

# Full Report: State Policies and Employment Outcomes among Fathers with Criminal Records



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## Executive Summary

Contact with the criminal justice system is widespread in the United States, with serious implications for individuals and their families. Nearly one-third of American adults have criminal records (Goggins & DeBacco, 2018), and 10% are currently incarcerated (The Pew Charitable Trusts, 2010). The majority of these individuals are men, most of whom are parents of minor children (Glaze & Maruschak, 2010; The Pew Charitable Trusts, 2010), making it particularly important to understand the implications of criminal justice system involvement for fathers. Individuals with criminal records or a history of incarceration face both employment and wage deficits that can last for years after the initial offense (Western, Kling, & Weiman, 2001; Pager, 2003; Pettit & Lyons, 2009; The Pew Charitable Trusts, 2010). For fathers, this economic impairment also has serious implications for their ability to support their children (Geller, Garfinkel, & Western, 2011).

State-level policies can play a key role in shaping economic opportunities available to fathers with criminal records. States have adopted a variety of policies to regulate the use of criminal records during the hiring process. Broadly, these approaches fall into three categories: 1) policies regulating what information employers can legally consider for employment or licensing decisions, 2) those regulating what information on criminal records employers can access, and 3) policies regulating what information employers can ask on job applications (e.g., “ban the box”). However, existing research on the effects of the first two kinds of policies has been limited and evaluations of ban-the-box policies have been mixed.

Our research investigates how policies regulating the information employers can legally consider and the availability of official criminal record information shape the employment of fathers with criminal records. We use newly collected data on policies across the U.S. over time linked with nine years of longitudinal survey data from the Fragile Families and Child Wellbeing Study, a population-based study of 5,000 children born in large U.S. cities between 1998 and 2000. Our study includes data on 3,120 fathers interviewed up to five times over a nine-year period. We take advantage of variation in policies between states and over time to explore how these policies are related to employment outcomes among fathers with and without a criminal record, controlling for important characteristics of individuals, families, and state-level contexts.

Our research resulted in four major findings. First, contact with the criminal justice system was widespread among families in our sample. More than one-third of the fathers in our study reported having a criminal record, including 43% of black fathers and 29% of Hispanic and white fathers. Second, while most fathers were employed, those with criminal records were less likely to report being employed. After adjusting for differences in fathers' characteristics and state contexts in multiple regression models, fathers with a criminal record were five percentage points less likely to be employed than those without one (80% versus 85%). This disadvantage is approximately the same across fathers of all racial and ethnic backgrounds. Third, in states with more protective regulations regarding whether criminal records can legally be considered in hiring and licensing decisions, black fathers are less likely to be employed. For black fathers with records, those living in states with the most protective policies are 15 percentage points less likely to be employed than those in the least protective states (64% versus 79%). This lower likelihood of employment is paralleled among fathers who do not have records—we estimate that black fathers with no criminal records are also 10 percentage points less likely to find work in the most protective states compared to the least protective states. This finding is consistent with prior research on ban-the-box policies, which indicate that policies regulating the use of criminal records can harm the employment of black men, either because employers are intentionally using race as a proxy for criminal records (statistical discrimination) or because employers default to racial stereotypes about criminality in the absence of evidence to the contrary (racial discrimination). Finally, father employment is less sensitive to the availability of state online criminal record databases. Unlike in the previous finding, living in a state with such searchable databases neither improves nor impairs the employment of fathers with criminal records.

In conclusion, our work and that done by many other researchers has demonstrated that having a criminal record or history of incarceration has serious implications for fathers' employment. These fathers face significant disadvantages in the formal economy, despite the importance of stable, high-quality work for self-sufficiency, support for children, and desistance from criminal activity (Apel & Horney, 2017; Uggen, 2000). Furthermore, our study suggests that these policies are not a panacea for addressing discrimination based on criminal records or ensuring access to the formal economy for vulnerable fathers. Addressing discrimination on one front (criminal records) without the other (race) appears to backfire at worst or have little impact at best, suggesting that alternative policy approaches are needed to improve fair access to the formal economy.



## Background

### Fathers, Families, and Criminal Justice Involvement

Contact with the criminal justice system is widespread in the United States, with serious implication for individuals and their families. Nearly one-third of American adults have criminal records (Goggins & DeBacco, 2018), and 10% are currently incarcerated (The Pew Charitable Trusts, 2010). Most of these individuals are men, and many are parents, making it particularly important to understand the implications of criminal justice system involvement for fathers and children. Just over half of men in state and federal prison are parents to minor children (Glaze & Maruschak, 2010; The Pew Charitable Trusts, 2010), and between 11 and 30 percent of young adults experienced the incarceration of a parent during childhood (Enns et al., 2019; Zhang & Dwyer Emory, 2015). These experiences are disproportionately concentrated among black families (Wildeman, 2009; Western & Wildeman, 2009; Enns et al., 2019; The Pew Charitable Trusts, 2010), as black men are at greater risk of incarceration and conviction than their white counterparts (Uggen, Manza, & Thompson, 2006). Indeed, over 30% of black children whose fathers did not attend college experience paternal incarceration before they turn 14 (Wildeman, 2009) and over 20% of black adults will experience the incarceration of their partner or co-parent (Enns et al., 2019).

A large body of research has focused on the implications of a father's incarceration and, to a lesser extent, criminal justice system involvement for children and families. Children in these families are at greater risk for adverse health and behavioral outcomes, which can partially be explained by these families' more precarious socioeconomic circumstances. Paternal incarceration has been linked with increased infant mortality (Wakefield & Wildeman, 2013), aggressive behavior throughout childhood and delinquent behavior in adolescence (Wildeman, 2011; Geller et al., 2012; Dwyer Emory, 2018; Haskins, 2015; Murray & Farrington, 2005; Wildeman, Wakefield, & Turney, 2013), lower school readiness in young childhood (Haskins 2014), and lower cognitive ability in middle childhood (Haskins 2016). While in cases of domestic violence or substance use removing a father from the household through incarceration may be beneficial to families (Wakefield & Wildeman, 2013; Wildeman, 2011), for the most part paternal incarceration is associated with negative outcomes for children.

Father involvement and economic resources are key ways through which paternal incarceration impacts children (Dwyer Emory, 2018; Geller, 2013; Geller, Garfinkel, & Western, 2011; Murray & Farrington, 2005; Murray, Loeber, & Pardini, 2012). Fathers with histories of incarceration are more likely to be nonresident than their counterparts without criminal justice involvement, meaning most fathers are negotiating contact and economic support of children as nonresident fathers (Geller, 2013). A large body of research has found fathers with histories of incarceration see their children less often and are less involved than their counterparts (Geller, 2013; Swisher & Waller, 2008; Turney & Wildeman, 2013). A father's incarceration has similarly negative implications for the resources available to children, who are more likely to face economic hardship and require help from government assistance programs. (DeFina & Hannon, 2010; Sugie, 2012; Sykes & Pettit, 2015; Schwartz-Soicher, Geller, & Garfinkel, 2011). Studies of young children suggest that formerly incarcerated fathers provide less frequent and smaller amounts of formal child support, informal cash support, and in-kind support like clothes, school supplies, and other material items for their children than their never-incarcerated counterparts (Washington, Juan, & Haskins, 2018; Geller, Garfinkel, & Western, 2011). While these fathers' more limited economic support of children is driven in part by their higher rates of nonresidence, the disadvantage these fathers face in the formal economy also plays a key role in their lower levels of support (Geller, Garfinkel, & Western, 2011).

### Economic Cost of Criminal Records

Fathers with criminal records, and incarceration histories in particular, face more difficult economic prospects, explaining to some extent their lower contributions to children (Geller, Garfinkel, & Western, 2011). Men with histories



of criminal justice involvement are less likely to have stable employment in the formal economy (Visher & Kachnowski, 2007; Western, 2007; Western, Kling, & Weiman, 2001; Sykes & Geller, 2017), reflecting the reciprocal relationship between lower economic opportunities and criminal justice system involvement in the United States. Men with lower skills, education, and quality employment are more likely to become involved with the criminal justice system in the first place (Looney & Turner, 2018). Criminal records and incarceration histories then contribute to both employment and wage deficits that can last for years (Western, Kling, & Weiman, 2001; Pager, 2003; Pettit & Lyons, 2009; The Pew Charitable Trusts, 2010).

In her groundbreaking study of the implications of criminal records for employment, Pager quantifies how men with felony convictions are discriminated against in the hiring process (Pager, 2003). In this study, Pager found that these criminal records reduced the likelihood of being called back for a job interview by half. Importantly, this disadvantage is compounded by racial discrimination as shown in [Figure 1](#). Black men received callbacks for their job applications less often than white men, and black men with records were doubly disadvantaged.

Subsequent studies have replicated and extended this work, consistently linking a wider range of offenses to lower rates of hiring across many jurisdictions, with particular harm for black men (Pager, Western, & Bonikowski, 2009; Uggen et al., 2014a; Pager, Western, & Sugie, 2009; Lageson, Vuolo, & Uggen, 2015).

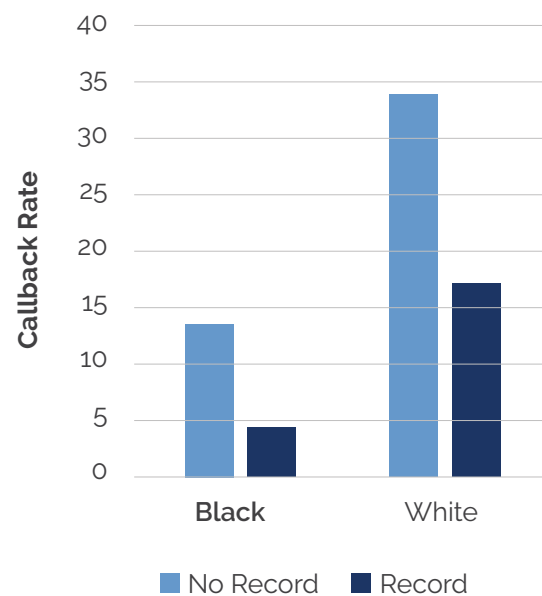
For fathers, this relatively weak connection to the formal economy is problematic for two reasons. First, formerly incarcerated individuals are often dependent on the economic support of family and friends (Braman, 2004; Comfort, 2016, 2008). Fathers' inability to find work makes it more difficult to reciprocate support or provide economic resources for children. Second, high-quality employment is associated with desistance from future crime (Apel & Horney, 2017; Denver, Siwach, & Buschway, 2017; Uggen, 2000). Inability to find work may thus put fathers at greater risk for illegal activity associated with the underground economy that may put them at risk for future criminal justice involvement or strain their existing romantic and familial relationships, both of which can be additionally damaging for families.

## Policies Associated with Economic Opportunities

State-level policies can play a key role in shaping economic opportunities available to formerly incarcerated fathers and those with criminal records. Multiple policy approaches are available to limit the degree to which criminal records can be taken into consideration during the hiring process, but broadly they fall into three categories regulating 1) what information can employers consider, 2) what information can employers ask about, and 3) what information can employers access.

**Legal Consideration of Records.** One policy approach highlighted by organizations like the Legal Action Center in their Barriers to Reentry project is to regulate what kinds of records employers are legally allowed to take into consideration during hiring. Typically implemented at the state level, these kinds of policies define the line between informed hiring decisions and employment discrimination based on criminal records. Specific policies can take the

**Figure 1:** Callback rates for black and white men by criminal record status. Graph constructed by authors of this report based on findings from "The Mark of a Criminal Record" (Pager, 2003).



form of prohibiting blanket bans against individuals with records or prohibiting the consideration of arrests that did not lead to conviction (Legal Action Center, 2004). Importantly, this approach can be applied to public employers, private employers, and licensing agencies within the state. These policies are thus able to include criminal records under state employment discrimination laws and place scrutiny on the use of records during hiring similar to that required for other protected attributes, such as race or gender.

The broad protections associated with these policies, however, may also cause problems in that implementation requires both awareness and enforcement of the law. Looking broadly at studies of Wisconsin, a state over-represented within research on the employment opportunities available to individuals with records, demonstrates these implementation issues. Wisconsin is among the most protective states with regard to employment discrimination policies and these policies have been in place for several decades (Legal Action Center, 2004). Despite these protections, there have been several studies documenting employment discrimination within the state that suggest employers and applicants alike may not be aware of the protections in place for individuals with records (Pager, 2003; Hlavka, Wheelock, & Cossyleon, 2015). This is not entirely unexpected, as employment discrimination laws often require expensive legal action to enforce (Jacobs, 2015, chap. 13). We know of no other studies that have explicitly evaluated the implications of policies in this category for the economic opportunity or employment of individuals with records.

**Asking about Records.** A more recent policy approach has been to restrict what information employers are allowed to ask about, often referred to as “ban the box” policies in reference to the checkbox on applications indicating whether the applicant has a criminal record. There has been a recent explosion in the enactment of these policies such that as of 2018, 150 municipalities and 31 states had policies regulating whether employers can ask about records on applications (Avery & Hernandez, 2018). While Hawaii was an early adopter in 1998, policy adoption at the state level is a recent phenomenon largely beginning in the late 2010s (Avery & Hernandez, 2018). These policies are designed to help those with records get their foot in the door and make the kind of personal connections that previous scholars have linked to higher likelihood of hiring for those with criminal records (Pager, Western, & Sugie, 2009). Evaluations of two such policies at the municipal level have found evidence that implementing these policies for public employers was associated with a larger proportion of applicants and employees with criminal records (Atkinson & Lockwood, 2014; Berracasa et al., 2016).

More rigorous studies of these policies at both the state and municipal level cast doubt on their success, however. Specifically, these studies link the implementation of ban-the-box policies with lower rates of hiring and employment for black men (Doleac & Hasen, 2016; Vuolo, Lageson, & Uggen, 2017; Agan & Starr, 2018; Stacy & Cohen, 2017). These scholars point to two possible explanations for these findings. First, if employers wish to avoid hiring people with records but are unable to ask that information directly, they may resort to using racial heuristics to guess which applicants have records. This is referred to as statistical discrimination, and is the most common explanation for these counterintuitive findings (Doleac & Hasen, 2016; Vuolo, Lageson, & Uggen, 2017; Holzer, Raphael, & Stoll, 2006). Second, employers may merely be more skeptical of black applicants who cannot demonstrate their lack of criminal justice involvement. This explanation draws on literature finding that black applicants are more likely to be hired if they can actively disprove stereotypes through drug testing, personality screening, or criminal background checks (Wozniak, 2014; Autor & Scarborough, 2008; Holzer, Raphael, & Stoll, 2006). Importantly, this explanation does not require discriminatory intent on the part of employers but rather just assumes they are susceptible to racial stereotypes (Agan & Starr, 2018).

**Accessibility of Criminal Records.** While not directly targeting the use of records during hiring, a third set of policies relevant to the employment opportunities available to individuals with criminal records address how easy it is to access records. The Legal Action Center (2004, 2009) highlights the importance of whether states maintain a



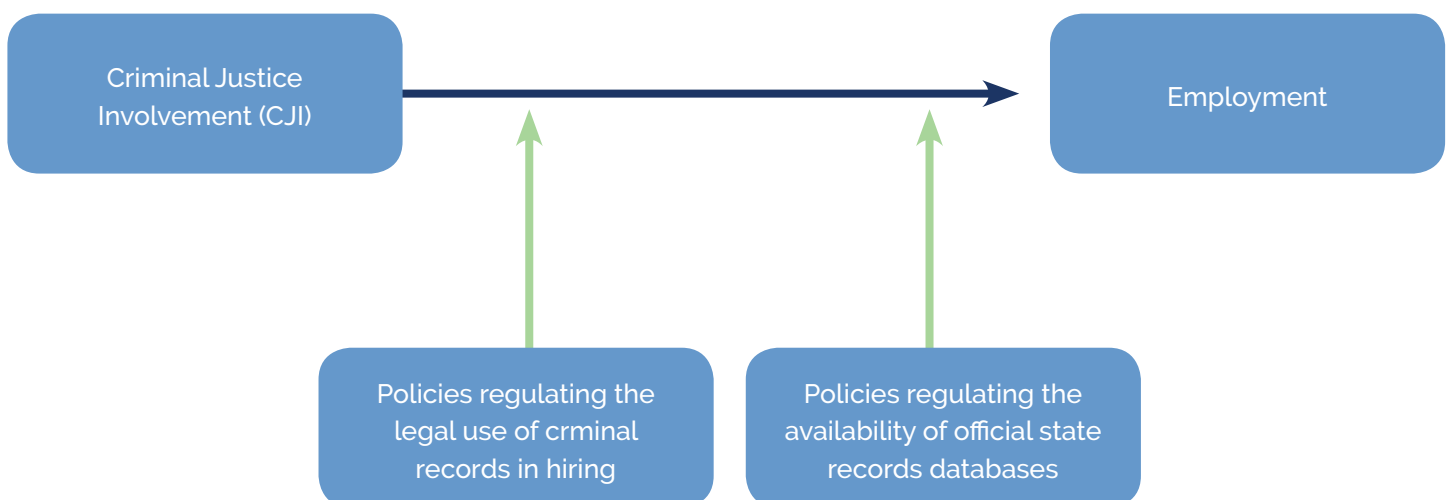
searchable criminal record database. In practice, these kinds of record policies mean that individuals may still face barriers to employment years or even decades after an offense took place. Indeed, one study found that misdemeanor offenses and old offenses were still associated with lower callback rates for job applications, despite the limited predictive power of these kinds of records for job performance or future criminal activity (Uggen et al., 2014a).

The accessibility of official state databases is an important indicator of the ease with which employers can look up both who has a record and details of that record. Previous research linked the availability of official criminal records on the internet to worse labor market outcomes for individuals with records (Finlay, 2008). It is less clear, however, the extent to which these policies impact racial disparities in employment and wages at the population level (Bushway, 2004). Echoing concerns raised about the ban-the-box policies, scholars who have examined these policies have argued that restricting access to records may be associated with statistical discrimination against young black men regardless of their criminal histories (Finlay, 2008; Bushway, 2004).

## Current Study

Our research investigates how these kinds of policies shape the economic opportunities available to fathers with criminal records. We use newly collected data on policies across the U.S. over time linked with longitudinal survey data from the Fragile Families and Child Wellbeing Study on fathers' history of criminal justice involvement, the policy regime in which they live, and their employment status. [Figure 2](#) presents a conceptual map of the aims of our study, which examines the association of fathers' criminal justice involvement with their employment and whether policies regulating the legal use of records in hiring decisions or the availability of searchable state criminal record databases moderate this association.

**Figure 2: Conceptual overview of project.**



Based on the research discussed above (e.g., Pager, 2003), we expect that criminal justice involvement and incarceration will impair fathers' employment prospects. There are two competing hypotheses, however, for how policies might moderate this association. On the one hand, policies that make it more difficult for employers to use or access information about records may make it easier for fathers with records to obtain employment in the formal economy and improve their economic security. On the other hand, a small but growing body of research linking protective policies to racial discrimination has suggested that these kinds of policies may inadvertently have negative consequences for fathers from racial minorities and reduce their access to employment (e.g., Agan & Starr, 2018; Doleac & Hasen, 2016).

## Protective State Policies

**Table 1: State Policies included in Policy Indices**

Index	State Policy
Employment Policy	Private employers cannot consider arrests that did not lead to convictions when making hiring decisions (yes/limited/no)
	Public employers cannot consider arrests that did not lead to convictions when making hiring decisions (yes/limited/no)
	Licensing agencies cannot consider arrests that did not lead to convictions when making hiring decisions (yes/limited/no)
	Private employers cannot issue blanket bans against the hiring of individuals with criminal records (yes/limited/no)
	Public employers cannot issue blanket bans against the hiring of individuals with criminal records (yes/limited/no)
	Licensing agencies cannot issue blanket bans against the licensing of individuals with criminal records (yes/limited/no)
Access to Criminal Records	State maintains searchable criminal records database (yes/no)
	State maintains searchable criminal records database only of those currently under supervision (yes/no)

State employment policies are based on policies identified as significant barriers to economic opportunity and social inclusion faced by individuals with criminal records by the Legal Action Center for their report on "Roadblocks to Reentry" (Legal Action Center, 2009, 2004). Reflecting research in this area, we focus on two sets of policies: 1) those regulating the extent to which employers are legally allowed to consider criminal records for purposes of hiring and licensure, and 2) those regulating the availability of searchable online state databases on criminal records.

Two policy indices are created to capture variation in state policy regimes in these two areas, and the included policies are summarized in [Table 1](#) and in greater statistical detail in [Appendix Table 1](#). Across both indices, a higher score indicates greater protection for individuals with a criminal record. These indices are lagged by one year for use in analyses to ensure that fathers and families have had adequate exposure to these policies.

## Protecting the Employment Opportunities of Individuals with Criminal Records

The state employment policy index is based on the six policy variables regulating the extent to which three different actors (private employers, public employers, and licensing agencies) can take into account arrest records and criminal records during hiring. The index is constructed by taking an average of the number of policies that each state has enacted in each year. Thus, the score reflects the proportion of six policies that are in place in the state in any



given year, ranging from 0 (no policies in place) to 1 (all six policies fully in place). Higher scores on this continuous index indicate more protective regulations on the legal consideration of criminal records. These policies are designed to prevent private employers, public employers, or licensing agencies from considering arrests during hiring or denying jobs or firing anyone based on their criminal record alone rather than through an individualized determination of qualifications by defining these prohibited actions as a form of employment discrimination. It is important to note that this is not equivalent to ban-the-box policies, which seek to accomplish the same goal of regulating the use of records during hiring by restricting what information employers can ask about on applications. As discussed in the background section, the employment policies we consider have a longer history and thus correspond more closely with the years covered by the Fragile Families and Child Wellbeing Study.

There is a great deal of variation across states on the employment policy index but relatively little variation over time, as shown in [Figure 3](#) (also see [Appendix Table 1](#)). Three states scored a 1 on the policy index (all six policies in place—most protective) throughout the entire study period: Wisconsin, New York, and Hawaii (not shown in map). As an example, Wisconsin was an early adopter of these protective policies and has had all six in place since 1982 and we use the policies in this state as a case study to illustrate how they can operate in the most protective regimes. In Wisconsin, asking an applicant to supply information about arrests that did not lead to conviction is legally considered a form of employment discrimination unless there is a pending criminal proceeding substantially related to the job or license or the person's record would mean the employer could not acquire necessary insurance.<sup>1</sup> Similarly, while there are specific exceptions, employers and licensing agencies may not deny employment or licensure to individuals with records unless their convictions are substantially related to the specific job or the individual is not insurable. For licensing, felony convictions are defined in the law as substantially related for certain positions (e.g., an installer of burglar alarms, security, private detectives or investigators, supervising students at the University of Wisconsin), or if there are multiple offenses related to the manufacture and distribution of drugs.

Fourteen states never introduced any protective policies and had a constant score of zero across the study period, meaning that the use of records during hiring is left completely to the discretion of individual employers or licensers. The remaining 28 states held constant with scores between these two extremes. For example, Illinois had a consistent score of 0.5 for the entire study period. In Illinois, this score reflects that it is not legal for employers or licensing agencies to ask about or use arrest records that have been sealed, an administrative option open immediately to anyone with no prior record who is not convicted. There are no laws in place in Illinois, however, regulating the use of blanket bans against individuals with conviction records.

Five states changed their policies over the study period: Connecticut, Delaware, Massachusetts, Ohio, and Virginia. Some of these changes are small. For example, in 2004, Virginia enacted a law prohibiting licensing agencies from considering arrests not leading to conviction but put no other protections in place. Massachusetts changed its policy in 2008 to prohibit public employers from issuing blanket bans against individuals with criminal records.

Connecticut went through several changes over the study period, banning the use of arrest records by private employers in 2007 and prohibiting private employers from issuing blanket bans against individuals with criminal records in 2009, in line with regulations already in place for public employers and licensing agencies.

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<sup>1</sup>Wisconsin makes provision for people who are not "bondable," meaning that it would be impossible for employers to acquire a bond to protect against losses due to employee theft or fraud. While not all employment requires fidelity bonds, bonds can be a standard component of some business practice or insurance policies and may even be required under state or federal law if employees are responsible for handling business funds or work in clients' homes or businesses. Bonds are intended to protect employers and clients against employee malfeasance like theft or damage. These bonds can be private or acquired through federal or state programs for those who may otherwise be deemed to high risk as employees.



## Access to Criminal Records

Access to criminal records refers to employers' ability to search official state online databases for information regarding an individual's criminal record. States were assigned a score of 0, 0.5, or 1 based on two component policies: whether the state maintains a searchable online database of 1) all criminal records, or 2) only cases under current criminal justice supervision (probation, parole, corrections). A score of 0 (least protective) indicates that the state makes all criminal records available online. States that make the records of only those currently under supervision accessible received a score of 0.5. A score of 1 (most protective) indicates that official records are not easily accessible. It is important to note that these policies do not regulate all online access to criminal records, many of which are available online through private databases or companies, with mixed degrees of accuracy or accountability (Lageson, 2016a).

In contrast to the employment policy index, there is a substantial amount of variation within states over the study period, largely in the direction of increased access to criminal record information as shown in [Figure 4](#) (also see [Appendix Table 1](#)). Data on criminal record databases are only available for the entire study period for the original 15 states in the Fragile Families and Child Wellbeing Study, though data collection efforts are ongoing for other states. Most (13 states) increased access to criminal records over the study period. Most of these (62%) went from most (score of 1) to least (score of 0) protective. These states include Florida, Indiana, Michigan, New York, Tennessee Texas, Virginia, and Wisconsin. Following the policy change in these states, individuals or employers can access criminal records online via a state database. For example, in Tennessee, the state Bureau of Investigations created an online name-based search for criminal background information in 2006. For a fee of \$29, individuals or employers can conduct a search to determine an individual's entire criminal history.

Five states moved from a score of 1 to 0.5 over the study period, indicating that they increased access to criminal records but only of individuals currently under supervision (incarcerated or on parole). These states are Illinois, Maryland, Massachusetts, New Jersey, and Virginia. In New Jersey, the Department of Corrections maintains this database, which can be searched for free by name or other characteristics (e.g., gender, physical attributes like race and eye color, county). Two states, California and Ohio, had scores of one for the entire study period. In California and Ohio, no criminal records are available online via an online state database. However, individuals may access other private online services to search records.

Figure 2

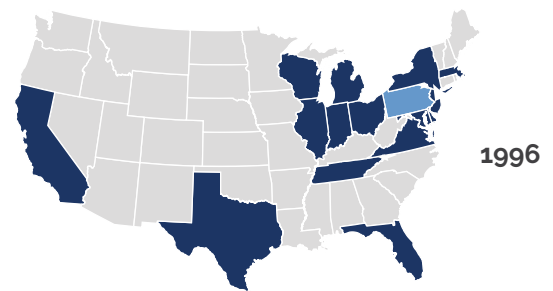


Figure 3

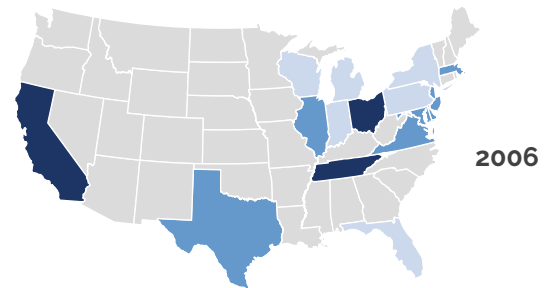
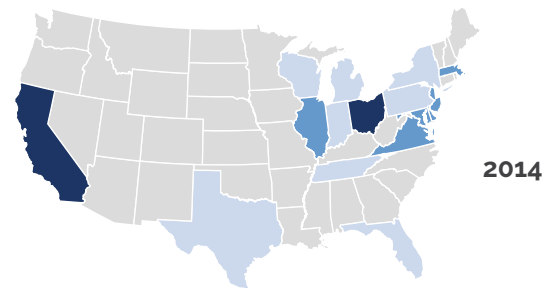


Figure 4



### Access to Records

- 0 Least Protective
- 0.5
- 1 Most Protective

## Fragile Families and Child Wellbeing Study

The Fragile Families and Child Wellbeing Study (FFCWS) is a population-based panel study of approximately 5,000 children born in large U.S. cities between 1998 and 2000. The FFCWS was undertaken to answer four primary questions:

- 1) What are the conditions and capabilities of unwed parents, especially fathers?
- 2) What is the nature of these relationships and how do they change over time?
- 3) How do children fare in these families, and how do family structure and father involvement affect their wellbeing?
- 4) How do social policies affect relationships, family dynamics, and child and parent wellbeing?

To this end, births to unmarried mothers were oversampled at a 3:1 ratio and cities were selected to maximize variation in policy regimes. Data collection for the study was based on a clustered random sample design, in which births were randomly selected within hospitals, hospitals were randomly selected within cities, and cities were randomly selected within specific strata of all 77 large U.S. cities (>200,000 population) at that time. Cities were stratified on three criteria:

- 1) strength of the local labor market
- 2) stringency of the state child support enforcement system
- 3) generosity of the state TANF program.<sup>2</sup>

The final sample of the FFCWS included 20 cities in 15 states (Figure 5), composed of 16 randomly selected cities (national sample) and four cities added because of specific interests of funders. Detailed information about the study design is available in the Fragile Families: Sample & Design paper (Reichman et al., 2001).

**Figure 5: Map of the 20 cities in the Fragile Families and Child Wellbeing Study.**



<sup>2</sup>Strength of the labor market was measured as the state unemployment rate. Strength of the state child support enforcement system was measured as 1) the paternity establishment rate; 2) proportion of AFDC cases with a child support award; and 3) proportion of AFDC cases with a payment. Generosity of the state welfare system was measured as 1) the maximum monthly AFDC benefit for a family of four; and 2) this maximum benefit divided by median monthly rent in the city.

Mothers were interviewed for the baseline interviews at the hospital within a few days of the baby's birth, with excellent response rates (87% for unmarried and 82% for married). A large proportion of fathers, including unmarried fathers, were found and interviewed at the hospital, or followed up over a short period thereafter, resulting in interviews with the largest proportion of unmarried fathers of any national U.S. survey (response rates of 75% for unmarried and 89% for married fathers, with 60% of these in the hospital).

Core follow-up surveys have been conducted by phone with mothers when children were age 1, 3, 5, and 9, and with primary caregivers who are predominantly mothers at child age 15. In addition, fathers were interviewed at years 1, 3, 5, and 9, but not 15. Core survey response rates for mothers were 89%, 86%, 85%, 72%, and 64%, at each of the follow-up waves, respectively.

**Project Overview.** This study takes advantage of fathers' reports from all available waves of the study: five waves (baseline to 9 year) for father reports. The FFCWS data are the best suited for our analysis. Because of the urban focus and the oversample of parents with nonmarital births, these data have the largest available sample of fathers with criminal justice records and the most detailed measures of criminal justice system experience of any large U.S. survey.

We link the rich individual-level survey data from the FFCWS with our unique state by year database on policies enacted to protect the employment opportunities of individuals with criminal records based on fathers' state of residence and year of interview at each follow-up wave of data collection (from 1999 to 2014).

**Study Sample and Analyses.** First, due to the nature of our analyses, observations were excluded if we could not determine the fathers' state of residence or if he lived in a U.S. territory or internationally. Due to data limitations on our state control variables, we also exclude fathers living in Washington, D.C. or in Massachusetts prior to 2001. We also excluded fathers if they were deceased or incarcerated at the time of the survey since these fathers are not able to participate in the formal economy while in jail or prison. Finally, we also drop fathers for whom we did not have race/ethnicity information.

We focus on the sample of fathers interviewed at all follow-up waves of data and base our analyses on fathers' reports. Because fathers were not interviewed at the 15-year survey, these analyses include fathers' reports at 1, 3, 5, and 9 years after the birth of the focal child and take advantage of fathers' detailed reports of their criminal justice system involvement, which are only available from their own reports. Fathers were excluded from this sample if they did not participate in the year 1 survey since that interview wave provides baseline information of fathers' criminal records. Observations were dropped if fathers did not report employment status or criminal justice involvement or did not participate in a particular survey wave. Data are pooled from each of the available waves, creating an unbalanced panel of all available interviewed fathers by year, and use multiple imputation to fill in missing information on all covariates. The sample is based on 10,351 observations of 3,120 unique fathers across four follow-up waves.

## Key Findings

### Descriptive Results

#### Fathers' Criminal Justice System Involvement

Our key independent variable in these analyses is fathers' criminal justice system involvement which is based on fathers' self-reports. At year 1 and at each subsequent wave through year 9, fathers report whether they have ever been booked or charged, convicted, or incarcerated at any prior time. Fathers are considered to have a criminal record if they report any of these experiences. While fathers are also asked whether they have been ever stopped by the police, this level of contact with the criminal justice system is excluded from our main analysis, as a stop alone is



typically insufficient to result in a criminal record. We do include police stops in our descriptive analysis, however, as it is an important aspect of men’s risk for criminal justice involvement.

**Figure 6: Self-reported criminal justice system contact for fathers in analysis sample.**

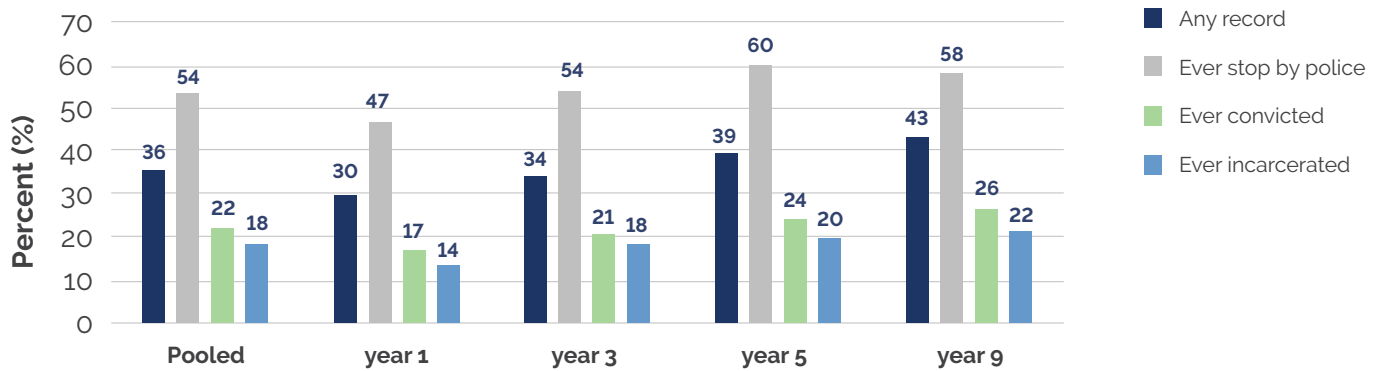
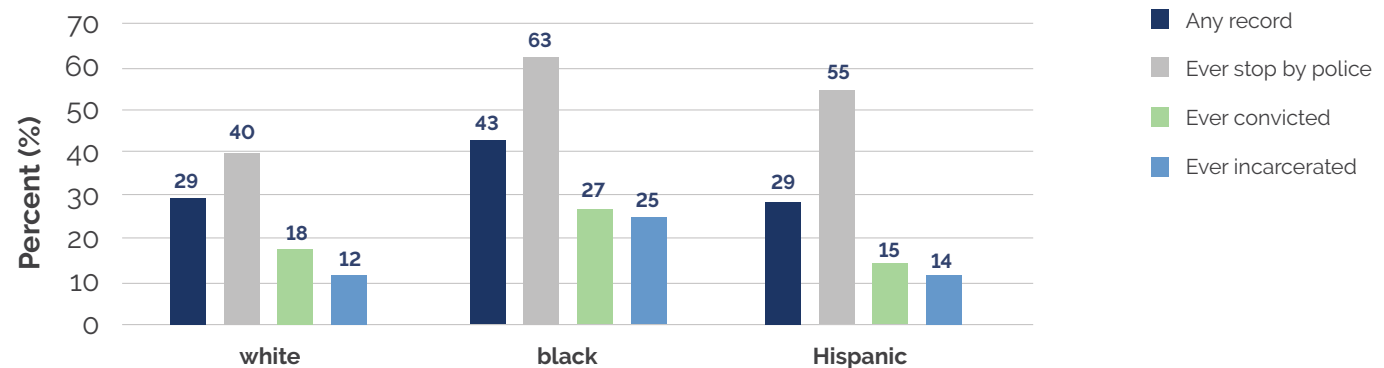


Figure 6 presents descriptive statistics of fathers' history of criminal justice system involvement for the pooled sample and at each wave of the survey for our analytic sample of fathers. These categories are not mutually exclusive or exhaustive, as fathers can have multiple forms of involvement with different components of the criminal justice system. When interpreting these figures, it is important to recall that this sample excludes currently incarcerated fathers. These figures thus represent the past involvement of fathers who are currently in the community and undercounts total criminal justice system exposure in the FFCWS. We observe that, over the entire panel, over one-third of fathers reported contact with the criminal justice system consistent with acquiring a criminal record, including being arrested or charged, convicted, or incarcerated. Reflecting variation in criminal justice involvement, 22% of fathers reported a conviction (60% of fathers with records) and 18% reported having spent time in jail or prison (52% of fathers with records). The wave by wave figures indicate that fathers accumulate such experiences over the nine-year time period from the birth of the focal child. The percent of fathers with any record increases from 30% at the one-year wave to 43% at the nine-year wave. Similarly, the proportion with incarceration histories increases from 14% to 22% over the period. These data also reveal the extent of fathers' contact with the police which may or may not result in a criminal justice record. By the end of the nine-year period, 60% of fathers report having been stopped by the police, including 40% of fathers who do not have criminal records.

**Figure 7: Self-reported criminal justice system contact for fathers in analysis sample by race/ethnicity.**

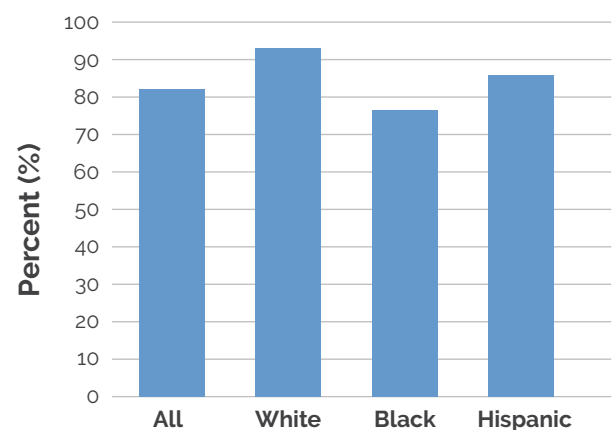


[Figure 7](#) describes fathers' criminal justice system involvement by their racial and ethnic background. Consistent with national estimates, black fathers have much higher rates of criminal justice system involvement than white fathers. Over the nine-year pooled panel, 43% of black fathers report having a criminal record, 63% report having been stopped by the police, 27% report having a conviction, and 25% report incarceration, compared to 29%, 40%, 18%, and 12% of white fathers, respectively. Hispanic fathers in our sample are no more likely than white fathers to have a criminal record (29% for both), are less likely to report having been convicted (15% versus 18%), and are slightly more likely to report having been incarcerated (14% versus 12%). This is somewhat surprising since what national data is available on Hispanic men suggests higher levels of criminal justice system involvement. Our finding may be attributed to the urban focus of the Fragile Families data and the oversample of parents with nonmarital births, whereby white fathers may be more negatively selected than in a national sample. As criminal justice system involvement is closely linked to deportation for non-citizens, it is also possible that Hispanic fathers are less comfortable reporting contact or that those with records are less likely to remain in our sample since the FFCWS did not interview fathers outside of US states.

### Father Employment Status

Fathers' employment status is based on fathers' reports at each wave about whether they did any regular work for pay in the prior week, including work done for their own business or for a regular paycheck. [Figure 10](#) presents descriptive statistics of fathers' employment status in the pooled data for our full sample of fathers and by fathers' racial and ethnic background. Across the panel, 83% of fathers reported being employed. This proportion was fairly consistent across the survey waves, except for the final year-9 wave, at which point the proportion employed dropped to 79% because these data were collected in the midst of the Great Recession (not shown in the graph). Employment rates were substantially higher for white fathers (93%) and Hispanic fathers (88%) compared to black fathers (76%).

**Figure 8: Father self-reported employment in analysis sample.**



This employment rate is relatively high, particularly in comparison to other studies conducted on the employment of fathers with criminal records. While previous research on incarcerated individuals suggests around three-quarters are indeed employed prior to their incarceration (Travis, McBride, & Solomon, 2005), evaluations of programs intended to support employment after release show bleaker figures than what we present above. For example, only about half of fathers in the Parents and Children Together (PACT, Dion et al., 2018) and Child Support Noncustodial Parent Employment Demonstration (CSPED, Cancian, Guarin, Hodges, & Meyer 2018) evaluations were employed in the month before enrollment. While fathers in these demonstrations had similar levels of education to the Fragile Families' fathers (about one-third had not completed high school), there were other important differences in their profiles and in the study populations that may account for these differences. First, both demonstration projects recruited a much more disadvantaged group of fathers than the overall Fragile Families father sample, as this was their primary population of interest. The PACT study targeted men receiving services at four responsible fatherhood program sites, which primarily serve low-income underemployed fathers who want to become financially and emotionally involved with their children. The CSPED study targeted men who were noncustodial parents and who were having difficulty meeting their child support obligations. Second, as discussed in greater detail in the limitations section, there is selection among the fathers who participate in follow-up waves of the Fragile Families data. Thus,

fathers who are more weakly attached to their families, currently incarcerated, or more difficult to contact by virtue of loose connections to formal systems or unstable housing are less likely to be in our analytic sample. Thus, fathers who we do identify are also more likely to be employed in the formal economy due to selection on other characteristics associated with stability.

### Father and State Characteristics

Our analyses control for relevant individual and state-level characteristics that may confound the association between criminal justice involvement and fathers' employment and contributions to children's households, and that may be associated with states enacting laws to protect the employment opportunities of individuals with criminal justice records. [Table 2](#) presents descriptive statistics of fathers' sociodemographic characteristics for the analytic sample. This sample includes all fathers who were interviewed at year 1, with observations pooled across available waves (years 1, 3, 5, and 9) and sample restrictions noted in the previous section.

At the father and family level, we control for father attributes that are likely to be associated with fathers' likelihood of both criminal justice involvement and economic opportunity. Specifically, we control for a time-varying measure of father age; a time-varying measure of father education level (less than high school, high school or equivalent, some college or more); father race/ethnicity (non-Hispanic white, non-Hispanic black, Hispanic, non-Hispanic other race); nativity; father poverty level at baseline (deep poverty, poverty, near poor, and non-poor); marital status at the birth of the focal child; and baseline measures of father substance abuse, early incarceration, and self-reported impulsivity. To address the possibility that fathers move selectively to states with more protective policies, we also include an indicator of whether the father is residing in the same state as he was in the baseline survey. Finally, we control for the survey wave to adjust for possible differences in reporting linked to the survey instrument itself.

**Table 2: Descriptive Statistics**

	All Fathers	Without a Record	With a Record
<b>Father Characteristics</b>			
Fathers' Age (years)	33	33	32
Father U.S.-born	84%	78%	94%
<b>Fathers' Race/Ethnicity</b>			
Non-Hispanic white	23%	26%	19%
Non-Hispanic black	46%	41%	56%
Hispanic	27%	29%	22%
Other	4%	5%	3%
<b>Fathers' Education</b>			
<HS	25%	23%	26%
HS	31%	28%	37%
>HS	44%	49%	37%
Parents Married at Baseline	31%	40%	15%
<b>Poverty Level at Baseline</b>			
Deep Poverty (<.5x FPL)	11%	9%	14%
Poverty (<1x FPL)	13%	11%	16%
Near Poor (<2x FPL)	23%	21%	25%
Non-Poor (>2x FPL)	53%	58%	45%
Impulsive Behavior Scale	0.95	0.87	1.08
Incarcerated Before Baseline Survey	15%	0%	43%



Substance Abuse at Baseline Survey	8%	5%	12%
<b>Father State Characteristics</b>			
Father Living in Different State than Baseline	6%	7%	6%
State Unemployment Rate	4.88	4.91	4.81
Local Unemployment Rate	5.12	5.09	5.17
Imprisonment Rate	464	464	465
Gini Coefficient	.59	.59	.59
Violent Crime Rate	481	484	475
Property Crime Rate	3347	3335	3372
Political Ideology of State Legislature	-.11	-.14	-.07
<b>Census Region</b>			
Northeast	22%	25%	18%
Midwest	28%	26%	30%
South	38%	35%	42%
West	12%	13%	11%
Pooled N	10351	6674	3677
Unique N	3120	2124	1297

At the state level, we control for attributes that may indicate state proclivity for adopting policy protections. All state-level controls are lagged by one-year to ensure that they capture state characteristics at the time fathers were employed or looking for work and are drawn from outside data sources merged into FFCWS. To adjust for state economic attributes, we control for the unemployment rate (U.S. Bureau of Labor Statistics, 2015) and Gini coefficient (Frank, 2015), a measure of inequality within the state. The local area unemployment rate of the fathers' census tract in the six months prior to the interview, a macroeconomic indicator provided by the FFCWS, is also included as a control variable. In models of nonresident father contributions, we instead control for the state-level unemployment rate (BLS, 2018), poverty level (University of Kentucky Center for Poverty Research, 2017), and minimum wage (University of Kentucky Center for Poverty Research, 2017) as measures of economic context due to data availability and differences in the research question. Measures of the imprisonment rate (Carson & Mulako-Wangota, 2018) and the violent and property crime rates (FBI, 2018) are included as indicators of the criminal justice context of the state. All models also include census region indicators to account for geographic variability. Models include measures of political ideology of the state House of Representatives (University of Kentucky Center for Poverty Research, 2017) to adjust for political differences between states in the models of father employment.

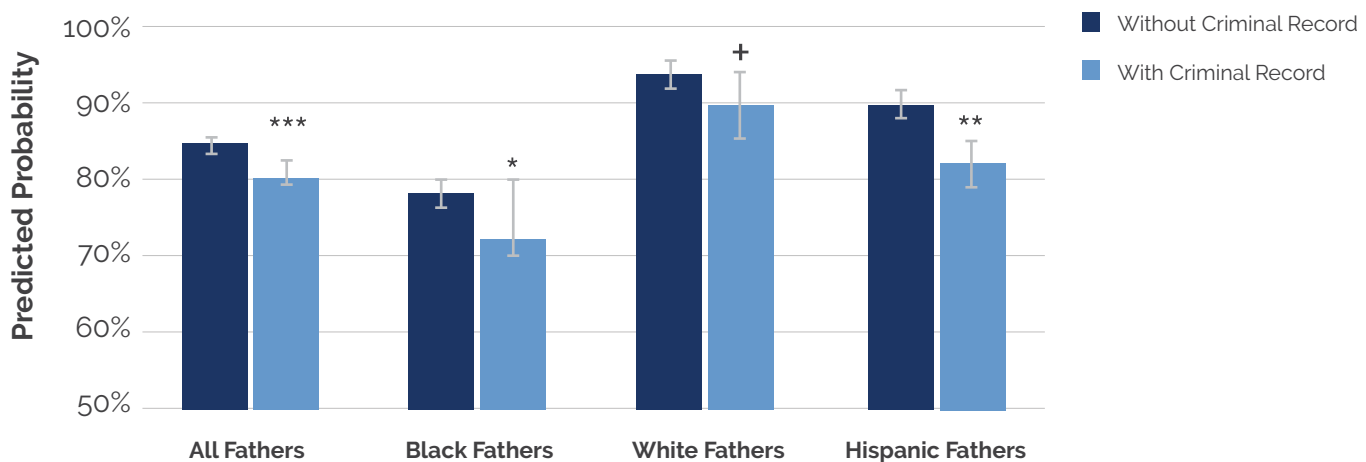
### Criminal Records and Father Employment

Our first set of analyses explores the association of fathers' criminal record with their employment status. We estimate these associations for all fathers in the pooled sample as well as by their racial and ethnic background, controlling for a rich set of static and time-varying characteristics of fathers and the economic and criminal justice context within the state as noted above (see Appendix 1 for full models). [Figure 9](#) presents the predicted probabilities of formal employment for fathers with and without criminal records for all fathers and by race/ethnicity from these fully controlled regression models.<sup>3</sup> We observe that fathers with a criminal record are five percentage points less likely to be working

<sup>3</sup>We estimate random effects models in a father/year panel with multiple observations per father, including robust standard errors clustered at the individual level.



**Figure 9: Predicted probability of employment for fathers from random effects models holding state and father attributes constant.**



Asterisks indicate statistically significant differences between fathers with and without records, and error bars indicate the 95% confidence interval of the prediction. \*\*\*  $p < .000$  \*\*  $p < .01$  \*  $p < .05$  +  $p < .10$

than those without one (80% versus 85%). This disadvantage is approximately the same across fathers of all racial and ethnic backgrounds; however, this difference is not statistically significant at conventional levels for white fathers.

### Protective Policies and Fathers' Employment

Our next set of analyses explores the role of protective policies. There are two ways of thinking about how policies might operate to affect fathers' employment. First, policies may impact the criminal record penalty, or the difference between fathers with and without records that we described in the prior section ([Figure 9](#)). If policies operate as intended, we would expect the record penalty to be smaller in states with more protective policy regimes. Second, policies may impact the levels of all fathers' employment status directly. If policies are working as expected, to protect the employment opportunities of individuals with criminal records, we would expect no association of policies with employment for fathers without records and we would expect higher employment for fathers with records living in states with more protective policies. Previous research on the related ban-the-box policies, however, suggests that policies regulating the use of criminal records might have implications for fathers from racial minorities without records as well (Agan & Starr, 2018; Doleac & Hasen, 2016). In this scenario, if policies are associated with racial discrimination, we would expect to see lower levels of employment in more protective policy regimes for fathers with and without criminal records, particularly for minority fathers. Findings are presented as figures, but with detailed coefficients and standard errors in [Appendix Table 2](#).

### Employment Policies

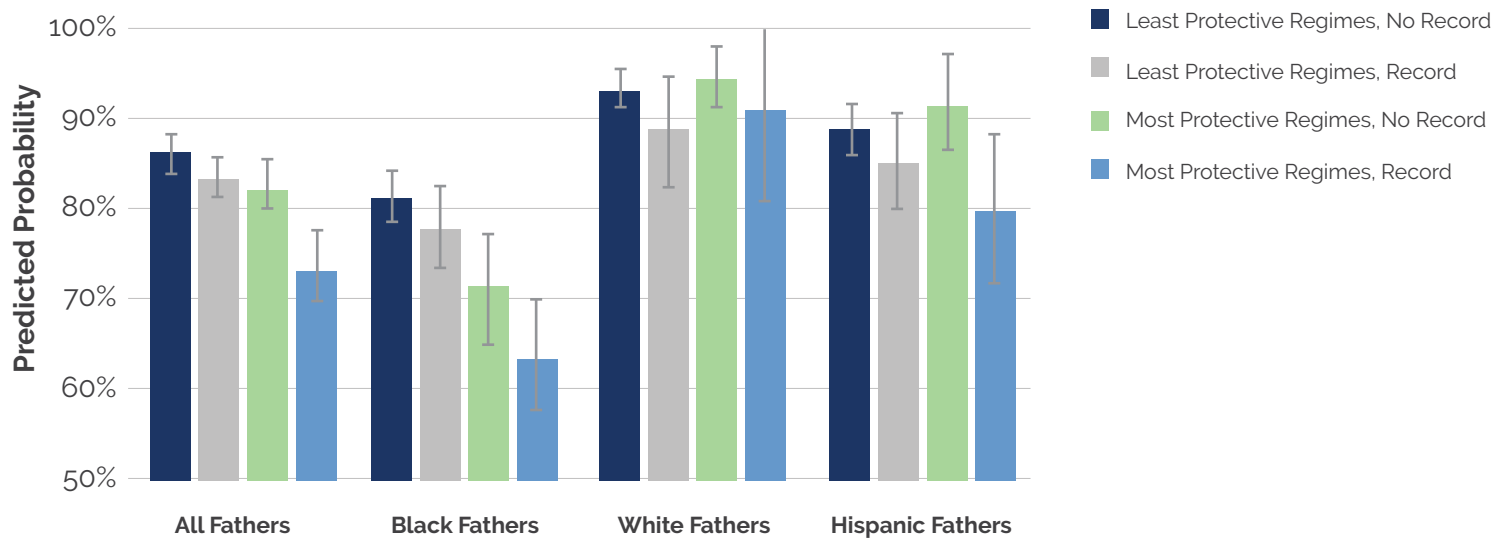
The first kind of policies we examine are those regulating the legal use of records during the hiring process. Using the employment policy index, we compare the employment of fathers with criminal records in the least protective states—those in which the use of records is entirely up to employer discretion—and the most protective states—those in which neither public employers, private employers, nor licensing agencies are allowed to consider arrests or have blanket bans based on criminal records. These models are estimated by including an interaction term between fathers' criminal record and the employment policy index to the models described in the previous section. Models are estimated separately by fathers' racial and ethnic background. [Figure 10](#) presents predicted probabilities of working<sup>4</sup> for fathers by

<sup>4</sup>Using random effects regression models controlling for all previously mentioned father and state controls.

criminal record status, whether they live in a state with all or none of the protective policies in place, and fathers' racial and ethnic background.

The results in [Figure 10](#) reveal that among black fathers, living in a more protective state is associated with a statistically significant decline in the predicted probability of employment regardless of criminal record status. For black fathers with records, those living in the most protective states are 15 percentage points less likely to work than those in the least protective states (64% versus 79%), though the criminal record penalty is not significantly different. This reduction in the level of employment is paralleled among fathers who do not have records—we observe that black fathers with no criminal records are also less likely to work (10 percentage points) in states with protective policies compared to those with no protective policies in place (71% versus 81%). This pattern is consistent with racial discrimination identified in evaluations of ban-the-box policies, indicating that employers and job applicants may respond similarly to policies restricting how record information can be used during the hiring process to the disadvantage of black men in particular.

**Figure 10: Predicted probability of employment for fathers from random effects models holding state and father attributes constant, stratified by father race/ethnicity. The least protective regimes are states in which no employment policies are in place, and most protective regimes are states in which all six employment policies are in place.**



Error bars indicate the 95% confidence interval of the prediction.

Protective employment policies are unrelated to the employment level or record penalty for white fathers but have strikingly different associations for Hispanic fathers. For Hispanic fathers, living in the most protective policy regime is associated with a larger criminal record penalty between fathers with and without records (10 percentage points) than observed in less protective states. Unlike for black fathers, however, the employment level of fathers without records is unaffected by employment policies, meaning that for Hispanic fathers, only those with records fare worse in more protective states (79% in most protective, 86% in least protective). This pattern is inconsistent with potential statistical discrimination or racial discrimination that may account for the associations we see for black fathers.

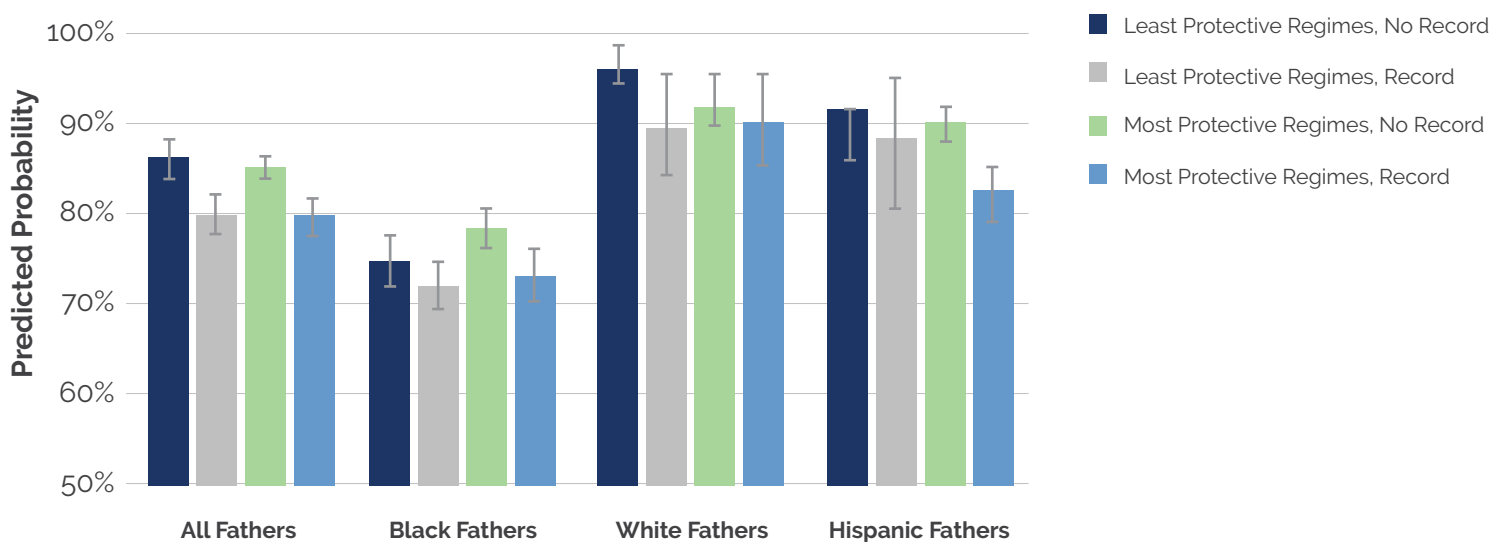
### Access Policies

The second kind of policies we examine are those regulating the extent to which states make criminal records available through searchable online databases. We compare the employment of fathers with criminal records in the least protective states—those in which criminal records are searchable in online databases—and the most protective states—those in which official criminal records are not available online. Similar to the previous policies, we calculate the predicted probability of employment for fathers by record, policy regime, and race/ethnicity, adjusting for father and state characteristics.



Figure 11 presents these predicted probabilities. Unlike in the previous findings, we observe no statistically significant differences in the penalty of a criminal record or the employment level by the presence or absence of protective policies for black or Hispanic fathers. Among white fathers, we observe a different pattern again. For white fathers without records, the level of employment is approximately four percentage points lower in more protective states. For white fathers with records, however, their employment is slightly higher and the criminal record penalty is slightly lower in more protective states. These differences, however, are small and not consistently significant so we avoid a strong interpretation of these findings.

**Figure 11: Predicted probability of employment for fathers from random effects models holding state and father attributes constant. The least protective regimes are states in which state databases of criminal records are available, and most protective regimes are states do not provide online databases of criminal records or current supervision status.**



Error bars indicate the 95% confidence interval of the prediction.



## Discussion

As our work and that done by many other researchers has demonstrated, having a criminal record or history of incarceration has serious implications for fathers' employment and thus likely their ability to provide for their children. These fathers face significant disadvantages in the formal economy, despite the importance of stable, high-quality work for self-sufficiency, support for children, and desistance from criminal activity (Apel & Horney, 2017; Uggen, 2000). Some of these barriers to employment are appropriate and warranted, as employees with certain kinds of criminal histories may put employers or the public at risk (Lageson, Vuolo, & Uggen, 2015; Jacobs, 2015; Holzer, Raphael, & Stoll, 2007). Other barriers, however, are primarily based in discrimination and the stigma associated with criminal records (Uggen et al., 2014a; Lageson, Vuolo, & Uggen, 2015; Pettit & Lyons, 2007; Holzer, Raphael, & Stoll, 2006). Indeed, research done on military recruits indicates that having a record does not necessarily indicate someone will be a poor employee after screening for other more job-relevant attributes (Lundquist, Pager, & Strader, 2018). The challenge of crafting public policies that support the integration of individuals with records into the formal economy is to balance these different perspectives.

In this study, we considered two kinds of policies that scholars and advocates alike have identified as "barriers to reentry" (Legal Action Center, 2004, 2009): employment discrimination protections and policies regulating the availability of official online records. Disappointingly, our findings indicate that these policies are not associated with greater economic opportunity and may even have unintended consequences, particularly for black fathers. This pattern of employment disadvantage faced by black men both with and without records, while counter-intuitive and frustrating from a policy perspective, is not entirely unexpected. Rather, this pattern of racial discrimination is consistent with what prior studies evaluating similar ban-the-box policies have found (Agan & Starr, 2018; Doleac & Hasen, 2016; Vuolo, Lageson, & Uggen, 2017). Our study, thus, joins a growing body of evidence suggesting that these policies are not a panacea for addressing discrimination based on criminal records or ensuring access to the formal economy for vulnerable fathers.

More broadly, our findings point to the unintended consequences of ostensibly race-neutral policies in increasing racial discrimination. We thus join with other researchers in concluding that it is difficult to disentangle race and pernicious racial stereotypes from policies ostensibly targeting poverty, violence, or economic wellbeing (Pager, Western, & Sugie, 2009; Agan & Starr, 2018; Desmond & Valdez, 2013; Wozniak, 2014). Many of these studies focus on employment, finding that removing "barriers" like indications of records (Agan & Starr, 2018), personality screens (Autor & Scarborough, 2008), or drug testing (Wozniak, 2014) can backfire for black applicants in particular. These findings also resonate, however, with seemingly unrelated research on issues like domestic violence and housing policy. In their study of third-party policing, a policy intended to incentivize landlords or business owners to address neighborhood disorder by instituting fines and other punishments, Desmond and Valdez conclude that rather than making neighborhoods safer, policies instead tended to result in the eviction of black women in violent relationships (Desmond & Valdez, 2013). Thus, a policy ostensibly intended to encourage landlords to take responsibility for problematic properties again resulted in sanctions borne by black families rather than an amelioration of the underlying social problem of neighborhood disorder or domestic violence.

Our study is not without limitations. First, while the FFCWS provides unique insight into the implications of criminal justice system involvement for fathers and families, the measures of criminal records are imperfect. Measures of incarceration, available for the broadest set of families, have been shown to systematically undercount true incarceration spells by up to 20% (Geller, Jaeger, & Pace, 2016). This problem is likely exacerbated in our more nuanced measures of fathers' criminal records due to both social desirability and the ambiguity associated with less stark forms of criminal justice involvement. Using contact with the criminal justice system as a proxy for criminal records is similarly flawed, as respondents are not asked whether their records are limited to juvenile offenses or



whether records have been sealed or expunged. Our estimates likely undercount fathers with criminal records and incarceration histories, leading to a conservative estimate of the implications for employment and interactions with policies. Second, the definition of employment used in our analysis is very inclusive. Fathers are defined as employed if they report working for pay or being self-employed in the week prior to the survey. This does not measure how long fathers spent looking for work, the quality of the employment they found, or how long they spent unemployed over the previous year. Studies that account for these important indicators of quality or quantity of employment are likely to find these fathers have more difficulty entering the labor force, and our measure should thus be considered a low threshold for entry into the formal economy. Finally, our modeling strategy relies on random effects models rather than more robust fixed effects models for employment policies due to limited variation both within father and within state. This strategy is appropriate for our data and makes the best use of the individual level data from FFCWS, but precludes a strong causal interpretation of our findings since it is possible we are instead capturing other underlying differences between states. We thus rely on the consistency of our findings with previous studies on criminal justice involved fathers' employment (Sykes & Geller, 2017; Pager, 2007, 2003) and specific policy studies done at the municipal or state and municipal levels (Doleac & Hasen, 2016; Holzer, Raphael, & Stoll, 2007; Agan & Starr, 2016) to build confidence in our results. These findings are also robust to a set of sensitivity analyses designed to ensure findings were not being driven by fathers' moving to more protective states, the lingering effects of the great recession, and decisions about how to code employment or policies.

More research is needed to address the limitations of the present study and examine more closely the implications of fathers' economic opportunities for the resources available to their children and families. A forthcoming paper based on this research looks explicitly at how policies regulating employer use of records in hiring and access to official criminal record databases shapes nonresident fathers' provision of formal child support, accrual of arrears, and contributions of in-kind or informal cash support to their children. Using data collected as part of this study, we also intend to investigate whether other policies associated with the barriers faced by fathers with criminal records have more promising implications for fathers and their ability to support their children.

Race and criminal justice involvement are inextricably linked, both because black men and their families are disproportionately involved in and affected by the criminal justice system (Uggen, Manza, & Thompson, 2006; Western & Wildeman, 2009) and because there is significant overlap between employers willing to discriminate on both fronts (Pager, Western, & Bonikowski, 2009; Pager, Western, & Sugie, 2009). Indeed, the disproportionate racial impact of policies against hiring individuals with criminal records motivated some of the first Equal Employment Opportunity Commission guidelines that criminal records be used only when directly relevant to a specific position rather than as a tool to exclude all applicants with records (EEOC, 1987, 2012). Addressing discrimination on one front without the other appears to backfire at worst or have little impact at best, suggesting that alternative policy approaches are needed to improve fair access to the formal economy.

Several policy approaches have been suggested by prior researchers that may be more fruitful for addressing record-based discrimination, though there has been less research evaluating these alternative approaches than research on ban-the-box and other information-limiting policies. Reflecting the link between discrimination on the basis of race and criminal record, some scholars have noted that enforcing existing antidiscrimination laws would directly address the issue of unequal access to the formal economy (Spaulding et al., 2015; Stacy & Cohen, 2017). Another potentially fruitful policy approach is to regulate criminal records so they present accurate information of value to employers but restrict access to incorrect or irrelevant criminal histories. While our study examines official state criminal record databases, there has been a proliferation of criminal records made available by private companies (Jacobs, 2015; Lageson, 2016b). These records, and to a lesser extent official criminal records, often contain errors that are very difficult to correct (Jacobs, 2015, chap. 7; Lageson, 2016). Taken together, this means employers have easy access to records of dubious quality that they may not be legally allowed to take into consideration. Even if criminal



records are correct, they are not equally relevant for employers. Old records and low-level records typically have little bearing for current employability (Uggen et al., 2014b), particularly if individuals with records can signal that they no longer pose a risk to employers or society (Leasure & Stevens Andersen, 2016). Taking steps to limit access to irrelevant information—such as old, incorrect, or low-level offenses—through sealing or expunging may make it easier both for employers to identify potentially problematic employees and for more individuals with records to access the formal economy. Finally, states may be able to work with employers directly to help mitigate the perceived risk associated with hiring individuals with records. This could take many forms, including tax incentives (Looney & Turner, 2018), assistance with securing insurance against employee malfeasance (State of Wisconsin Department of Workforce Development), developing accurate screening tools (Lundquist, Pager, & Strader, 2018), or reforming employer liability laws (Jacobs, 2015). Researchers, policymakers, and advocates should continue to develop strategies to improve access to the formal economy for fathers with criminal records, but our study indicates that it is also important to rigorously study these policies to ensure that they do more good than harm to the individuals and families they are intending to support.

## Key Related Research

Allison Dwyer Emory. working paper. "Protective State Policies and the Employment of Fathers with Criminal Records" Available: <https://fragilefamilies.princeton.edu/sites/fragilefamilies/files/wp19-04-ff.pdf>.

Allison Dwyer Emory, Lenna Nepomnyaschy, Daniel P. Miller, Maureen R. Waller, & Alex Haralampoudis. "Providing after Prison: Nonresident Fathers' Formal and Informal Contributions to Children" Abstract selected for *Russell Sage Foundation Journal of the Social Sciences: The Criminal Justice System as a Labor Market Institution* (2020).

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## Appendices

**Appendix Table 1: Protective Policy Indices by State Over Time (1996 to 2014)**

	Employment Policy Index <sup>1</sup>		Access to Records Index <sup>2</sup>	
	First Year in Data - 1996	Final Year in Data - 2014	First Year in Data - 1996	Final Year in Data - 2014
Alabama	0	0		
Alaska	0	0		
Arizona	0.25	0.25		
Arkansas	0.25	0.25		
California	0.5	0.75	1	1
Colorado	0.25	0.25		
Connecticut	0.5	1		
Delaware	0	0.5		
District of Columbia	0	1		
Florida	0.25	0.25	1	0
Georgia	0	0		
Hawaii	0.25	1		
Idaho	0	0		
Illinois	0.5	1	1	0.5
Indiana	0	0.5	1	0
Iowa	0	0		
Kansas	0	0.5		
Kentucky	0.25	0.25		
Louisiana	0.25	0.25		
Maine	0	0		
Maryland	0	0	1	0.5
Massachusetts	0	0.75	1	0.5
Michigan	0.25	0.25	1	0
Minnesota	0.25	0.5		
Mississippi	0	0		
Missouri	0	0		
Montana		0.5		
Nebraska	0	0.25		
Nevada	0	0		
New Hampshire	0.25	0.25		
New Jersey	0.25	0.5	1	0.5
New Mexico	0.5	0.5		
New York	1	1	1	0
North Carolina	0	0.25		
North Dakota	0	0		
Ohio	0	0.5	1	1
Oklahoma	0	0		
Oregon	0	0		
Pennsylvania	0.5	0.5	0.5	0
Rhode Island	0.5	1		
South Carolina	0	0		
South Dakota	0	0		
Tennessee	0	0	1	0
Texas	0	0	1	0
Utah	0.5	0		
Vermont	0	0		
Virginia	0	0	1	0.5
Washington	0.5	0.5		
West Virginia	0	0		
Wisconsin	1	1	1	0
Wyoming	0	0		

States highlighted in Blue are the 15 original Fragile Families States.

<sup>1</sup> Policies coded as proportion of 6 protective policies in state (0=none, 1=all).

<sup>2</sup> Policies coded as 0=state maintains searchable database of any criminal record; 0.5=state maintains searchable database only for those under current supervision; 1=state maintains no searchable database.

**Appendix Table 2: Full Models of the Associations of Fathers' Criminal Records and Their Employment, by Race/Ethnicity**

	All Fathers		White Fathers		Black Fathers		Hispanic Fathers	
	B	SE	B	SE	B	SE	B	SE
Father has Criminal Record	-0.05***	0.01	-0.04+	0.02	-0.04*	0.02	-0.07**	0.02
Father Race and Ethnicity								
<i>black, non-Hispanic</i>	-0.09***	0.01						
<i>Hispanic</i>	0.01	0.01						
<i>Other, non-Hispanic</i>	-0.13***	0.03						
Father Impulsivity	-0.02*	0.01	0.00	0.02	-0.03*	0.01	-0.02+	0.01
Father age	-0.00*	0.00	-0.00*	0.00	-0.00	0.00	-0.00*	0.00
Married at child's birth	0.05***	0.01	0.04*	0.02	0.07***	0.02	0.03	0.02
Father Education								
<i>High School or GED</i>	0.06***	0.01	0.05	0.04	0.10***	0.02	0.00	0.02
<i>Some college or more</i>	0.09***	0.01	0.06+	0.05	0.15***	0.02	0.04*	0.02
Father Baseline Poverty								
<i>Poverty 50 - 99% FPL</i>	0.04	0.02	-0.00	0.07	0.01	0.03	0.04	0.03
<i>Near Poverty (100 - 199% FPL)</i>	0.09***	0.02	0.04	0.06	0.08**	0.03	0.09**	0.03
<i>No Poverty (200% + FPL)</i>	0.13***	0.02	0.08	0.05	0.11***	0.03	0.10***	0.03
Substance use at child's birth	-0.01	0.02	-0.05	0.04	-0.01	0.03	0.01	0.03
Father baseline incarceration	-0.05**	0.02	-0.09*	0.04	-0.05+	0.03	0.01	0.03
Father born in US	-0.08***	0.02	0.04	0.03	-0.09**	0.03	-0.09***	0.02
Father living in different state	-0.01	0.02	-0.03	0.03	0.01	0.03	-0.01	0.03
Census Region								
<i>Midwest</i>	-0.04*	0.02	-0.06*	0.03	-0.04	0.03	0.03	0.04
<i>South</i>	0.00	0.02	-0.04	0.03	-0.00	0.03	0.02	0.05
<i>West</i>	-0.04	0.02	-0.02	0.04	-0.10*	0.04	-0.04	0.03
State Unemployment Rate (lagged)	-0.01	0.01	-0.00	0.01	-0.01	0.01	-0.00	0.01
State imprisonment rate (lagged)	-0.00	0.00	0.00	0.00	0.00	0.00	-0.00	0.00
State Gini coefficient (lagged)	-0.16	0.19	0.15	0.29	-0.54+	0.30	0.18	0.40
State violent crime rate (lagged)	-0.00	0.00	-0.00*	0.00	-0.00	0.00	-0.00	0.00
State property crime rate (lagged)	0.00***	0.00	0.00*	0.00	0.00	0.00	0.00	0.00
Local area unemployment rate (lagged)	-0.01***	0.00	-0.01+	0.01	-0.01*	0.01	-0.01**	0.01
Political ideology (lagged)	-0.00	0.01	-0.01	0.02	-0.02	0.02	0.01	0.02
Survey Wave								
<i>Wave 3</i>	0.05***	0.01	0.04**	0.02	0.03	0.02	0.06***	0.02
<i>Wave 4</i>	0.06***	0.01	0.04*	0.02	0.05*	0.02	0.06**	0.02
<i>Wave 5</i>	0.02	0.02	0.00	0.02	-0.02	0.03	0.06*	0.03
Constant	0.96***	0.11	0.84***	0.17	1.04***	0.18	0.86***	0.24
Observations	10,350	2,403	4,763	2,749				
Unique Individuals	3,120	687	1,462	834				

\*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$ , +  $p < 0.1$ . Robust standard errors beside. Panel data account for father-year random effects.

**Appendix Table 3: Interactions of Fathers' Criminal Record and State Policies on Employment**

		All Fathers	White Fathers	Black Fathers	Hispanic Fathers
<b>Employment Policies</b>	Criminal Record	-0.02 (0.01)	-0.05 (0.03)	-0.02 (0.02)	-0.03 (0.03)
	Policy Index	-0.03 (0.02)	0.01 (0.03)	-0.09* (0.04)	0.03 (0.05)
	Record X Policy Index	-0.07** (0.03)	0.02 (0.06)	-0.05 (0.05)	-0.10* (0.05)
	Observations	10,350	2,403	4,763	2,749
	Unique Individuals	3,120	687	1,462	834
<b>Access Policies</b>	Criminal Record	-0.05** (0.02)	-0.07* (0.03)	-0.05+ (0.03)	-0.03 (0.03)
	Policy Index	-0.01 (0.01)	-0.04* (0.02)	0.01 (0.02)	-0.02 (0.03)
	Record X Policy Index	0.01 (0.02)	0.05 (0.04)	-0.00 (0.03)	-0.04 (0.04)
	Observations	10,004	2,302	4,591	2,692
	Unique Individuals	3,072	673	1,436	830

\*\*\*  $p < 0.001$ , \*\*  $p < 0.01$ , \*  $p < 0.05$ , +  $p < 0.1$ . Robust standard error in parentheses. Panel data account for father-year random effects. Models include controls for father race/ethnicity, impulsivity, age, marital status at time of child's birth, education (time varying), baseline poverty level, nativity, whether the father moved states, local area unemployment rate, and census region. State-level controls are lagged by 1 year and include the unemployment rate, Gini coefficient, imprisonment rate, violent and property crime rates, and the partisanship of the state legislatures. Models also control for survey wave.

