The Use of Criminal Records Reconsidered

Marsha Weissman, Ph.D.
Occasional Series on Reentry Research
John Jay College of Criminal Justice

May 6, 2011
The Center for Community Alternatives

- Mission: to reduce the use of incarceration and foster community reintegration
- Promote public safety, civil rights and human rights
- Direct services: sentencing advocacy, alternative to incarceration programs, reentry services, death penalty mitigation
- Research, training and policy advocacy through CCA/Justice Strategies
Free Application for Admission

100 Reservoir Road, Herkimer, NY 13350
Phone: (315) 866-0300 or 1-888-464-4222, X3076
Fax: (315) 866-0062  Web: www.herkimer.edu

SEMESTER IN WHICH TO ENROLL:  Summer 2011 - Please click this link to apply for Summer 2011 as a Non-Matriculated Student  Fall 2011

PERSONAL INFORMATION

Legal Name:  
Last  First  Middle  

If your records are under another name please indicate:  

Permanent Address:  
Street:  
City:  State:  Zip:  

NY County of Residence:  
Choose County  Phone:  Home:  Cell:  

Email Address:  Email Address Confirmation:  
Date of Birth (MM/DD/YYYY):  

Are you a U.S. Citizen?  Yes  No  
I am a  
Male  Female  Permanent Resident/Non-Citizen  International Student  Other  

Are you Hispanic/Latino?  Yes  No  

If Hispanic/Latino, is your background (select one):  Central American  Dominican  Mexican  
Puerto Rican  South American  Other Hispanic/Latino  

All applicants, please indicate your race (select one or more):  American Indian or Alaskan Native  Asian  Black or African American  
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Have you ever been convicted of a felony?  Yes  No
At least 8 out of 10 of the fastest growing jobs in the U.S. require some postsecondary education

U.S. Department of Education 2003
The Context

• Tremendous expansion of the criminal justice system over past three decades

• Racial disparities in criminal justice system spill over into other domains including access to higher education

• Myth vs. Reality of Crime on Campus
  – Campuses as safe environments
  – No empirical evidence that students with criminal records commit crimes on campus at rates higher than students without records
Growth of Felons and Ex-felons, 1948-2010

Source: Shannon, Uggen, Thompson, Schnittker & Massoglia. 2011 GROWTH IN THE U.S. EX-FELON AND EX-PRISONER POPULATION, 1948 TO 2010
Racial Disparities
(incarceration rates per 100,000)

Source: West, Bureau of Justice Statistics of Criminal Justice Statistics, 2010
The Study

• Survey conducted in cooperation with the American Association of Collegiate Registrars and Admissions Officers (AACRAO)

• Survey sent to chief admissions officers of all 3,248 identified institutions offering undergraduate degrees of associate or higher in U.S.

• 292 total responses, 9% return
Collection of Criminal Justice Information (CJI)

- 66% Collect about all applicants
- 29% Do not collect for any applicant
- 5% Collect for some applicants
Schools that Require Criminal Record Self-Disclosure: Sector and Level

<table>
<thead>
<tr>
<th>Sector</th>
<th>Four-year</th>
<th>Two-year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private</td>
<td>80.6</td>
<td></td>
</tr>
<tr>
<td>Public</td>
<td>54.5</td>
<td></td>
</tr>
<tr>
<td>Four-year</td>
<td>74.0</td>
<td></td>
</tr>
<tr>
<td>Two-year</td>
<td>40.0</td>
<td></td>
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</tbody>
</table>
How Criminal Background Checks are Conducted

• 20% of colleges conduct criminal background checks

Source of information for criminal background checks

- 28.0% Private company
- 22.0% Official state repository
- 20.0% Law enforcement agency
- 24.0% Don’t know
Use of Criminal Justice Information

- Collect don't use: 37%
- Don't collect/don't use: 47%
- Don't collect but use: 16%
Who Has Input?

- 94% of colleges that collect and use CJI information have special application review procedures involving:

<table>
<thead>
<tr>
<th>Role</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Officer (e.g. Provost, Dean)</td>
<td>53%</td>
</tr>
<tr>
<td>Special Committee</td>
<td>43%</td>
</tr>
<tr>
<td>Campus Security</td>
<td>40%</td>
</tr>
<tr>
<td>Housing Director</td>
<td>27%</td>
</tr>
<tr>
<td>Legal Counsel</td>
<td>26%</td>
</tr>
<tr>
<td>Counseling or Mental Health Staff</td>
<td>20%</td>
</tr>
<tr>
<td>Risk Assessment Personnel</td>
<td>12%</td>
</tr>
<tr>
<td>Other</td>
<td>14%</td>
</tr>
</tbody>
</table>
Special Requirements

- 69% of schools have special requirements for applicants with criminal justice histories

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter of explanation</td>
<td>90%</td>
</tr>
<tr>
<td>Reference corrections official</td>
<td>63%</td>
</tr>
<tr>
<td>Interview</td>
<td>54%</td>
</tr>
<tr>
<td>Production of official criminal justice documents (e.g., rap sheet)</td>
<td>16%</td>
</tr>
<tr>
<td>Completion of community supervision requirements</td>
<td>39%</td>
</tr>
</tbody>
</table>
### Admissions-Related Uses of CJI

61% of colleges consider CJI in admissions decisions

<table>
<thead>
<tr>
<th>Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have some type of CJI-related automatic bars to admission</td>
<td>28%</td>
</tr>
<tr>
<td>Automatic denial based on sex offense conviction</td>
<td>19%</td>
</tr>
<tr>
<td>Automatic denial based on violent conviction</td>
<td>16%</td>
</tr>
<tr>
<td>Automatic denial based on felony conviction</td>
<td>13%</td>
</tr>
<tr>
<td>Automatic denial based on campus security office’s recommendation</td>
<td>11%</td>
</tr>
</tbody>
</table>
Admissions Consequences of Failure to Disclose CJI

• 32% of schools automatically deny admission to applicants who fail to disclose their criminal history record

• 46% may deny admission to applicants who fail to disclose
Policies and Practices

- 53% of colleges that collect and use criminal history record information have NO written policies guiding use of records

- 60% of colleges that collect and use criminal history record information have NO staff training on interpreting criminal records
Interpreting Criminal Records: What a Difference a River Makes

Crime classifications
Age
Youthful Offender status
Reportable, Non reportable offenses
Eligibility for sealing or expungement
Inaccuracies in Criminal History Records

• Many states still do not adequately collect or audit criminal history records.

“...In the view of most experts, inadequacies in the accuracy and completeness of criminal history records is the single most serious deficiency affecting the Nation’s criminal history record information systems”

U.S. Department of Justice, Bureau of Justice Statistics
Practice Recommendations: For Colleges and Universities

- Remove CJI disclosure from initial application
- Limit disclosure to specific convictions
- Allow people still on community supervision to enroll if otherwise qualified
- Establish fair & evidence-based admissions criteria
- Use unbiased and well-informed assessments
- Establish clear & transparent procedures
- Offer support & advocacy
- Periodically evaluate admissions policies
For more information or to download the study go to:

www.communityalternatives.org