

THE EFFECTS OF INSTITUTIONAL DISCRIMINATION ON THE SUCCESSFUL
REENTRY OF EX-OFFENDERS

by

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Dedication

“There cannot be peace without first a great suffering. The greater the suffering, the greater the peace.” (unknown)

This paper is dedicated to all the men and women who have experienced discrimination due to a criminal conviction and have continued to fight to rebuild their lives. May each of you find equality and peace throughout your journey.

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ABSTRACT

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This study seeks to demonstrate the effect that institutional discrimination has on the successful reentry of ex-offenders into society. A statistical analysis of 157 survey respondents showed a positive correlation between institutional discrimination and recidivism within the first twelve months of conviction of a felony and/or release from a correctional facility. By examining the links between recidivism and employment, housing and educational discrimination as well as denied access to social services, the study finds that institutional discrimination has a devastating impact on the successful reentry of ex-offenders. This research highlights the need to examine why institutional discrimination exists and how individuals, communities, government, and society plays a distinctive role in the continuation of discrimination against ex-offenders.

TABLE OF CONTENTS

List of Tables	vii
CHAPTER I: INTRODUCTION.....	1
Purpose of Present Study	3
CHAPTER 2: REVIEW OF THE LITERATURE	6
Institutional Discrimination	6
Reentry of Ex-Offenders.....	9
Employment Barriers	10
Housing Barriers	14
Barriers to Social Services	16
CHAPTER 3: METHODOLOGY	20
Research Design and Hypothesis.....	20
Method	20
Survey	21
Data Analysis	22
CHAPTER 4: DATA ANALYSIS	23
Demographics	23
Results.....	26
CHAPTER 5: DISCUSSION.....	29
Limitations/Future Research.....	29
CHAPTER 6: CONCLUSION	31
REFERENCES	33
APPENDIX.....	38

LIST OF TABLES

Table 1	23
Table 2	24
Table 3	24
Table 4	26
Table 5	27
Table 6	26

CHAPTER 1: INTRODUCTION

Every day thousands of people across the nation are shunned, simply because they have the status of an ex-offender. Society has chosen to punish this group past the point that the law allows. Ex-offenders face societal consequences of punitive policy, private market attitudes, and post-incarceration stigmatization. These forms of institutional discrimination have damaging and long-lasting effects on an ex-offender's ability to successfully reintegrate. When ex-offenders are denied the same rights and opportunities guaranteed to all free people, they will often fail at reentry and become trapped in the same socioeconomic circumstances that originally led them to commit a crime. Ex-offenders often become victims in the never-ending cycle of recidivism. Ex-offenders are modern day untouchables.

The United States has the largest prison population in the world. "At year end of 2015, 6,741,400 prisoners were under the supervision of United States adult correctional systems" (Glaze and Kaeble 2016:1). In Texas, 147,053 offenders were incarcerated and 67,603 were released by the end of 2016 (Texas Department Criminal Justice Statistical Report 2016: 1, 3). According to The State of Texas Legislative Budget Board (2013:9) "the first year of the three year follow up period is the time when offenders are most at risk of reoffending and interventions may therefore be most effective during this period". During the fiscal year of 2013, 46.4 *percent* of the adult prison population were rearrested, 36.1 were reconvicted and 21 percent were reincarcerated (State Legislative Budget Board 2017:82-84). The struggle from prison back into the community is monumental. "People leave prison and state jails with a \$100.00 check, a 10-day supply of medication, a list of community resources, the clothes they are wearing and a bus voucher" (Smith 2016:2). For reformers working with prisoners and offenders, recidivists represent "the symbol of failure of any criminal confinement measure, the incapacity of

prison treatment to reform" (Florian 2006:110). Texas has yet to find an answer to the billion-dollar question, how do we keep ex-offenders from reoffending.

During the 1970's the United States began shifting from the rehabilitation model to the restorative justice model. The rehabilitation model was discredited both publicly and politically, and thus incarceration began to change from a "penological tool applied only to the most violent and incorrigible offenders" to one routinely affecting many persons (Geiger 2006:1194). Rehabilitation is now, for the most part, absent from contemporary American corrections. Harsher sentences, warehouse prisons and correction establishments, which militantly reject the idea of salvaging offenders, has become the norms in today's society. The Reentry and Integration Division of Texas Department of Criminal Justice identified almost 140 counties of all sizes that lacked adequate resources with respect to housing, basic needs, education, employment, veteran's services, medical care, mental health care or substance abuse treatment. Additionally, many landlords and employers remain unwilling to give formerly incarcerated individuals a chance, regardless of what the offender has done to achieve rehabilitation (Smith 2016:2). With a lack of local county resources and obvious discrimination by society, how can these men and women expect to succeed?

Institutional discrimination creates complex and systematic barriers to successful reentry. For example, an ex-offender who is convicted of a crime involving drugs will automatically be evicted from housing that is subsidized by the government (Wilson 1996). When an ex-offender is searching for employment, the employer can use sole discretion in determining whether a criminal conviction is a determining factor in hiring (Harley et al. 2014). Institutional discrimination guarantees the almost certain failure of an ex-offender successfully reintegrating into society.

Purpose of Present Study

This study seeks to demonstrate the effect of institutional discrimination on ex-offenders' ability to successfully reintegrate into society. Successful reentry of an ex-offender and the role that institutional discrimination plays in the process are the designated concepts of this research. Institutional discrimination has damaging and long-lasting effects on the ability of an ex-offender to reintegrate successfully. When an ex-offender is denied the same rights and opportunities guaranteed to all free people, they often fail at reentry and become trapped in the same socioeconomic circumstances that can lead to new convictions. Eventually, they may reoffend, and the vicious cycle of recidivism will have claimed yet another victim. This research will postulate a structural theory and provide statistical evidence of the relationship between institutional discrimination and the high rate of early onset recidivism that occurs among ex-offenders after either conviction or release. Cultural theorists categorically ignore the percentage of ex-offenders that reoffend within the first year and theorize that individuals must decide independently to transform themselves into ex-offender; and therefore, complete successful reentry into society. A complete transformation of society's beliefs concerning justice, punishment and rehabilitation systems is long overdue. Any change that encourages reform towards the treatment of ex-offenders, could face significant criticism from mainstream society and government institutions. Currently, there is a wide array of research regarding an ex-offender's reentry. There appears to be a plethora of research available regarding institutional discrimination of ex-offenders. However; there is an insufficient amount of research that would link the two concepts together. This lack of literature is the precise reason for researching the link between these two concepts. By defining the concepts of institutional discrimination and successful reentry of an ex-offender, this study aims to impart a deeper understanding of the correlation between the

two and the need for more research. This research will provide further insight between institutional discrimination and the recidivism that occurs within the first year after conviction or release.

For this research, the definition of successful reentry of an ex-offender will have two components. An ex-offender is defined as a person with a conviction of a felony; however, it will not imply that has taken incarceration. Successful reentry of ex-offenders is defined as the ability to obtain and maintain employment, find safe housing, maintain or complete parole/probation requirements, and obtain healthcare and/or treatment. The absence of a new offense also demonstrates successful reentry of an ex-offender. This research will focus on the twelve-month period immediately following conviction or release. Institutional discrimination is defined as pattern of discrimination where obstacles are built into the political, economic, and social structures of society. These disadvantages have become so ingrained within institutions that they persist independently, without any specific point of reference for their presence (Flanagan 2010). Institutional discrimination results in the devaluation of ex-offenders due to their association with undesirable characteristics. Both overt and covert institutional discrimination affect the lives of ex-offenders. Covert discrimination is subtly concealed in the fabric of society and it works against the ex-offender through unnoticeable or passive methods. Covert discrimination is rationalized with an explanation that society willingly accepts (Price 1970). Overt discrimination may be explicit or subtle and becomes visible when institutions willingly and openly discriminate against ex-offenders (Flanagan 2010). These biases empower institutions while diminishing the rights and powers of ex-offenders. The ex-offender will serve as the unit of analysis for the concepts used in this research.

Chapter 1 serves as an introduction of the study and presents the research topic while familiarizing the reader with current trends relative to the study. Chapter 2 provides a review of the literature on the designated research topic. “Institutional Discrimination” provides examples of current research regarding theory and implications of institutional discrimination as it relates to ex-offenders. “Reentry of Ex-Offenders” describes the components needed to achieve successful reentry. Chapter 3 consists of “Methodologies” used in the current research. Chapter 4, “Data Analysis” defines the data collection methods and population sample. Chapter 5, “Discussion”, examines the results. Chapter 6, “Societal Implications/ Applicability” contextualizes the study and establishes the case for this research. Chapter 7, “Conclusion” provides an overview of the literature discussed, gaps in past research, and how the proposed study will serve to reduce the afore-mentioned gaps.

CHAPTER 2: REVIEW OF THE LITERATURE

Institutional Discrimination

Ex-offenders arrive in a community to find barriers to employment, long-term housing, and access to social services. When they attempt to find help within these communities they often encounter obstacles. These barriers can be termed discriminatory. Institutional discrimination, at its core, allow statutes and regulations to inhibit an ex-offender's opportunity to successfully reintegrate into society. Whether covert or overt (written or implied) these forms of discrimination have rendered ex-offenders powerless in determining the role they could play in society.

Geiger (2006:1194) points out that the marginalization of ex-offenders begins in the criminal justice system and is amplified at many other points, including the use of political rhetoric. Members of Congress have identified drug offenders as inhuman or "non-citizens" who have lost all legal protections and civil rights guaranteed to others. Additionally, Geiger (2006:1194) states that the lack of judicial protection of ex-offenders as a suspect class, allows federal and state agencies to interpret specific sections of the constitution and the Bill of Rights to fit within their personal political ideologies. Ewald (2012) posits that while people convicted of crime are formally still full citizens of the United States, one practical and symbolical result of burgeoning punitive laws is to place many Americans in a condition of severely diminished citizenship. Ex-offenders face enduring legal limitations on their ability to work, vote, serve in the military, own firearms, and engage in other political and social activities.

Much research has been done regarding institutional discrimination and the lingering effects that it has on ex-offenders throughout their lifetime. Travis (2002) described covert forms of institutional discrimination as "invisible punishments". They are "invisible" because, despite their impact on individuals who cycle through the

criminal justice system, they are not considered to be a part of this system. In Judge Stone's third paragraph of footnote-four from the *Carolene Products* ruling he states: "prejudice against discrete and insular minorities may be a special condition, which tends seriously to curtail the operation of those political processes ordinarily to be relied upon to protect minorities, and which may call for a correspondingly more searching judicial inquiry" (United States 1938:152-153). Ely (1981) offered a very developed rationale of Stone's (United States 1938:152-153) footnote four in which he states that "unequal legislative treatment (regarding benefits to which there is no fundamental constitutional right) is problematic". Ely (1981) argues that the unequal legislative treatment is "motivated by government prejudice towards the disadvantaged group". Ely (1981) went on to highlight the fact that legislators and other government decision-makers are rarely members of certain groups defined by immutable characteristics and therefore increases the likelihood that legislators will act prejudicially against these disadvantaged groups.

Goffman's (1936) concept of "stigma" is a theoretical viewpoint that could be used to understand the institutional discrimination faced by ex-offenders. Goffman (1936:3) defines stigma as anyone "possession an attribute that makes him different from others in the category of persons available for him to be, and of a less desirable kind-in the extreme, a person who is quite thoroughly bad, or dangerous, or weak. He is thus reduced in our minds from a whole person to a tainted, discounted one. Such an attribute is a stigma, especially when its discrediting effect is a very extensive; sometimes it is also called a failing, a shortcoming, a handicap." Goffman (1963:4) describes three types of stigmas: 1) Physical deformities or what he calls "abominations of the body;" 2) "Tribal Stigma" or stigmas that come from membership in a group (racial, national, religious identity) and recognition of the corresponding group identity; and 3) what Goffman calls "blemishes of individual character" or moral stigma that taints anyone whose individual

personality is called into question, which includes people “perceived as weak willed, domineering, or unnatural passions, treacherous and rigid beliefs, and dishonesty, these being inferred from a known record of, for example, mental disorder, imprisonment, addiction, alcoholism, homosexuality, unemployment, suicidal attempts, and radical political behavior” (Goffman 1963:4).

Thus, anyone labeled an “ex-offender” would carry the burden of what Goffman identifies as moral stigma. The are social consequences of stigmatization: “By definition, of course, we believe the person with a stigma is not quite human. On this assumption we exercise varieties of discrimination, through which we effectively, if often unthinkingly, reduce his life changes” (Goffman 1963:5). Thus, the label of “criminal” or “convict” becomes the theoretical bridge between the individual-level prejudice and institutional discrimination as ex-offenders are often required to disclose their stigmatized identity on job applications, housing applications and request for social services. This becomes a problem of “the management of undisclosed discrediting information about self,” or what Goffman (1963:42) calls a “discreditable” versus a “discredited” social identity.

Another theoretical point of view involves Purnell’s (2013) use of the disparate impact theory to describe discrimination of ex-offenders. The disparate impact theory applies to a policy, when created, may appear neutral on its face, yet it ultimately impacts a specific group more than others. Disparate impact theory applies to ex-offenders when policies are created that appear neutral; however, they significantly impact ex-offenders more than the general population. Most researchers agree that institutional discrimination begins with federal and state law, and due to lack of regulation, has trickled down to public and private institutions as well. For example; there is no law on record in any federal or state jurisdiction that requires a “box” be placed on employment or housing applications which denotes a criminal conviction. Conversely, there are no federal laws

that prohibit the placement of these “boxes” on employment or housing applications. However, all federal and state government agencies require a criminal conviction box be placed on the initial application for employment. Public and private institutions have adopted application policies of governmental institutions and since there exists no law prohibiting this action, these types of institutional discrimination go unnoticed by any formal authority. The missing link that this study proposes to provide would be the direct effect of institutional discrimination on successful reentry of the ex-offender, as witnessed by high recidivism rates within the first year of conviction/release.

Reentry of Ex-Offenders

Institutional discrimination effects every aspect of reentry, including communities, labor markets, family welfare, government entitlements, and program innovations. Reentry eventually impacts our notions of democracy, voting rights, civic participation and the right to obtain occupational and professional licenses for gainful employment. Moreover, involvement with the criminal justice system has been shown to lead to distrust and disrespect for government systems (Petersilia 2003, pg. 30). Ex-offenders returning home will soon realize that they exist in an in-between status. They are back home but still not completely free. Due to federal and state laws, a felony conviction has consequences that continue long after a sentence has been served. Travis (2002) notes that while rehabilitation services available to assist offenders in or out of prison have decreased, the legal and practical barriers pertaining to their activities after release have increased. Travis (2002) refers to these restrictions as invisible punishments and notes their increasing importance to reintegration and sentencing policy. Past research has agreed that there are three main components that must be in place in for ex-offenders to successfully reintegrate into society: employment opportunities, stable housing and access to governmental benefits.

Employment Barriers

Most experts believe that finding a job is critical to successful reentry. Employment helps ex-offenders take care of their families, develop life skills, strengthen their self-esteem by being productive, and enhance their social connectedness. Ex-offenders have lower earning capacities and rates of employment when measured against comparable groups. Low employment rates are a combination of the structural barriers we impose regarding their employment, the stigma that others place on their convict status, and their lack of motivation and training to keep and maintain a job. If one adds the fact that services are not made available to most parolees because parole supervision has been transformed ideologically from a social service model to a law enforcement model, it is no wonder that full-time employment among parolees is relatively rare (Petersilia 2003:89).

A lack of or limited education imposes a great hindrance in finding employment once labeled an ex-offender. Vernick and Reardon (2001) noted that most of the vocational programming in corrections focuses on vocational skills training and orienting ex-offenders toward finding a job upon release, not on traditional career development efforts. In a study done by Shivey et al. (2007) ex-offenders parlayed the importance of receiving various forms of education, training, or programming, before, during, and following their incarceration or conviction. “Research consistently shows an inverse relationship between recidivism and education: the higher the education level, the less likely the person is to be rearrested or re-imprisoned” (Petersilia 2003:33). About 70 percent of prisoners in the United States have not completed high school (Western and Pettit 2010: 13). Inmates without a high school diploma are required to complete a general equivalency diploma (GED). While the GED is the official high school diploma equivalency, it is not equal to a high school diploma since it does not provide subject-

specific knowledge. Instead, it teaches prisoners basic reading, comprehension, writing, and arithmetic skills (Prison Education Program). Since there is robust evidence that prison education programs help reduce recidivism and improve a prisoner's chances of thriving once released, it is important for prisons to offer a higher level of education than the GED. Unfortunately, prisons in only thirty-two states offer some type of higher educational programs (Davis et al, 2014:4). In 1994, the Federal Government excluded prisoners from applying for and using Pell Grants to obtain a higher education. Since then there has been a significant drop in the number of offenders that are enrolling and graduating from colleges while incarcerated. Currently, the inmates and or their families must pay for these programs. Education can have a huge effect in helping these offenders to gain the skills they need and prepare them to be employed. The odds of obtaining employment post release among inmates who participated in correctional education were 13 percent higher than for those who did not, but only one study had a high-quality research design (Davis et al. 2014:3). And for those that participated in post-secondary education and college programs, they experienced a 16 percent reduction in re-incarceration (Davis et al. 2014:3). Without some form of educational opportunities while incarcerated, employment post-conviction will be limited to low-wage, low-skill jobs that disappear during times of economic downturn and are rarely a full means of support.

Multiple analysis shows that serving time in prison was associated with a 40 percent reduction in earnings and with reduced job tenure, reduced hourly wages, and higher unemployment (Western & Pettit 2010:13). Pager's (2007) experimental research has studied these employer perceptions by sending pairs of fake job seekers to apply for real jobs. In each pair, one of the job applicants was randomly assigned a résumé indicating a criminal record and the "criminal" applicant was instructed to check the box

on the job application indicating he had a criminal record. A criminal record was found to reduce callbacks from prospective employers by around 50 percent.

Another factor in finding employment post-conviction involves publicly accessible criminal records. According to the Bureau of Justice Statistics (2012:14) fifty states, American Samoa, Guam, and Puerto Rico report the total number of persons in their criminal history files as 100,596,300, of which 94,434,600 are automated records. These records may include arrests for misdemeanors or felonies, regardless if the arrest resulted in a conviction. The U.S. entered 2016 with an estimated population of 322,762,018 according to an end-of-year estimate of the U.S. Census Bureau (2016). These statistics tell us that one third of our population has a criminal record. What is even more dubious is the fact that these criminal records are now available to the public and businesses via the court, internet and through mail order. The original reason the federal government placed so much emphasis on enhancing the accessibility of criminal history records was to ensure that criminals did not buy weapons or hold positions involving children or the elderly. However, this system affects any ex-offender that is trying to find employment. While the public safety benefits of sharing these records is clear, there are inherent dangers. Some of the information in these records is shown to be inaccurate, yet it is shared with landlords, financial institutions and employers. Not only are criminal records available, some states also provide gang affiliation and substance abuse histories. Unrestricted access to criminal records by the public represents yet another barrier that an ex-offender must face when seeking employment post-conviction.

The negative effects of incarceration, even among men with very poor economic opportunities to begin with, are related to the strong negative perceptions' employers have of job seekers with criminal records. Time in prison means time out of the labor force, depleting the work experience of the incarcerated compared to their

nonincarcerated counterparts. The stigma of a criminal conviction may also repel employers who prefer job applicants with clean records. Pager's (2007) study offers unmistakable evidence of the negative effects of criminal stigma. Employers, fearing legal liability or even just unreliability, are extremely reluctant to hire workers with criminal convictions. Whether an ex-offender is legally eligible for a job or not, most employers ask about the applicant's criminal record. Employers may legally consider an applicant's background in making hiring decisions. However, employers cannot legally use arrest records to exclude persons from unemployment unless there is a business justification (U.S. Department of Labor 2002). Evidence suggests that the main reason employers use a criminal history is to make judgements about the general or essential character of an applicant (Petersilia 2003:116). Another problem with finding employment is lack of identification. In 1992, Congress passed a law requiring states to revoke or suspend the drivers' licenses of people convicted of drug felonies, which include DUI's, or lose 10 percent of the state's federal highway funds (Petersilia 2003:115)

Ex-offenders are legally barred from a growing number of jobs. Since 1985 the number of barred occupations has increased dramatically. For example, all states bar ex-offenders from becoming or resuming work as a barber or beautician/cosmetologist, even though many state and federal prisons provide training programs in both fields (Petersilia 2003). Many offenders may find themselves legally barred from jobs they held before their conviction. This includes jobs that required training, schooling, certification or licensure. The Bureau of Justice Assistance (2017) lists 48,229 entries in the National Inventory of Collateral Consequences of Conviction for the State of Texas regarding collateral consequences. These are legal and regulatory sanctions and restrictions that limit or prohibit people with criminal records from accessing employment, occupational

licensing, housing, voting, education, and other opportunities. Collateral consequences most frequently affect people who have been convicted of a crime, though in some states an arrest alone—even an arrest that does not result in a conviction—may trigger a collateral consequence.

The stigma and bias that comes from being an ex-offender greatly limits the opportunity to find and keep employment. Collateral consequences and other legal restrictions greatly limit the amount of jobs for which they can apply. The jobs that are available offer low wages, little chance of advancement and no benefits. If an ex-offender is unable to find employment they often receive a technical violation from parole or probation and are returned to prison. Even worse they return to the familiar criminal behavior to support themselves and their families, which often send them back to prison. Either way, barriers to employment only enhance the likelihood of recidivism.

Housing Barriers

Access to housing is a necessity for ex-offenders returning to society; however, the majority of ex-offenders are left with few resources for obtaining housing post-release or conviction. Parole and probation officials say that finding housing for ex-offenders is by far their biggest challenge, even more difficult and more important than finding a job (Petersilia 2003:120).

Bradley et al. (2001) stated:

For the returning prisoner, the search for permanent, sustainable housing is more than simply a disagreeable experience. It is a daunting challenge, one that portends success or failure for the entire reintegration process...Housing is the lynch-pin that holds the reintegration process together. Without a stable residence, continuity in substance abuse and mental health treatment is comprised. Employment is often contingent

upon a fixed living arrangement. And, in the end, policy that does not concern itself with the housing needs of returning prisoners finds that it has done so at the expense of its own public safety. (P. 7)

Acquisition of adequate housing often affects whether these persons will reoffend. According to a United Kingdom study (Wilson 1996) two-thirds of offenders without satisfactory accommodation reoffend within 12 months after release. In contrast, only one-fourth of ex-offenders who attain adequate housing reoffend within the same period.

Upon release, it is not unusual for a formerly incarcerated person to possess nothing more than a bus ticket and \$125.00 (Thompson 2004) and they are often incarcerated in facilities far away from home. Many prisons or state jails provide no assistance in helping offenders secure housing before being released. Parole and probation conditions can often prevent ex-offenders from living or associating with others who have a criminal background. This often includes family and friends that may have been willing to take them in (Petersilia 2003:121). Since ex-offenders are usually not able to save enough money to rent an apartment, nor able to pass the background check, attempts to find suitable housing are often fruitless.

Many ex-offenders attempt to locate public housing in lieu of the normal rental properties that they are barred from. However, some laws now require public housing agencies and providers to deny housing to ex-offenders, specifically if they have been evicted from public, federally assisted or Section 8 housing because of drug related criminal activity or subject to a state lifetime registration requirement under a state sex-offender registration program (Legal Action Center 2005). The U.S. Department of Housing and Urban Development (HUD) funds public housing but grants local housing authorities wide discretion regarding eligibility criteria. Research suggest that local housing authorities frequently use these discretionary powers to exclude ex-offenders

from public housing, and to exclude them for considerable or even indefinite periods. Due to HUD's "one strike and your out" policy, the public housing authority may evict all members of the household from criminal activities committed by any one member of a household. This policy renders friends and families of the ex-offender wary of letting them reside in their homes (Simonson 2006). Even if offenders can qualify, the waiting list could be two or more years for subsidized housing (Petersilia 2003:121). Many offenders end up homeless on the streets which leaves them vulnerable to arrest for the "quality of life" crimes. These crimes include homelessness, panhandling, loitering and vagrancy. Unfortunately, these ex-offenders are picked up and jailed for these minor offenses due to their inability to find housing or employment. Housing stability is necessary for an ex-offender to re-integrate and become a lawful and productive member of society. These structural barriers can significantly affect a ex-offenders' success in re-entering society.

Barriers to Social Services

Ex-offenders have significantly more medical, substance abuse and mental health needs than the general public (Petersilia 2000). Access to government aid, housing, healthcare, food, substance abuse and mental health treatment plays a significant role in the ability of an ex-offender to successfully reintegrate. Particularly in the first-year post-release/conviction. Upon conviction/release ex-offenders encounter barriers of paramount significance when seeking the receipt of government aid through public assistance. When President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act it permanently prohibited anyone convicted of a drug-related felony from receiving federally-funded cash assistance (i.e., Temporary Assistance for Needy Families or TANF) and food stamps. The provision applies to all individuals convicted of a drug felony after August 22, 1996 (Petersilia 2003). Allrad (2002) notes that this

provision applies only to those convicted of drug offenses. Thus, offenders released from prison after serving a sentence for murder, for example, are eligible for welfare benefits and food stamps, but not those who have a conviction for possessing or selling even a small quantity of drugs. This legislation was introduced and ratified after only two minutes of debate. As Travis (2002:19) wrote, “When Congress dismantled the six decades old entitlement to a safety net for the poor, the poor with criminal histories were less deserving than others. Congress essentially cut offenders off from the remnants of the welfare state.” This same law also stipulates that individuals who are violating their probation and parole conditions are “temporarily” ineligible for TANF, food stamps, Social Security Income (SSI) benefits, and public housing (Petersilia 2003:125-126). Schwartz (2002) states, “Obviously the only people hurt by this denial of benefits are the poor, which usually means a minor offender who is an addict and out of jail trying to make it. The big operators, the manufacturers and distributors of illegal drugs, don’t need government benefits.”

Access to public services is critical for successful reintegration. Many ex-offenders require services such as substance abuse treatment, job training or education before they can reenter society. Historically ex-offenders have relied on public services to pay for food and housing once released from incarceration. Additionally, welfare and food stamps often helped to fund room and board in drug and alcohol treatment programs which ex-offenders are now doing without (Petersilia 2003, pg. 125).

Mancuso and Felver (2009:2) found that Washington state residents enrolled in Medicaid and receiving substance abuse treatment, had arrest rates of 33 percent or lower compared with rates for those who did not receive treatment, leading to lower correctional costs and better public safety. Individuals in need of mental health or substance abuse treatment are often not effectively screened and diagnosed by the

criminal justice system and therefore fail to move into mandated treatment which is often free or offered on a sliding scale basis (U.S. Department of Health & Human Services, 2000). As of January of 2014, the Affordable Healthcare Act forced state Medicaid programs to extend healthcare benefits to ex-offenders, which included mental health and substance abuse treatment. However, states have the choice to opt out of the Medicaid expansion which would mean that any ex-offender residing in these states would have not have access to these benefits. To date, 11 states have used the opt-out procedure granted by the federal government (Harley et al. 2014). Another law passed by the federal government is the Mental Health and Addiction Equity Act of 2008. This act requires health insurers to provide benefits for mental health and substance abuse treatment that are on par with those they offer for medical and surgical services (U. S. Department of Labor, 2010). This act will have little to no effect on ex-offenders since most of them do not have the means to purchase health care policies. These policies not only affect ex-offenders, a but also serve to dismantle their stability and sever any opportunity to access government aid.

There is a lack of literature that directly correlates the effects of institutional discrimination on the successful reentry of ex-offenders. Additionally, the literature available did not provide linkage from the failure of reentry to the exorbitant amount of recidivism experienced by ex-offenders within the first year of release or conviction. All available literature suggests that ex-offenders are plagued with many barriers to successful reintegration and suffer from the stigma of their criminal convictions. However, some researchers still point to the ex-offenders' personal values and moral deficiencies as a primary source of reintegration failure. Without specific research that provides statistical evidence of institutional discrimination and the effect it has on ex-offenders within their first year of release or conviction it will be difficult, if not

impossible, to define the societal implications of this topic and to implement change in both governmental policies and public opinion.

CHAPTER 3: METHODOLOGY

Research Design and Hypothesis

This research is an exploratory study designed to test the hypothesis that institutional discrimination hinders the successful reentry of ex-offenders into society. Additionally, the research will evaluate whether the recidivism rates for ex-offenders within the first-year post-conviction/release are affected by institutional discrimination. While much empirical data has examined these claims individually, there is a gap in the research literature that examines the combined effects of institutional discrimination on successful reentry of ex-offenders and provides a direct correlation to the inordinately high recidivism rates that occur within the first year, post-conviction/release. The first hypothesis states that institutional discrimination provides direct barriers to the successful reentry of ex-offenders into society after conviction/release. The second hypothesis states that these same forms of institutional discrimination have detrimental effects on recidivism rates within the first-year after conviction and or release.

Method

The current study was approved by the University of Houston Clear-Lake Institutional Review Board. The study was conducted in Galveston, Brazoria and Harris Counties in Texas, and surveyed a sample of men and women regarding their first-hand experience with institutional discrimination within the first twelve months after conviction/release.

The sample consisted of 157 male and female respondents aged 18 to 60 and over. Respondents were procured from substance abuse treatment facilities, 12 step groups, transitional housing facilities and local drug/diversion courts. The researcher chose these environments due to convenience and the fact that staff and respondents were willing to participate in the research. The criteria for participation in the study included a

conviction of a felony (incarceration was not a required criterion) and a minimum time lapse of three months since conviction and or release. There were no exclusion criteria. Non-probability sampling/convenience sampling was used at the treatment facilities, transitional housing facilities and drug/diversion court. Drug/diversion court staff invited clients to participate on a voluntary basis during individual reporting sessions. To maximize response rates, all the clients from the treatment facilities and transitional housing facilities that met the inclusion criteria were invited to participate in the study. The facility staff members assisted with this research by introducing the researcher and explaining the purpose of the survey. The informed consent letter was read out loud which stated that participation is voluntary, and that participation may cease at any time by disposing of the questionnaire. Additionally, the letter stated that all information gathered from the surveys will be kept confidential and no one will be able to identify an individual from the survey results. Participants were instructed not to put any identifying marks on the survey. The researcher collected the completed surveys from the facilities. Snowball sampling methods were used amongst participants from 12 step groups. The researcher approached potential respondents and briefly described the project. The respondent was then given the informed consent letter and survey to fill out and return to the researcher.

Survey

Qualitative and quantitative data were collected from a three-page survey with 30 questions. The surveys were completed voluntarily by the participants with no assistance from the researcher or facility staff. The instrument contained demographic questions about age, gender, ethnicity/race, education level and income before and after conviction/release. In addition, the survey contained many items measuring the respondents' perception of the presence of institutional discrimination within their lives.

The survey included questions regarding criminal history. Institutional discrimination serves as the independent variable. Three dimensions of the variable were measured: access to employment, housing and social services. Recidivism is the dependent variable. See the Appendix for a complete copy of the survey.

Data Analysis

All analysis and statistics were formulated using SPSS v. 22. A frequency table was constructed by using the data obtained from question 20 in the survey to measure recidivism within the sample. Question 20 asked the respondent to list each felony offense obtained since the age of eighteen. Each line of data was counted and coded as a single conviction thereby establishing the measure of recidivism as an interval ratio dependent variable. (See the Appendix for a full copy of the survey).

CHAPTER 4: DATA ANALYSIS

Demographics

The data were compiled from 157 completed surveys, which consisted of 109 males and 41 females. Two respondents identified as other. Five respondents failed to answer the question. The sample of respondents ranged in age from 18-60 and older. About one-third of respondents (n= 47) were between the ages of 30-39. The smallest age group represented was the 60 and older category. Eleven respondents failed to answer the question regarding age. (See Table 1). Specific demographic characteristics had no real significance in predicting recidivism.

		Age			
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18-29	45	28.7	30.8	30.8
	30-39	47	29.9	32.2	63.0
	40-49	32	20.4	21.9	84.9
	50-59	17	10.8	11.6	96.6
	60 + years	5	3.2	3.4	100.0
	Total	146	93.0	100.0	
Missing	System	11	7.0		
Total		157	100.0		

Table 1

There was a wide representation of race and ethnicity within the survey respondents. The largest percentage of respondents identified as White, the second largest group reported as Black/African American and Hispanic/Latino had the third largest number of respondents. Five respondents did not provide an answer. (See Table 2).

Ethnicity/Race					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	American Indian/Alaska Native	6	3.8	3.9	3.9
	Asian	2	1.3	1.3	5.3
	Black/African American	40	25.5	26.3	31.6
	Hispanic/Latino	28	17.8	18.4	50.0
	White	68	43.3	44.7	94.7
	Biracial/multiracial	2	1.3	1.3	96.1
	other	6	3.8	3.9	100.0
	Total	152	96.8	100.0	
Missing	System	5	3.2		
Total		157	100.0		

Table 2

More than half of the respondents, 58 percent, report having a high school diploma or GED, while 26 percent of the respondents reported having some college/technical training. Seven respondents did not provide an answer for the question. (See Table 3).

Level of Education					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	High-school diploma/GED	87	55.4	58.0	58.0
	Some college/technical school	39	24.8	26.0	84.0
	Bachelors degree/higher	7	4.5	4.7	88.7
	None of the above	17	10.8	11.3	100.0
	Total	150	95.5	100.0	
Missing	System	7	4.5		
Total		157	100.0		

Table 3

Regarding housing, the largest portion of respondents, 39 percent, reported living with friends/family. The second largest group, 34 percent, reported living in transitional housing. Additional statistical analysis showed that only 23 percent of the respondents had been in their current housing for 9-12 months. The largest percentage, 40.5 percent, reported being in their housing less than 3 months. Roughly half of the respondents reported that they would be looking for different housing options within 0-9 months.

Additional statistical analysis included questions related to respondents' income and employment status. Fifty-one percent of the respondents reported being employed. The largest group of respondents, 48 percent, reported being at their jobs from 0-3 months. One hundred and twenty-three of the respondents reported an income less than \$20,000. Prior to conviction and or incarceration 54 percent of the respondents reported incomes at less than \$20,000. Fifty-one percent of the respondents reported that they were currently employed, and 32 percent reported being unemployed. Questions regarding the respondents' health produced affirmative responses to questions regarding; life threatening disease (7.6 percent), mental health issues (14.6 percent), incurable diseases (7.6 percent) and substance abuse (40.8 percent). Close to half of the respondents (45.6 percent) reported having no healthcare and the respondents who reported having access to healthcare relied on the government (33.1 percent) to provide such care.

There were several questions regarding probation/parole that produced interesting results. When asked how many felony offenses had occurred while on probation or parole, 79.6 percent of the respondents reported 0-2 offenses had occurred during their probation/parole from a prior offense. Over 28 percent of the respondents reported having difficulties adhering to the requirements of probation and or parole. The respondents

were asked to state in their own words what problems they faced when trying to fulfill probation/parole requirements. The researcher then coded the most common answers to produce the following results. The top four responses showed that 15 percent of the respondents struggled with finances, 13 percent struggled with staying clean and or sober, another 13 percent missed too much work due to probation and or parole requirements and 11 percent reported having transportation problems.

Results

Of the 157 participants, more than half, 68.2 percent, reported more than one felony conviction in their lifetime. (See Table 4).

Recidivism					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	50	31.8	31.8	31.8
	2	43	27.4	27.4	59.2
	3	29	18.5	18.5	77.7
	4	15	9.6	9.6	87.3
	5	9	5.7	5.7	93.0
	6	6	3.8	3.8	96.8
	7	5	3.2	3.2	100.0
	Total	157	100.0	100.0	

Table 4

Questions 3,4,5,9,10,14,16 and 17 were summed into a composite index and recoded as “discrimination” to establish the measure of discrimination as an interval ratio independent level variable. Next, a frequency distribution was run to determine the level of discrimination experienced by respondents. The results provided a median of 47.1. The variable was coded so that the range of 8-22 represented low levels of discrimination and the range of 23-66 represented high levels of discrimination. (See Table 5).

Level of Discrimination

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1.00	64	40.8	47.1	47.1
	2.00	72	45.9	52.9	100.0
	Total	136	86.6	100.0	
Missing	System	21	13.4		
Total		157	100.0		

Table 5

To determine the interaction between discrimination and recidivism statistical analysis was performed by running a correlation coefficient test between levels of discrimination and recidivism, which produced a Pearson Correlation of .7999 (2-tailed) which is statistically significant at $p < .05$. Additional tests were run to determine the individual effects of discrimination on recidivism. The following results were recorded (See Table 6).

Discrimination	Pearson Correlation Coefficient
Employment	.067
Housing	.109
Healthcare	.018
Education	.060

Table 6

There were no statistically significant findings regarding the individual categories of discrimination and the effects they produced on recidivism.

Overall the data collected from the sample showed the vast majority of ex-offenders experienced forms of institutional discrimination during the reentry process. Over 47 percent of the respondents indicated that they had experienced low levels of discrimination while 53 percent indicated that they had experienced high levels of

discrimination. The data also verified that a substantial portion of ex-offenders recidivate at some point in their life. Over two-thirds, 68 percent indicated that they had more than one felony conviction in their lifetime. When correlating the independent variable discrimination to the dependent variable recidivism, statistically significant results were produced. The Pearson correlation coefficient test resulted in $r = .799$, showing that when high levels of discrimination exist among ex-offenders, high levels of recidivism are likely to result. The data indicates that there is a significant interaction between the stated forms of institutional discrimination and higher levels of recidivism amongst ex-offenders. When comparing separate forms of discrimination against recidivism, there were no statistically significant results. When institutional discrimination is looked at separately, there is no real bearing on whether or not an ex-offender will recidivate. However, the results emphatically indicate that when an ex-offender experiences multiple forms of discrimination during the reentry process, the probability of recidivism is greatly increased.

CHAPTER 5: DISCUSSION

This study was able to provide evidence that multiple forms of institutional discrimination interact with an ex-offender's ability to successfully reintegrate. This interaction resulted in high recidivism rates amongst the participants. The researcher hypothesized that the results from this research would provide evidence for two assertions. First, the data will indicate that institutional discrimination hampers the successful reentry of ex-offenders. When ex-offenders experience discrimination while attempting to obtain the basic life necessities such as housing, employment, and healthcare they are disenfranchised with government, private and public institutions, as well as society. The insurmountable number of barriers that ex-offenders face due to institutional discrimination often provide an impetus to return to prior criminal behavior for survival, and or face technical violations for failing to meet court mandated requirements during probation and or parole timeframes. Second, the researcher postulated that the data will provide the link between institutional discrimination and the inordinately high recidivism rates that occur within the first twelve months, post-conviction and or release.

Limitations/Future Research

Limitations on this research include a relatively small geographic sample and the use of convenience sampling. A nominal percentage of participants had low literacy rates which may have affected their willingness or aptitude to complete the survey. Finally, a disproportionate number of female respondents participating in the research should be corrected in future studies. While much scientific research has been done applying social deviance explanatory paradigms, such as structural theory, labeling theory, theory of subcultures, anomie theory, and the theory of discontinuance to the causes of crime, little research has been done applying these same theories to criminal recidivism, which has a

much larger and longer-lasting effect on the lives of ex-offenders. Future studies could apply each of these theories to the issue of criminal recidivism research, with a focus on interacting forms of institutional discrimination.

CHAPTER 6: CONCLUSION

Studying the effects of institutional discrimination experienced by the ex-offender within their first year of release and/or conviction has provided evidence of the connection to early onset recidivism. Employment opportunities, access to government benefits, stable housing, treatment programs, family support, access to health care, and positive parole experience are needed for successful reentry (Petersilia 2000). When ex-offenders are subjected to governmental laws (overt discrimination) and societal attitudes (covert discrimination) that restrict them from obtaining the essential components needed for successful reentry, many ex-offenders will reoffend, and they will do so within the first twelve months of either release and or conviction. This lends credibility to Goffman's (1963) assertion that the social stigma of being an ex-offender increases the likelihood of discrimination. It is difficult to find relevant data which reports current first year recidivism rates. Most of the data available focuses on third- and fifth-year recidivism rates. These rates are markedly lower than the rates of recidivism in the first year. Federal and state governments are the only sources from which to obtain accurate and timely rates of recidivism. Remarkably, the author was unable to locate a single source regarding recidivism rates during the first year after conviction and or release. Perhaps a more important question would be: Why are first year recidivism rates not being produced and published for public consumption? Laws and policies that are currently in place regarding ex-offenders impart a probative force on successful reentry of ex-offenders. The label of "felon" creates a hidden barrier and impedes the mobility and life opportunities throughout their life cycle. Additionally, society continues to punish these men and women even after their sentence and or punishment has been served. Ferrell and Young (2008: 61) stated that, "ideas do not emerge from nothingness; they occur and reoccur at particular times and places, in specific cultural and economic

contexts. These social constructs have been reified and legitimated by the elite or those in power within the US.” Additional research could focus on the dark shadow that has been cast on ex-offenders for generations by the United States government. What is the driving force behind the institutional discrimination that the United States government not only sanctions but enforces? Could hidden benefits to the government and society be uncovered by further research that links institutional discrimination to the failure of successful reentry by ex-offenders? This research provided empirical data to support the need to implement government policy changes that could address institutional discrimination against ex-offenders.

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APPENDIX

1. Are you currently employed? ____ Yes ____ No If yes, how long have you been at current job?

(Circle Answer)

0-3 Mo 3-6 Mo 6-9 Mo 9-12+ Mo

2. How many jobs have you had during the first 12 months since conviction/release? _____

✓ ONE ON EACH LINE

NEVER SELDOM SOMETIMES OFTEN ALWAYS

3. Have state laws or parole rules kept you from finding gainful employment? ₁ ₂ ₃ ₄ ₅

4. How often do employers mandate a criminal back ground check prior to employment? ₁ ₂ ₃ ₄ ₅

5. Have you found that most employers prefer not to hire an ex-offender? ₁ ₂ ₃ ₄ ₅

6. Circle your current housing status? (Circle Answer)

Homeless Shelter Transitional Housing Friends/Family Own/Rent Independently

7. Length of time in current housing situation? (Circle Answer)

0-3 Mo 3-6 Mo 6-9 Mo 9-12+ Mo

8. Projected time to remain in current housing situation. (Circle Answer)

0-3 Mo 3-6 Mo 6-9 Mo 9-12+ Mo

9. How often have you been rejected for housing opportunities when you have met all of the stated requirements? (Circle Answer)

Never Seldom Sometimes Often Always

10. Has your criminal record has effected your ability to obtain housing? (Circle Answer)

Never Seldom Sometimes Often Always

11. Please circle all of the following health issues that apply to you.

Life Threatening Incurable Disease Mental Health Issues Substance Abuse Issues

12. Do you currently have access to healthcare? ____ Yes ____ No

13. Whom is your current healthcare insurance provided by: (Circle Answer)

Government Employer Self Family/Spouse Other

14. Have you ever been denied healthcare due to your criminal record? (Circle Answer)

Never Seldom Sometimes Often Always

15. Have you attempted to further your education after your conviction? ____ Yes ____ No

16. Have you ever been denied educational opportunities due to your criminal background? (Circle Answer)

Never Seldom Sometimes Often Always

17. Have you ever been denied access to financial aid due to your criminal record? (Circle Answer)

Never Seldom Sometimes Often Always

18. Since your release, have you applied for any of the following forms of government assistance?

(check all that apply)

SSI SNAP WIC TANF Other

19. Have you ever been refused any of these services due to your criminal record?

SSI	Never	Seldom	Sometimes	Often	Always
SNAP	Never	Seldom	Sometimes	Often	Always
WIC	Never	Seldom	Sometimes	Often	Always
TANF	Never	Seldom	Sometimes	Often	Always
Other	Never	Seldom	Sometimes	Often	Always

20. Please fill in the following chart for each of your felony convictions since the age of 18.

Conviction	Year	Incarcerated Y/N	Time Served	Parole/Probation Term

21. How many of those convictions occurred while you were on probation or parole?

(0-2) (3-5) (5 or more)

If you are not currently on probation/parole, please skip to question #26.

22. How long will you be on probation/parole?

0-1years 1-3years 3-5years 5-10years 10+ year's NA

23. Are you having difficulties maintaining/completing all of the requirements of probation/parole?

(Circle Answer)

Never Seldom Sometimes Often Always

24. Briefly state the problems you are facing regarding maintaining/completing your parole/probation.

Demographics

25. What is your current age?

- 18 – 29
- 30 – 39
- 40 – 49
- 50 – 59
- 60+ years

26. What is your gender? Male Female Other

27. What is your ethnicity/race?

- American Indian/Alaska Native
- Asian
- Native Hawaiian or other Pacific Islander
- Black or African American
- Hispanic or Latino/a
- White
- Biracial/multiracial
- Other

28. What is your highest level of education?

- ₁ High school diploma or GED
- ₂ Some college or technical school
- ₃ Bachelor's degree or higher
- ₄ None of the above

29. What is your current income level? (Circle Answer)

- a. Less than \$20,000
- b. \$20,000-\$34,999
- c. \$35,000-\$49,999
- d. \$50,000 and up

30. What was your income level prior to last conviction/release? (Circle Answer)

- a. Less than \$20,000
- b. \$ 20,000-\$34,999
- c. \$35,000-\$49,999
- d. \$50,000 and up