

Ban the Box, Convictions, and Public Employment *

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Key Takeaways

- Under Ban the Box (BTB) laws, employers cannot ask about criminal records on job application forms. Criminal background checks are postponed until later in the hiring process.
- This allows people with criminal records to display their qualifications first, before criminal history is revealed. This could improve the employment odds of those with criminal records.
- Currently, there are 31 states, DC, and over 150 municipalities with BTB.
- Since these jurisdictions *all* implement BTB in the public sector, the study measures the impact of BTB policies on the odds of public employment.
- The study finds that for those with criminal records, BTB policies increase the odds of getting a public sector job by close to 30% nation-wide.
- Critics argue that if employers cannot observe criminal records, they will be forced to guess this information and weed out applicants accordingly.
- Because young black and Latino men are most likely to have criminal records, employers will discriminate against them to avoid hiring people with criminal records.
- The study finds no evidence of racial discrimination against young black and Latino men.

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Introduction

In 2004, the grassroots civil rights organization *All of Us or None*, spearheaded a campaign for fair-chance hiring or “Ban the Box” (BTB) policies. BTB policies aim to improve the employment outcomes of those with criminal records, especially within the public sector. The BTB movement has gained significant momentum in recent years. As of April 2018, there are 31 states, DC, and more than 150 municipalities with BTB policies in effect. *All* jurisdictions implement BTB policies for public employers; only 11 states and 17 municipalities extend BTB policies to private employers.

Under BTB policy reform, employers are prohibited from asking about criminal records on job application forms. However, BTB policies do *not* prohibit employers from learning about criminal records. Employers are still allowed to ask about criminal history and do criminal background checks. Access to this information is only delayed until later in the hiring process (typically around the time of the conditional job offer).

By removing criminal history questions (i.e., the “check-box”) from job application forms, employers will be able to evaluate job applicants based on their qualifications without the stigma of a criminal record. This could work to improve their odds of employment.

Since *all* jurisdictions implement BTB in the public sector, the study focuses primarily on the public sector. It measures the impact of BTB policies on the odds of public employment of those with criminal records. It is the first nationally-representative study to do this. The study finds that for those with criminal records, BTB policies increase the odds of getting a public sector job by close to 30% nation-wide.

Previous Research

Critics argue that BTB policies make young minority males worse off, regardless of their criminal history (Agan and Starr 2018; Doleac and Hansen 2016; Hirashima 2016). This is based on the belief that removing criminal history questions from job application forms, tempts employers to guess this information from other characteristics (such as age, gender, race-ethnicity, and education). Because young black and Latino men (with low education) are the group most likely to have a criminal record, they will be screened out by employers.

While some studies provide empirical evidence in support of this theory

(Agan and Starr 2018; Doleac and Hansen 2016; Hirashima 2016), there are other studies that do not find evidence (Jackson and Zhou 2017; Shoag and Veuger 2016; Rose 2018). Moreover, some municipalities report positive employment shocks in response to BTB (Emsellem and Avery 2016). Durham, NC had an 800% increase in the number of those with criminal records hired (Atkinson and Lockwood 2014). Similarly, the District of Columbia saw a 33% increase after BTB legislation took effect (Juffras et al. 2016). Those with criminal records also accounted for about 10% of new public hires in Atlanta, GA (Emsellem and Avery 2016). Shoag and Veuger (2016) also found that black males from high-crime neighborhoods experienced higher employment rates in BTB jurisdictions.

Data and Methods

The study employs data from the National Longitudinal Survey of Youth 1997 cohort (NLSY97). The NLSY97 began in 1997 and was designed to be an ongoing nationally representative longitudinal study of nearly 9,000 youths born from 1980 to 1984. The sample is restricted to individuals who are 25 years old or older, given the notoriously high unemployment rates of younger populations. This leaves a final sample of approximately 51,000 observations.

The study uses the NLSY97 data along with *quasi-experimental methods* to identify the impact of BTB policies on the odds of public employment of those with criminal records, aged 25 and older. Quasi-experimental methods compare the public employment odds of those with criminal records to the public employment odds of those without criminal records. They also compare public employment odds before and after implementation of BTB policies.

Given the strong interest in the racial discrimination induced by BTB policies, this study also explores the problem. To measure the impact of BTB policies on discrimination against young black and Latino men, it uses similar quasi-experimental methods described above. It compares the public employment odds of young black/Latino men to the public employment odds of young white men. It also makes these comparisons before and after BTB implementation.

Main Findings

The study finds that for those with criminal records, BTB policies increase the odds of public employment by 4 percentage points in general. This may not sound like much, but since the public sector only accounts for about 15% of all jobs, this impact estimate represents close to a 30% increase overall. This finding suggests that BTB policies are doing a great deal to improve the public employment of those with criminal records.

As it relates to racial discrimination against young black and Latino men, the study finds no evidence of this. The impact of BTB policies on the public employment of young black and Latino men relative to young white men is statistically the same. The study also finds that the odds of employment in *any* sector is statistically the same for young black/Latino *vs.* white men.

These findings are consistent even after accounting for demographic characteristics, geographic location, period effects, unobserved economic and policy trends, current incarceration, migration across states and municipalities, and the integrity of the comparison group used in the quasi-experiments. In this way, the study breaks fundamentally from prior studies, by providing evidence in support of BTB policies as a means for improving the employment outlook of those with criminal records.

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