, or you want to get out of the hole that you were in, you’re gonna perform. Others, they just go to

make money because you make a lot of money in construction, oil and gas... You can make 30, 50 bucks per hour in construction, compared to 25 in an office. We have people, they have the scholarship, they have the experience, but they don't perform as well as others. These people, they just make money, cash it drink it, you know, and the other ones, they can make a name and a reputation in the industry, just working hard. This is why we have that latitude. Because we are looking for performance, we have a date to give the keys to the owner. And you gotta do it” (CO-F2a). Another participant states, “I would tend to think that would have evolved out of construction, like accepting people with records... they, they do, and I've worked for companies that have definitely invested in, in our training and support, but there's also a little bit of a lower risk, like a lot of the construction, it's like, Well, okay, show up, see how you do, okay, you know, see, you work, okay, we're going to give you this much an hour, you don't show up to three days in a row, you're out of here. And it's and it's a little less of an investment than getting somebody at a retail store, training them to fill that position, then they're taking these shifts that they don't show up for their shifts, there's bigger implications where if you have a large, if you have a large construction crew, and I find with smaller construction companies, it can be a different standard than the large ones, I think the large ones you just get absorbed into this mass of all these guys and again, if somebody doesn't work out it's not a big not necessarily a big impact. When I used to do smaller renovation type work, the smaller contractors that will only have a couple of guys were very particular. And I'm not saying that they would necessarily discriminate against records but they would be definitely be going through a more thorough vetting process, quite often only hire people that were referred to them from other contractors. So, I think with the larger companies they just have again it's just about how fast, how much can you produce, and if you can't produce your you're out of here because we've got a pretty constant

cycle of people going through. Like they're not to be unromantic about it. Because I think there's a lot of really good people with open minds in construction, because I guess it's like one of those things where you get exposed to, you work with a lot of people with records and all of a sudden you're like whoa, you know who cares about that” (CO-F2a). Other participants highlighted the nature of construction workplaces, as they require different people skills than service-sector jobs, thus making it easier for those with criminal histories to adjust and find success in their work. As one participant states, “I mean, there's, there's different qualities that are and again, I'll just be devil's advocate on, you know, trying to, trying to understand why employers would discriminate, so please don't take this as a justification, but...people associate, improperly associate a lot of negative social behavior with a criminal record. Construction and oil and gas you know...it's not customer service. It's not, it's not about meetings... essentially, you can take those people that are like a workhorse but don't get along with anybody, doesn't matter if they have a record or not you can set them on task and let them fly at it. Whereas other workplaces, I think other employers are more concerned about the interpersonal dynamics between their staff and each other, and the clients...” (CO-F2a).

The precarious nature of the temporary work in which individuals with criminal records often find themselves did not go unnoticed by the community organization members. The lack of stability and permanency of the employment typically experienced by clients often led to perceived discrimination and unfair labour practices for those with criminal records, even when the record showed no convictions. One participant describes a situation faced by a client, “[the client]...provided his police information check to his employer, they saw that he had a charge, it said that he had no criminal record, that he had passed the criminal record check but it had a disposition, and it said, brackets withdrawn. And so the employer looked at them and said oh, I

don't, this is something that we're not sure about, we, we're not going give you more hours. He had, he wasn't an employee, he had been contracting for them for years, and so his hours got essentially reduced to zero. And so he wasn't let go because he wasn't a permanent employee and he, this guy then was out a job and then couldn't collect EI either, because his hours were just reduced, he wasn't an [permanent] employee, so anyways, he was in a very tough situation. And it was because a charge came up, you know, and did he know how to deal with that information so there was two complaints made, one was how the police disclosed this information and another complaint was made to the company who used his information and then didn't give him any more hours, right? So, there's- that's been like two years now and um, they still haven't made a decision" (CO-F1). In another experience, the participant explains, "We had another case, of a client who, there was a family feud in his house, the police was called, there was records of, you know, what the wife said about our client, and um, when he went, he was a security guard and he lost his license, because a bunch of information of what the wife had said to the police came out, I guess pages of it. And he lost his security license and then he had to appeal it and I think it took over six months for him to...[get] back his license but he went through a little turmoil just because you know he, his information was released and he never, he was never charged, he was never, obviously there was no charge, no conviction, there was just information the police gathered about him that came up in a police information check" (CO-F1). Indeed, beyond these direct changes to clients' employment (for example, reducing hours, reducing the number of shifts, etc.), participants also highlighted how some employers are taking advantage of clients because they are vulnerable, "...the challenges that I've faced in this role is them being taken advantage of. So they'll be like, yeah we'll hire you, but they pay them not what they should be paying them, so significantly under what they're worth is the first one, what

they shouldn't do, and then the other one I've encountered is refusing to pay minimums, so minimum wage, um having a structure in place so that they can follow something. Like a lot of these, some of these laws already are in place but having an actual structure in place so they cannot be taken advantage of because they're not paying taxes, they're getting around paying them minimum wage, those are the biggest things that I find for employers" (CO-F7).

A number of participants identified the issue of the types of information that appear in what is supposed to be a check for a criminal record. Reports on current charges raise interesting questions about the consequences of criminal record checks when cases are yet to be resolved. One participant clearly shows the difficulties this can create for clients, "... last week I had another client who came in and he's been charged and he hasn't been convicted yet and is trying to find a job. He can't find a job because the charge keeps coming up, right. He hasn't been convicted yet, so it's like, it's heartbreaking, you're supposed to be innocent until proven guilty but here employers have the ability, you know, there is no human rights protection so they can discriminate and right now they're not being told by anybody, that there's, the Calgary Police that they're doing anything wrong so they keep releasing a lot of information that, you know, is questionable whether it should be released or not. And in my opinion, a lot of that information shouldn't be released, and it is and it's really impacting people in a really negative way and um, you know what I've heard a lot is like the police just trying to keep the community safe, but ...is it really doing that when...people are not being able to find employment because of it, they're more desperate, they're more of in a crisis now, so those things are questionable...." (CO-F1).

It should worry many that the barriers and negative impacts of criminal record checks may lead to added stress and crisis in the lives of those with previous or ongoing conflict with the law. Contrary to the idea that providing criminal record information leads to safer

communities, when we make employment opportunities more difficult through these policies, we actually run the risk of making communities less safe. As one participant explains, “And I hear it, not because this is an assumption that I’m making but because I have clients that tell me, listen, if I can’t find a job, I’m, and I’m in a desperate situation, I’m more likely now to go on, you know to commit another crime and I’ve had clients who are amazing people who have been clean for a long time, who have families, who are working so hard to get out of the situation. I had a client for over a year, couldn’t find employment, his wife worked two jobs. He received EI and looked after his son at home and was depressed and he had a long criminal history but had really gotten his life back on track and to hear from somebody who was doing so well say, listen, I’m likely going to go back to a life of crime because I need to support my family and I’ve been trying for over a year to find a job and to do the things that I need to do to like change my life, right. And thankfully, we were able to find placement for this client but, and we hear that all the time from other clients too, like, yeah, we are putting people in a more desperate place, and I think for, I think for society it is very, very difficult because they don’t know. And I understand, like I understand it as well, because prior to me working here, my idea of like somebody who had a lengthy criminal record was very different than my perspective now, right, and I think, I think I was more scared of, because you’re scared of the unknown and that’s the sort of thing that the employers will always tell me as well, so I guess I understand that they’re like, oh, we’re keeping the community safe, because, you know, but it is so not reality and when you work in the field and when you hear the clients’ stories and when you get to know the clients and you know, you really realize that the only way to keep the community safer is to help those individuals, is to, you know, have an inclusive society where they can thrive. I mean, you don’t allow that opportunity for them to thrive, then they are gonna resort to what they know, what

they've known their whole life. And it's that lifestyle that you wanna help them get away from. And so it's- it doesn't make any sense but I also, at the same time I also understand, you know the, that kind of, that way of thinking just because I've also been there myself where I didn't really understand and when you don't understand, you make quick judgements and you think you know what's best and you really, it's not until you, you really acknowledge that you have a lack of understanding and that you wanna learn more about it. And that's why education is so important..." (CO-F1).

Beyond the above stated barriers, community organization participants also highlighted the personal challenges that their clients face, given some of the disadvantages they have faced over their lives. Aside from formal education, the participants noted that many of their clients have little to no experience with computers and software. As one participant explains, "so these guys...some things they have common besides that there is a huge, huge diversity in them so um one of the other few things that they have in common, barrier that they have in common is non-access to computers, so not growing up with computers, not being submersed in computers, it becomes a hindrance, it's a barrier rather than a tool for us, so ... two of our modules there are really focused on getting used to using the computer again and using it as a tool to find employment" (CO-F8). Many clients were also described as not having a means for communicating with potential employers (for example, a personal phone number). Most challenging of all were gaps in resumes and lack of experience in work place environments, where interpersonal skills are critical. As one participant states, "I think gaps in resumes, to start there, is really hard. We have the resource to help them do a resume, some of them have never had one before in their life, or never held a legitimate job, which is not a problem, we find especially being an employment-based program, that individuals who say, oh I can't find a job,

that don't have a criminal record, well, you can, it's just probably not the jobs you want. But the barriers probably there is gaps in resumes, and employers don't really like seeing gaps" (CO-F6). Client expectations can also be misaligned with what employers are likely to pay and this can be discouraging for job seekers. As one participant describes, "...we can divide [our client base] into soft skills and hard skills. And hard skills is a lack of training, there's a lack of vocation, there's a lack of experience in whatever vocation you're in and lack of education and um, perhaps a big employment gap. Soft skills might be, non-ability be able to function, problem with authority, problem with the, there's so many things, you cannot have a proper understanding of how to function in a workplace, you might not have a proper mindset of keep a schedule, people's simple routine, understanding that in order to be a full-time employee, you have to be quite organized with other aspects of your life. You have to be able to have housing, you have to be able to have steady, steady bed, steady comfort, steady rest. Addictions, right, might be, I wouldn't define them as soft skills or hard skills, it falls under a whole different category. Addictions might be a big barrier. Also just, in any case, people have to be, people have to understand that getting employed is not a thing that will just happen tomorrow, especially when it comes to the integration. It will take a lot of time, a lot of clients just don't have patience, a lot of clients just fall off at certain points because nobody wants to employ me because I have this certain record. It's ability to be able to believe in yourself, you say, ok, I will go through this, I will go through this with an employment coach, we will get a job together. Right? And barriers faced, they could be as simple as not having a phone, they could be as simple as not being able to use a computer, computer-illiteracy actually is one ones lately, especially because even any warehouse jobs, right now, small warehouse, they need you to be able to use a scanner, and if you're not able to use the scanner, the only jobs that you can really

do are the jobs that they have left-construction, lots of heavy lifting, jobs that are have, that have a certain amount of danger in themselves, because how many years are you able to work constructions without a proper healthcare, proper benefits, proper insurance? In many ways, a lot of construction companies just hire you on a cash-basis, if you hurt yourself at work, you're on your own, there's no employer impact. If you have just been somewhere where you have been getting cash, there's some impact, so legislation-based speaking, you can't do that. And another probably, another big barrier- expectation, a lot of people are a lot of people have unrealistic expectations of the workplace, a lot of people cannot settle for less than \$17 and even sometimes they might not have enough skills to be able to receive \$17, they might not have finished high school, they might not realistically be able to do this thing, they still expect not less than \$17 in the workplace and if it's not, they would just rather keep looking so our job as coaches, our job as employment developers is to be able to check in with these people, check in with reality, and have them not lose touch with reality. Would you rather see welfare, \$200 or the max \$600 or \$650 for medical that you'd be able to receive or you would rather see \$15 an hour? I mean. So, those are, I think, one of the main barriers to employment. I think, just the lack of education, lack of proper understanding of how to function in the workplace. The big one is absence in the workplace, people who have been out of work for so long, they don't know how to function, they don't know how to, things have changed, like I said at the beginning, employment such a dynamic thing, it changes all the time, the way you send your resume today might not look the same. It might not look at all like probably in a year, next year there might be some new things, just like five years ago, maybe a cover letter was not needed but nowadays, if you want to get employed, any type of sustainable employment, you have to be able to scribble a couple of lines about you, scribble a couple things, you have been doing, right, whereas beforehand, ok, just

give me a resume. Even if we take in Alberta boom, 2000, 2009, you didn't even need a resume, you just show up with a friend, really with a friend, you know, this is a great guy, John is a great guy, I want him to work with us, yeah John, there's work for you, c'mon. You work well, a lot of people come to us with, like they have no resume, they have no cover letter, why, never needed one" (CO-F5). Barriers to employment were often broken up into two categories, the first being skills such as computers, writing, etc. These types of skills were thought to be easiest to address through programming. The second category of barriers related to the more complex social and psychological skills of clients. As one participant stated, "There's, I would kind of categorize them in two separate areas. So, I would call these ones the easier ones, so there's their cellphone, their email, their resume and lack of digital literacy, so those ones, we... find are very easy to fix because we can physically go and help them with that immediately. Then the other biggest barriers which I would find are more so are the behavioural, the behavioural and psychological aspects, so these are learned behaviours that they, that these clients have learned over time... that prevents them from keeping their jobs long term" (CO-F7).

Despite all the barriers around finding employment, it is clear that the guidance and knowledge community organization members share with their clients is useful in managing both client expectations as well as helping to secure employment, even if it is temporary. As one participant states, "I speak with clients who don't, when I ask them like ok, so is there any criminal records in the background and they say no, I feel a huge sense of relief because it's a lot easier, a lot more options for them. For individuals with criminal records, I've seen a few of them applying for work and be really excited because they're in that process and then the reason why they get shut down is because the criminal record. It's really defeating, because the people we work with, part of their culture, is like they don't know- they're not used to speaking very

positively about themselves and so one of the things that we try to bring back is just letting them know how useful they are and how wanted they are to bring into society and then they get that and it's like the hard no and some of these jobs, you're just like, oh, why do they have that, but, so you see that, you see them come back with that defeated feeling and you're just like, you want, I always describe myself as a helicopter employment coach so you just wanna coddle them and just be really mindful of where you're applying for work. So, with those guys, I'm usually with them when they're choosing what jobs to apply for and I'm just like, oh, um, maybe we wanna steer towards this place. And then another one is when I put job fairs again for like places like Walmart, I like to put on like so just so you know they do criminal record checks so that they can know beforehand" (CO-F8).

Stigma

The community organization members who provided their experiences and perceptions about the challenges facing their clients who are seeking employment provide a realistic assessment of the barriers criminal records can create in reintegration. While some of the systemic barriers require change at the highest levels, for example, amended human rights legislation, these participants also highlighted some of the practical means by which we can address such barriers and help to improve chances of finding stable employment. Providing supports to employment seekers, especially those who have been recently released from custody, was seen to be a critical part of the practical help individuals needed in order to overcome employment barriers. As one participant stated, "I think...an open-door policy [is important], because we recognize that folks who are coming in who are recently released, things are kind of unstable, they're not sure where they're staying, they're facing addiction, we know that they're there, they're battling some things behind the scenes, aside from being here, and trying to get

back into the workforce. So it's important to us to keep the door open and maintain communication with those individuals so that they don't feel like Oh, if I missed a day of programming, or I, I didn't call on the date to book my interview... we're still here and we're still available to help them and we don't want to shame people and turn people away when they're dealing with all those things behind the scenes. And I think that's a huge part of it" (CO-F2b). Providing support and preventing further stigmatization of clients were seen as central to successful working relationships among community organization members and their clients.

Another frequently highlighted concern of community organization participants related to the stigma associated with having a criminal record and the lack of empathy that criminal offenders garner from employers, politicians, and the general public. As one participant stated, "And unfortunately a lot of things can seem political and then you know...you're probably not going to get a lot of votes if you are seen to be standing up for people with criminal records because mainstream society sees them, well they're just ... Because the stigma is so huge, because people are not seen for who they are, people are just seen for that bad action or that crime that they committed, and that's why stigma, working towards reducing the stigma is so huge and so important" (CO-F1). Another participant stated, "I feel like there's just such a stigma around it that um, and it really depends I believe on the employer or that hiring manager or that supervisor's opinion, personal opinion as well plays into it, in addition to uh, employer's policies or non-official policies. Unofficial. Because some individuals are under just the mind frame of offenders will never change and they're always, once a criminal always a criminal and we should just throw them away and lock up, like, put them in there, throw away the key, lock them up, throw away the key and that's it and they'll never change. Obviously, I wouldn't be working in this organization if I believed that, um there are, don't get me wrong, there are certain

individuals which probably are a risk to society for the rest of their life but the majority aren't. And the majority even of such an offence like a murder, the stats show that those individuals typically will never commit another offence in the rest of their lives, they, and it's a lot of, you know, it happened 25 years ago, I was under the influence, I was an addict at the time, or whatever. That's not everybody's circumstance. But um, and there's such a stigma behind that that people just don't want, they put walls up and they're like, nope, you're a bad person, I don't even wanna give you a chance. And I don't want to, they think something's going to happen, they think it's a risk to their agency or to their staff, um and they just don't wanna see through that that's still a real person and those people in Canada will most likely always still come out and live next to you and I and still need jobs and be in the community and people don't see that aspect of that, so I feel like stigma is probably the biggest limiter" (CO-F6). Yet, if we are concerned about community safety and are committed to the successful rehabilitation and reintegration of those previously criminally involved, we know employment for these individuals is critical for that success. As one participant stated, "I think the emphasis needs to be on...community safety. And if you take the approach from a Community Safety point of view, then it actually, giving opportunity, giving positive options to somebody that has what we would see as being more serious and more recent crimes...is actually a contribution to community safety. And the argument being that if there's no real increase in risk to the other employees, and to the clients and the customers and on and on, then not giving that person opportunity is actually contributing to having a less safe society because we're not allowing them to enter to reintegrate positively" (CO-F2a). Reducing the stigma associated with a criminal record is important not only for outsiders, but also for job seekers themselves as the shame associated with the record often prevents them from trying to find stable employment. As one participant stated, "...a lot of

my clients will just walk away from a job at that point...they see the box, they walk away because they feel like they're not gonna get [the job]" (CO_F4). Employment is an important part of the reintegration process, and reducing the stigma associated with a criminal record appears to be an important part of how we might help people achieve stable employment.

The primary way to reduce stigma from the perspective of community organization participants was through education and outreach campaigns that could help to reduce misconceptions about people with criminal records as well as help job seekers feel more confident in their efforts to find employment. As one participant stated, "Raising awareness about the issue, I think more outreach. Outreach is a key component of it... being able to reach out to the shelter and being able to reach out to the community organizations and say, if you have clients with a criminal record, we have someone who will be able to help with that. We have to have someone who will come and will present and someone who will be able to take those clients on, the ones who want to go through this process. And organizations like ours will be able to support them though the employment process in the meantime, get them work and get them some money. I think it's largely a governmental thing to be able to raise awareness about, and awareness among the offenders, and awareness among the key offenders. That's a big thing and ...you have to make the pardon process easier...." (CO-F5).

Education

It was clear from community organization participants that they felt that employers had a number of misconceptions and unnecessary fears of hiring or working with individuals with criminal records. The misconceptions and fears were seen as being held by not just employers, but also members of the general public. As one participant stated, "...I think...there's just so much fear and assumptions...made about individuals with records. I mean, even when I'm

talking to people in my life about what I do...It's like, "oh, aren't you so scared to be working with, you know, "criminals"?" And, and I think that's the problem right there... if you have a criminal record, that's like, what you're associated with. Like, and there's a lot more to that. There's reasons why people commit crimes. There's reasons why these things happen. And if we're not supporting those people, then it just becomes a cycle. It just becomes a cycle that people feel isolated and then they do what they know. Or it doesn't seem like there's any other options. And so I guess I don't know if I'm really presenting much of the solution, but I guess it is just public education. Because before I worked here I didn't, like I didn't know anything really about this, and I hadn't even realized like how much stigma really was out there. And even my own biases. Until I, you know, this kind of opened my eyes. Let's bring more of this to the people" CO-F2b). In order to overcome these negative perceptions, some community organizations have taken steps to work with employers directly to attempt to alleviate concerns and provide education.

Community organization participants were unanimous in advocating for the education of employers. As one participant stated, "I'd say the biggest thing for employers is really just educating them...using statistics from the community, using information and education from our organization, other organizations, I feel would really break down barriers, because a lot of what I do is educate these employers. And I educate businesses, I educate community with these employment statistics that we run because people just don't believe me. And I feel that there is a huge stigma that is preventing a lot of organizations from taking these types of chances, so I feel like an educational piece and holding their hand just a little bit so that they don't feel like they're jumping into a giant dark space would go a long way in helping to develop a best practice, because a lot of what my staff does downstairs is educate them, be like no, no, like we can do

this, we can do that for them, we can mediate you know if you're having a conflict we can help work with you together to overcome this and a lot of the businesses and community members that work with us are very socially-minded, so it's not as big of a challenge for us. But I'm just saying for the larger community where they might not be as socially-minded, if that might help even more. Yeah, so I feel that the education piece and of course the relationship-liaison piece is the biggest part of it because they really need to, they want to have as much information as possible, essentially, knowing what they're getting into...." (CO-F7).

Community participants not only felt that employers needed education, but also suggested that the general public would benefit from an educational campaign that could dispel some of the misconceptions about people who have had previous conflict with the law. One participant highlighted the knowledge gained by working with individuals with criminal records and reflected on the need for experience and education in order to make positive change, "... I wish I could pass on my knowledge of working with my clients to everybody out there because I want them to see what I see, you know, but I also say I've been doing this for quite a few years and working with this population for a very long it's going to be very difficult for your average person that is working oil and gas or who is working wherever to really be able to see what we see. And I think that's why when we...public education initiative... And what we found in trying to reach employers and in trying to change employer's minds was that having clients with criminal records share their own experiences with them, within the room, where they can speak as to what happened in their lives... how they grew up, what made them do the things that they did, have them talk about their dreams, have them talk about their hopes. That was the only thing that really worked in changing peoples' minds. And it was so effective" (CO-F1a). Indeed, participants felt that that the most effective education allowed for connections between

employers, the community, and those with criminal records looking for work. The reason for this was that having more direct and personal exposure to the stories of job seekers allowed for greater empathy and reduced stigma. As one participant put it, "...that's why we wanted to share stories and allow people to just experience that life for a little bit, for even a few seconds, to know... what it was like for you, you know because that's the only way we found that we got to peoples'...hearts, you know because you do, you need people to connect" (CO-F1a). This type of educational approach seemed to be seen as proving to be more effective than simply approaching employers about participating in various types of hiring initiatives. As the same participant added, "[It's] very hard to...do it from a...let me [generally] tell you about my program, and let me tell you about why you should help these individuals. A lot harder" (CO-F1a).

Legislation

One of the themes that community participants highlight and had significant concerns about was the state of Alberta's provincial legislation as it related to protecting the rights and privacy of people with criminal records. Community organization participants suggested the need to change laws so that individuals with criminal records have greater protections against discrimination. As one participant stated, "We've got to protect more people. We have got to do amendments to the Criminal, Human Rights, and Privacy Act and that's really very important and it's a kind of a need across Canada.(CO-F1c). Discrimination in the area of employment was not the only area of concern for community participants, as criminal records that have not been resolved can have adverse impacts in a number of other areas in a person's life, for example schooling. As one participant states regarding the need to change the law, "I want to see [the Alberta Human Rights Code] amended, I want a general ground [for protection]...I wouldn't like

to see it only under employment, I want to see it under general grounds, so that anybody, whether it's facing discrimination because they are not being accepted into University, into an educational institution or housing or anything. That they have the protection. That's where I stand. And I'm pretty firm on that. I know there's...compromises that can be made because the likelihood of them making an addition to a general ground is less likely than ...only employment and I do understand that employment it is the most important aspect...I think that affects the most people, that we see most discrimination in that" (CO-F1a). There was also concern outlined about protecting individuals whose cases have not had their final adjudication in the Courts. For example, individuals with outstanding charges will have those charges appear in a criminal record check despite having not been resolved. The result of this is that charges may be treated as convictions, despite the fact that charges may be withdrawn or not otherwise result in a criminal conviction for that individual. The law then also needs to address the precarious position in which this places those who are currently being processed in the courts. As one participant stated, "I want to see it under a general ground criminal record...not just criminal record or charges, like there's a way that it can be written in so that, there's a lot of people that don't have a record that haven't had a conviction but that have been charged that are still being discriminated against and I want to ensure that they can also make a complaint" (CO-F1a).

It is worth noting here again that a central concern of employment seekers was the limitation of employment opportunities far beyond the scope of their previous criminal involvement (for example, convictions that were unrelated to the duties a potential job might require). In addition, both community participants and employment seekers questioned how long one should have to pay for their previous offences. That is, if one has had their previous offences addressed through the Courts and has completed all Court mandated penalties, one should, in theory, no longer face

additional penalties due to these previously addressed convictions. Community organization participants were aware of the need to ensure protection of vulnerable populations and also recognized that employment discrimination for those with criminal records unrelated to the work they were applying for was a significant problem that needed to be addressed in the law. In addition to this issue, the timing of conducting the record check was considered important. As one participant stated, [In]...Alberta, getting criminal record discrimination unrelated to employment included... [in the legislation] and then some kind of legislative mechanism by which the record question isn't asked until after the job offer, like they got in New York State" (CO-F1a). Yet, with all the call for legislative changes needed, community organization participants were also very quick to link these types of changes to the need for a broader public education initiative that might help to encourage the legal changes. As one participant stated, "I think it's [legislative change] hand in hand with public education... And that all this works in conjunction with the public education in order to get the public support to make politicians make those changes...." (CO-F1a).

Experiences and Perceptions of Employers

Understanding the barriers people find themselves up against in the search for employment while having a criminal record necessarily requires an assessment of the perspectives from employers. For this research a limited number of employers were willing to discuss their hiring practices or discuss the issue of criminalization and employment more generally. It has been anticipated that a larger sample of employers' perspectives would have been achieved, as this would have had value in providing more clarity on strategies for improving opportunities for those seeking employment.

Despite this limitation, we did find interested employers willing to share their views and help us to understand the challenges faced by some employers. It should be noted that the vast majority of the employer participants were companies that were willing to hire individuals with criminal records, thus the views presented in this section may be quite different in organizations that do not hire those with criminal records. We recognize this as a limitation of the research and hope that future research may be better able to access a broader sample of employers willing to discuss these issues. And while this limitation is recognized, we also found that the employers interviewed for this research were able to provide unique perspectives and suggestions for how we can better provide employment opportunities for individuals with criminal histories.

Perceptions of Risk

A recurring theme highlighted by employer participants was the issue of risk. While most employers were willing to consider hiring a person with a criminal record, considerable thought was given to the risk that the potential employee might pose to their organization. One of the risks related specifically to the types of previous convictions an applicant might have and how those might put their employees and/or clients at risk. As one participant stated, "... it depended on the company needs. Now when I was doing non-profit recruitment, obviously because of the vulnerability of the client, we had to really put a lot of safeguards into applicants who came to us with criminal records. So people who are trying to recover from a broken leg and they're trying to get back into employment, to people who have two to even three diagnosed disabilities. So we had to have a lot of safeguards in place around not only who we worked with but who we would put forth for positions, because of...the vulnerability of the clients" (E-F4). Employers also raised concerns around the risk potential employees posed to their organizations if the crime was widely publicized. Individuals that had been involved in high profile crimes

were seen to pose a greater reputational risk to organizations and this might adversely impact the organization's ability to secure business. As one participant stated, "...we'd have to assess the risk of the criminal activity, depending on the severity of it, and the nature of the work we do. And whether that potential crime or activity was publicly known...so if, for instance, an employee that was being considered for employment, had a criminal offense that was reported in the media and was searchable. If a client was researching an individual, because it happens in our work that a client will Google someone's name, and if through a Google search, that individual's name came up in a newspaper article or in a website that identified that individual, that may potentially bias our client's opinion in terms of retaining our services" (E-F1). It is worth noting here that under the law in Alberta even if someone has received a pardon for their offence(s), if media coverage of the crime(s) were still available an employer may refuse hiring based on this publicized material. Obviously then, reputational risks are an important consideration for an organization and where a person has been involved in a publicized crime this may reduce their chances of being hired. Assessing risk is important to employers and involves a number of considerations, as this participant stated, "I guess the... firm, risk to the individual, and risk to others that are employed, and risk to the clients. So that, all of those variables we would have to take a look at" (E-F1). It is clear that decisions to hire someone with a criminal record can be complex for some employers.

Overcoming Risk

Despite the complexities of trying to assess the risk posed by a potential employee with a criminal record, there did not appear to be any clear or structured means by which employers made these types of hiring decisions. As one participant stated, "I don't believe we have anything in our policy about people with criminal records, not in our employment policy or in

our recruitment policy” (E-F1). Despite the lack of official policies, employers did have suggestions as to how these decisions may be made and what employers might need to assist in such decision making. While many of the suggestions related to human resource policy other suggestions were things that potential employees could do to address their criminal record.

While many employers did require criminal background checks, one of the things that many participants advocated for was that potential employees disclose (early on in the application process) was their criminal record and provide some background information that could provide needed context for the employer. As one participant stated, “Things that we’ve done in our past or things that we, you know there’s always mitigating circumstances so from a candidate perspective I think being honest with the, the organization, either, whether it’s a question of process or when we say you know, as part of our preemployment verification we do references and background checks including criminal checks, that’s the time to say, ok, when you do my criminal check, you’re going to find x, and here’s the story. I think that’s really valuable” (E-F6). The information included in the criminal record was not seen as detailed or sufficient enough for some employers to make an accurate assessment for the risk that the potential employee might pose. It is the context of the criminal offence that was most important to employers considering hiring someone with a criminal record. The context of the offence(s) is helpful for employers assessing what type of role the individual might qualify for and provide the necessary information for the employer to make an informed decision on hiring. As one participant clearly explains, “...our pre-screening for hire is to conduct a criminal background check on individuals in addition to other checks, so, typically, [we do] two things, one we do ask that question as part of our application process, I’m pretty sure we do and then typically someone will say if there’s going to be something found in the background check and at that point in time,

we look at it from an employee safety perspective, so depending on what the situation is and what type of role they're going into, so I kind of have it, the way we look at it is in three categories, one we have a lot of safety-sensitive positions, also that involve significant driving so I'll say that the most common criminal record finding is impaired driving license, DUIs, those types of things and we typically, obviously, in our view it bodes well if the individual tells you upfront that they will find something before they go and do the check and then it is typically an evaluation which is somewhat subjective but based on, was it recent, has it been recurring, are there any mitigating circumstances surrounding that? So, you know, usually it's a no brainer and there's no issue and it's a long time ago and we go forward, and doesn't stop anybody from being employed. It would only be if any of those other things are coming into play. The second thing is for specific financial roles, there are issues if it was a matter I don't know, fraud or something to that effect that and again, you know, when was it, mitigating circumstances, those types of things that would be considered. For very senior roles like our CFO role, I'm not even 100% sure but I'm going to guess if there was a fraud conviction in the past, they likely wouldn't be hired, I have to say that but um, you know, again, I've been here for quite some time and I can only recall one situation where, because of the personal information and the repeated offences of a fairly recent nature, we declined to hire an individual for that reason. And then the third one would be more, things that would be more violence-associated, so would there be a risk of having the individual working among staff, and to be honest we haven't faced that with any of the checks that we have done, so I can't really speak to it in a way of what we would do but again I think that those are the parameters that we would look at: is, you know, is it recent, is it repeated, is there mitigating circumstances surrounding that and we wouldn't want to put our staff at risk if it was recent and there were frequent things but again, it's been very rare like that

we would decline hiring for any of those things' (E-F6). It is clear from this participants explanation that there are two very important issues faced by employers when considering the hiring of an individual with a criminal record. The first is the importance of disclosure about the criminal record. By disclosing the criminal record and providing needed context regarding the person's criminal offending this appears to help increase their chances of being hired. This would be particularly true for those whose criminal records are old and no new or more recent criminal convictions have been had.

The context, however, is also important for both old and new offences because it allows the employer to determine whether or not the criminal offending relates to the position being hired to. For example, if an individual had a previous conviction for a driving under the influence, this might exclude the person from positions requiring heavy equipment operation but not the other types of positions the organization may be hiring for. In addition, the context or length of time that has passed since the conviction may suggest reduced risk as well. And context matters most in decisions to hire, as one participant stated, "Well, it depends on what the activity is, and what the motivation was at the time. I guess motivation would be one piece. I guess the other side is the environment in which that occurred too. We work with, you know, for instance, if it was theft, we work with a lot of very expensive AV equipment. And it's sometimes possible that equipment can go missing. But if, you know, if someone's circumstances, financial circumstances changed, and, you know, they previously had stolen something, and then I guess had a criminal record as a result of that, then we would have to assess what, you know, what were the circumstances around that crime? And with that, you know, would that crime occur again? And do they understand, you know, the result of what happened and then that can't happen again? I guess would be the short way of answering because just because someone does

one thing doesn't mean that they're going to be doing it for the rest of their lives. It just means that unfortunate circumstances occurred, they conducted a crime, they sought remediation for that crime and understood that they can't do that again, or else they will face similar consequences as they did before” (E-F1). Having applicants disclose their criminal record and providing some explanation as to why they may have been previously involved in criminal offending seemed to be important for employer’s ability to assess risk in hiring.

Yet, it is worth noting that employers were also clear that disclosure did not mean that the employee must or even should disclose their criminal records to co-workers. There were two reasons for this concern. The first was that each individual has a right to privacy, and second, that it could be raise potential concerns among co-workers that might best be avoided. As one participant stated, “...my advice to people has always been, you’re here for your reasons, it’s perfectly fine if you know you want to keep confidentiality around your past, don’t feel, don’t ever feel like you have to tell anybody about why you’re here. And I would give that same speech to every new hire. Because humans we tend to compete naturally and, we hired such a wide range of people at [name removed] that I wanted to avoid any competition [among co-workers]. The advice I would always give them is, you don’t have to tell anybody about your past, period. But in both cases, it ended up the person self-disclosing and it ended up becoming a huge problem” (E-F4). Thus, employers appear to have to manage both the hiring process as well as the potential issues that might arise from disclose of a criminal record to co-workers.

By far the most important part of overcoming risk seemed to be the development of guiding human resource policies that provided greater consideration of the issues faced when hiring someone with a criminal record. Having a clear human resource policy that thoughtfully considers the types of offences that may or may not exclude someone from employment as well

as a hiring process that allows individuals to learn about these policies prior to applying for work was seen as critical. Providing hiring criteria early on and giving individuals with criminal records the opportunity to consider these policies prior to making a decision to apply for work was seen as a more transparent way of making hiring decisions. As one participant stated, “So really when it comes to criminal records, when I’m going through my hiring processes, I need clear instruction from the agency...what types of criminal record that they will accept. At a place like [name removed], three very clear rules- nothing to do with sexual or violence, nothing to do with money or fraud, and nothing to do with any kind of theft. Because we were a fundraising company. So it’s always on, it’s always sort of at the discretion of ...employers so once I kind of have my context and my bounds in place then I can begin to filter through. So if somebody comes to me and they have a criminal record, the first thing I’ll do is I’ll let them know what our boundaries are. Well these are our boundaries around criminal record, so do you feel like you would still like to apply? Totally up to you. Now if it comes back and it fits within our boundaries, like say they don’t have those three things, then great, then we’ll make a decision at a management level, ok this is this person’s history. And at the end of the day, some people, you know they smoked a joint when they were 19, you know what I mean. Or some people, it’s just not, I don't want to say that the crime isn’t bad but it’s not applicable to the work that we’re doing. There are definitely degrees and grey areas. Some people may have a lengthy criminal record but again outside of our boundaries and maybe looking for that second chance. So really as an employer, really for me, it’s almost a black and white situation. Once I figure out whether or not they’re in or outside of our boundaries. If they are in our boundaries, let’s say they have a violence [offence], then it’s just a no. But if they’re outside, then obviously it’s something I’m going to work with. Again, to though, depending on their skill...So I’ve come

across this, when you're doing high volume recruiting, like I did when I was with the corporate place, when I was with [name removed], you really want to give people the best opportunity possible, based on their skills. So for me, having the boundaries makes this, it really brings the emotional part out of it. Because I think that people respond to criminal records, from an employer perspective, sometimes from an emotional place. We have this belief in our head that criminals are just bad people and that can really influence the way that you're hiring. So I really think that building a good structure around what is acceptable and what isn't, based on what we need, based on the clients we're working with, based on what the company's doing, I think is a great way for the employer to really kind of tackle that issue. To create a, to create a real standard. In [name removed] policy and procedures, this is what we have set, this is how you deal with that, and just to really take the emotional part out of it, right? So, that's kind of from the employer perspective, how I've kind of always tried to always deal with that situation. Somebody applying with a criminal record, I mean it's hard enough for them to even approach a place, not knowing what the rejection might be like, not knowing how that person's emotional reaction might be, there's a lot of shame there. Of course we can't ask people, you know, tell me what you did. And sometimes people will voluntarily say, you know, this is what I've done. And it's hard to avoid the human connection in that, in that type of interaction. Because really someone who's applying for employment with a criminal record has probably gone through a lot of rejection. One of the things that has made me different, I think it's helped me to excel in the HR...is that I have a non-profit background, I'm really focused on the humanity side of things. And you can really see when people are exhausted, when they are you know just frustrated. Oh no, here's another employer that's going to reject me. So again, it's about being professional and keeping your composure and I find that when you can clearly outline to the person, because

you've created a structure, it makes that interaction a lot easier...As opposed to me just sitting here judging you, right? So when we do our interviews, and [name removed] was a very unique place, that we did group interviews. It was the first time I'd ever done a group interview in my life. I didn't like the original structure so I restructured it. We do about four to five people at a time. And I would- the beginning would be very informational. And I would present the, this is our rules around criminal records. And kind of leave it up to the person. And I'd have people at the end say well you know what, sounds like a great job but I don't think I fit inside your rules for criminal records. And you know and for me, it was always a dignity thing. The opportunity to give somebody the chance to keep their dignity and not have come and be judged by me, right? So that's kind of the way I've always gone after the criminal record part" (E-F4).

Now not all employers viewed applicants with criminal records as high risk. Some employers saw providing opportunities to those with criminal records as something important to them and saw the benefits of creating employment opportunities as outweighing most risks. As one participant explained, "For me it's very simple. Somebody has the ability to contribute to our economy. By earning a wage and you know, getting on our consumer wheel. But also somebody who has the ability to take care of themselves and their family. I think that is becoming a contributing member [to society] in my mind. And as a hiring person, if I have the tools to be able to give that person that opportunity, then that's one of the reasons why I love it so much. Not to improve my life by any means, but for them to be able to give me opportunity to improve theirs. To really take off that yoke that they bear, and really to help them, you know achieve any goals that they want to achieve. I really think that that's, that's a huge part of recruitment. When I look at, even when I was doing high volume recruiting and we were you know, hiring things like heavy-duty mechanics, fluid-analyst specialists, people like that. Even there, because the

process is a lot less emotional there, it's a lot less, you know people are applying nationally, I've got to get through 300 applications in a day so you don't really have time to...get to know someone but it's more about fitting the pieces together. But even there when we could get past any issue that they had and give them the opportunity to really, I knew the ones I said yes to this person, they got hired, their life's going to change. And sometimes guys would be out of work, or they'd be seasonal workers, and you know you give them this opportunity to go and make 80 grand somewhere, and it's good, that's going to change their lives. I think that we, if we don't approach this field with some type of humanity and understand that we have this huge power to really in a way almost dictate the quality of life a person gets to live, I think it's something that, I know I've talked a lot about kind of keeping the emotion out of it but I think we need to have a respect for our role as hiring managers and as managers, as HR people, ...we have the ability to give them the opportunity to really provide for themselves in a real way, and in not just, not just a job but in a quality of life job, a liveable wage job" (E-F4). Another participant stated, "I really try to make sure that there are no biases when I am hiring...I think it would be very unfair. I mean we are not working with anything particularly sensitive, yes, there is cash here, but we manage that securely as we would with anybody regardless if they have a criminal past or not. So, I mean from my perspective I think that many people make mistakes in life. I know that I have made mistakes so I wouldn't judge somebody based on that I mean especially because I am looking for a very specific type of person which is someone with an unbelievable personality, engaging and charismatic and you know what if you can do that I'm willing to put them on the team regardless of their past" (E-F5). Here we see that individuals with criminal records, when applying for work with employers such as those quoted above, may be given a chance and that their skills during an interview may be the thing that holds them back most.

There was also recognition by some employers that outcomes after hiring for those with criminal records may be similar to those without records. That is, there is a certain level of uncertainty in hiring any new employee and whether or not the new hire works out may have little to do with previous criminal involvement. As one participant stated, “It’s tough because I mean the more I think about it the more I understand that it’s probably a crap shoot to the greater extent, but I mean it's the same as hiring people without criminal records. I mean like you’re going to get shitty people without criminal records and great people with criminal records. I mean it's a crap shoot one way or the other. I’d say that best hiring practices are a good thing and having proper screening processes regardless of criminal background is important. I mean anybody that hires people for a living has made garbage hires and has made fantastic hires. And I don't really think that hiring somebody with a criminal record is any different than doing the same details when it comes to hiring and I mean that. I mean I ask a lot of questions, I ask opinions about alcohol and drinking in the work place and stuff like that. In the industry I have people with perfectly clean records who think it’s perfectly okay to be drinking on the job and that's just how it is. So, I think proper hiring and practices in the industry is to be followed regardless and that's the best way to mitigate any bad hires. But you’re always going to get bad hires, if you hire you’re going to get shitty hires regardless so at least you can mitigate them” (E-F5). Another participant stated, “Yeah, when I found out about some, [applicants with criminal records] I just try to work with them, and... just don’t judge them any different, you know what I mean? Cause that person who has a criminal record could be a lot nicer than a person who’s never been charged but they’re the biggest piece of crap you ever met in your life out there, you know what I mean, so you never judge a book by its cover... Cause especially in this industry, you can steal, there is things you can steal, but it’s not like a high-volume thing, and stuff like

that. I've had perfectly good people who never had a record steal from me on a daily basis, you know what I mean. So, you never know, you don't judge for that one thing" (E-F3).

Some employers interviewed did not require criminal record checks during their hiring processes. And maybe not surprisingly these employers were coming from areas that have typically been more willing to hire people with criminal records (for example, the service and construction industries). As one participant stated, "...I do all the hiring for the front of the house staff... there isn't anybody that I am aware of that has a criminal record. Having said that, it's not something that we screen or ask when we hire, it's not something that we hire based off of, I personally hire based off of personality, like amazing engaging servers. Frankly...the rest doesn't matter as much. Being able to have someone who is engaging and personable and have someone who will entertain my guests. But as far as that goes I would say I guess that having an understanding that this is a bit of a transient industry and my wife is a chef and she definitely does a lot of hiring as well and I'd like to say that a lot of that is easily overlooked based of the fact that these are skills that are learned and not often forgotten and they will fall back on and I definitely think that this can be an industry that people with criminal records can definitely fall back on. I know that there is one person in our kitchen, and I worked with him years ago and I have worked with him for about 6 or 7 years and I don't know any specifics or anything, but I do remember years ago hearing the story, so I think it's a good industry for that" (E-F5).

Encouraging hiring

Employers were asked how their companies, as well as how others, might better prepare for potentially hiring individuals with criminal records (where this did not conflict with the work being done). Issues of risk and bias were central to the concerns of employers. As one participant stated, "I think as employers, I think it's important for us to be aware of bias, be

aware of ways and, you know, to have tools in which to address these difficult conversations. Because the temptation as an employer is to always assume less risk. So, if we are going to assume greater risk, what do we need to understand around individuals with criminal records? How do we objectively assess that risk? How do we ensure that that activity doesn't occur again...how do we protect ourselves as a corporation” (E-F1). It was also clear from employers that they wanted a means by which they could minimize the risk of hiring someone with a criminal record and much of this was seen as something a clear human resource policy could achieve. As one participant stated, “Well, I think I think the first thing would be a hiring toolkit would be helpful because if we are looking to hire candidates, and someone does have a criminal record, as an employer, understanding what that looks like, and what questions we may need to ask to better understand why the criminal record exists and to understand how we might assess the risk of reoffence”(E-F1).

Yet, getting to the point where an organization is willing to address the issue of criminalization and employment in the workplace was seen as challenging and requiring substantial changes in individual and organization attitudes. One participant described their experience in challenging organizational norms and addressing bias against individuals with criminal records in their human resource experience, the participant stated, “I’ve always come at it from a policy perspective. A great example is when I began to develop the recruitment strategy at [name removed] knowing that I wanted to deal with a lot of the barriers that people are presenting, what I did was in the training with the management team and with our leadership team... here’s all the strengths, here’s who we should be hiring, here’s what that person should look like So that we could structure our initial [interviews], and our group interviews around...exactly who we’re looking for. Now while doing that, that was a great opportunity to

challenge any issues that a person may have around why they have an issue with working with quote unquote criminals. And really be able to relate that back to, well this is a policy issue, we cannot have any type of discrimination in policy...so let's talk about where your issue comes from...Let's have the bosses have a real investigation into why they believe what they believe, which is something that I really picked up when I was with the [name removed] for ten years....” (E-F4).

It also seemed clear from employers that given the potential risks of hiring someone with a criminal record, and the lack of structured guidance on making such hiring decisions, if employers were able to choose between two equally qualified candidates - one with and one without a criminal record- the less risky choice seemed to be preferred when they were unable to get detailed information about the applicant's criminal history. As one participant stated, “...I would say that it's about the conversation and how do we have the conversation? And if I had the choice between two highly qualified individuals, one with a criminal record, one without, is the risk, does the risk warrant, you know, the effort that it would take to hire the other individual? You know, potentially, if both candidates are strong and one has a criminal record, then you would most likely choose the one without the criminal record because we don't have current policies or ways to mitigate those conversations arising. And potentially the risk to our clients having the acceptance with it that would be another challenge if that occurred in front of our client” (E-F1).

Conclusion and Recommendations

This study was able to explore the experiences and perceptions of individuals on the issue of criminalization and employment. Specifically, we were able to explore the challenges faced by individuals with criminal records as they looked for stable work; employers' understandings of their decisions to hire individuals with criminal records; and finally, representatives from community organizations trying to bridge the gap between individuals seeking work and finding appropriate employers through program development and administration. While the issues that lead a person to receiving a criminal record may be complex, and for many of these individuals achieving stability after conviction (and possibly incarceration) can be quite challenging, it was clear from the participants that the ability to find stable employment was an important part of *maintaining* stability in the community. Community organization members expressed the importance of consistent supports and assisting individuals to find stability (this might mean finding housing, support groups for those with addiction issues, etc.) as necessary first step prior to someone looking for employment. It was acknowledged however that employment must follow quickly as maintaining stability (for example, housing) was inevitably connected to the ability to earn money to pay for things like rent. Without the ability to earn a wage these individuals are forced to rely on social assistance which many of our respondent felt was difficult to move off of. It was clear from employment seekers as well as organization members that social assistance (and its various rules and requirements around employment, meant that people were reluctant to give up social assistance in cases where they feared being unable to secure stable, long-term employment. This seemed to create a cycle of dependency on social assistance for some individuals, a cycle that could be potentially be addressed through increased employment opportunities.

Based on this research there are a few areas in which action might be taken to further improve the opportunities for individuals with criminal records to find and maintain stable employment. Below we list a few of these areas:

Recommendations for Legislative Change Regarding Discrimination of the Basis of Criminal History

Recommendation 1: *Inclusion of criminal charges and convictions in protected grounds in the Alberta Human Rights Act, either wholly or exceptionally in the context of employment.*

Individuals with criminal charges or convictions that cannot reasonably be deemed relevant to the job duties to be performed should be protected from discrimination on these grounds. The inclusion of criminal charges and convictions in the protected grounds will not unduly limit employers, organizations, or individuals due to the existing legislation regarding reasonable and justifiable contravention of the Act, which states: “A contravention of this Act shall be deemed not to have occurred if the person who is alleged to have contravened the Act shows that the alleged contravention was reasonable and justifiable in the circumstances.” (Alberta Human Rights Act, 2000, s.11). This change in legislation will allow Alberta to join eight Canadian provinces and territories in more comprehensive protection of the rights of all citizens, including those with criminal histories.

Recommendation 2: *Review of the standard practice of collecting criminal record checks from all employees regardless of relevance to job duties.*

To mitigate contravention of the proposed protected ground, best practice recommendations are to require employers to identify clearly in employment advertisements the justifiable need for a criminal record check as well as the type of information that will be requested. Employers should withhold requests for criminal record checks until after an offer of employment has been extended. In accordance with best practices identified in *Woodward Stores (British Columbia)*

Ltd. v. McCartney (BC Supreme Court, 1983), an employer should consider the circumstances of the conviction to decide if it is related to the employment, including:

1. The details of the offence and whether the behaviour, if repeated, would pose any threat to the employer's ability to carry on its business safely and efficiently
2. The circumstances of the charge and the offence, such as the person's age and whether there were extenuating circumstances
3. The criminal record is not required for the bona fide requirements of the position, such as security level clearance.
4. The length of time between the conviction and employment decision and what has happened in that time, including the person's efforts at rehabilitation, their employment history, and whether the person has shown any tendencies to repeat the behaviour

In determining whether an employer should request a criminal record check from a current or prospective employee, the employer should consider whether any positive result would meet the standards set out above.

Recommendation 3: *Elimination of the disclosure of non-conviction records on police information checks.*

Police information checks contain information far beyond outstanding charges and criminal convictions. Calgary Police Services check three databases, which include the Canadian Police Information Centre, the Justice Online Information Network, and the Police Information Management System. They note and emphasize that a Police Information Check may contain any interactions an individual has had with police, including mental health occurrences, if they are deemed to be relevant. History of 911 calls, witness or victim to a crime, wellness checks, or suicide attempts, for example, may be included in a police information check. (City of Calgary,

n.d.) These events are not reliably recorded by all officers. (Canadian Civil Liberties Association, 2014). The inconsistencies prevalent in the recording process speak to the unnecessary nature of the practice, as well its irregular application and potential to effect vulnerable and protected groups disproportionately. This information should not be disclosed to employers, and in situations where the information has been made available, employers should not use it in their decision-making process.

Recommendations for educational and policy initiatives that address criminalization and employment

Recommendation 4: *Developing educational campaigns and tool kits targeted at the general public, human resource departments (HR) and recruitment agencies.*

Developing educational campaigns for the general population may be useful in helping to dispel misconceptions about individuals with criminal records. This could be helpful in reducing the perceived negative risks to employers' reputations if they do hire individuals with criminal records. If employers see the broader community as supportive, they may indeed become more supportive themselves. In addition, developing educational campaigns that specifically target those in a position to make hiring decisions, such as HR, could further reduce negative perceptions. These educational campaigns may reduce the level of bias employment seekers face when searching for work and encourage reflection on the effectiveness of current policy.

Recommendation 5: *Clearly communicated hiring policies as they relate to criminal records*

The education and training needs of individuals seeking work with criminal records varies. Yet, one aspect of their experiences appears quite consistent and is worth addressing in order to provide individuals with greater confidence in searching for work. The vast majority of our respondents felt uncertainty in applying for work. Shame and embarrassment led some to avoid searching for work (either certain types of work or employment entirely) and failures to disclose

their criminal record (which for some resulted in later removal from their positions). If employers developed clear policies regarding the hiring of those with criminal records and these were communicated to prospective employees, this may help to encourage an atmosphere of acceptance and reduce the fears associated with disclosing a criminal record.

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