How We Hinder

Legal and Practical Barriers to Reintegration

Prisoners return home with most of their treatment and vocational training needs unmet, and they will soon learn that they occupy an in-between status. They are back in society but not free. Under the federal law and the laws of every state, a felony conviction has consequences that continue long after a sentence has been served and parole has ended.

Convicted felons may lose many essential rights of citizenship, such as the right to vote and to hold public office, and are often restricted in their ability to obtain occupational and professional licenses. Their criminal record may also preclude their receiving government benefits and retaining parental rights, be grounds for divorce, prevent their serving on a jury, and nearly always limits firearm ownership. The restrictions on employment and housing create formidable obstacles to law-abidingness. One has to question whether we are jeopardizing public saftey by making it so difficult for prison releasees to succeed.

It is important to note that while the rehabilitation services available to assist inmates both in prison and after release have *decreased* in the past decade, the legal and practical barriers pertaining to their activities after release have *increased*. One survey shows that, after a period when states were becoming less restrictive of convicted felons' rights, the get-tough movement of the 1980s and 1990s had the effect of increasing the statutory restrictions placed on ex-prisoners (Olivares, Burton, and Cullen 1996).

Jeremy Travis refers to these restrictions as "invisible punishments" and notes their increasing importance to reintegration and sentencing policy:

> Over the same period of time that prisons and criminal justice supervision have increased significantly, the laws and regulations that serve to diminish the rights and privileges of those

> convicted of crimes have also expanded. Yet we cannot adequately measure the reach of these expressions of the social inclination to punish. Consequently, we cannot evaluate their effectiveness, impact, or even "implementation" through the myriad of private and public entities that are expected to enforce these new rules. Because these laws operate largely beyond public view, yet have very serious, adverse consequences for the individuals affected, I refer to them, collectively, as "invisible punishment." (2002, p. 16)

A complete state-by-state survey of civil disabilities of convicted felons can be found in *Civil Disabilities of Convicted Felons*, published periodically by the Office of the Pardon Attorney, U.S. Department of Justice (Love and Kuzma 1997). Most restrictions apply to all convicted felons, and not separately to parolees. In addition to the loss of some aspects of general citizenship (e.g., right to serve on a jury, vote, or hold public office), there are a number of other restrictions related to employment, parenting, marriage, and eligibility for housing assistance and welfare.

Some states have tried to mitigate the stigma of a felony conviction, as well as restore one or more of the rights previously denied, by allowing some disabilities to be removed automatically by the passage of time or the occurrence of an event, such as completion of sentence, or through some affirmative executive or judicial act, which may be based on evidence of rehabilitation. However, as a report on the subject concluded: "The laws governing the rights and privileges vary widely from state to state, making something of a national crazy-quilt of disqualifications and restoration procedures" (Love and Kuzma 1997, p. 3). The laws of the different states are complicated, often unknown to the offenders to which they apply, and the restrictions are difficult to get removed once they have been applied to you. Importantly, with growing computerization and greater public access to criminal records, the stigma and legal barriers affecting ex-prisoners are expanding and increasing in their importance.

Publicly Available Criminal Records

Loss of many civil rights is predicated on the existence of a criminal history record, usually one containing a felony rather than a misdemeanor conviction. According to a 1999 survey conducted by

SEARCH for the U.S. Department of Justice, more than 59 million individuals—or 29 percent of the nation's entire adult population—were in state criminal history files (Bureau of Justice Statistics 2001a). These state records may include arrests for misdemeanors or felonies, regardless of whether the arrest resulted in conviction. These records usually do not include minor infractions, such as driving tickets. In comparison, state criminal justice repositories covered just 30.3 million subjects in 1984 (or 17 percent of the U.S. adult population). Thus, the number of criminal history files maintained on U.S. citizens nearly doubled from 1984 to 1999.

The FBI also maintains criminal history information and reports that it had automated, fingerprint-based criminal history information on more than 43 million individuals in 1999 (24 percent of all adult citizens). FBI records pertain to federal offenders but also include records of state offenders voluntarily reported to the FBI by state agencies. FBI records include information about arrests for felonies and serious misdemeanors, not traffic offenses, infractions, or other misdemeanors.

FBI and state criminal record repositories historically did not maintain juvenile record information, except with respect to juveniles tried as adults. However, this nearly century-long practice ended in 1992 when the attorney general adopted a rule authorizing the FBI to accept—and disseminate under the same standards used for adults—state-reported records of serious offenses by juveniles.

Of course, having a criminal record is not nearly as stigmatizing as having been convicted and served time on probation, in jail, or in prison. Uggen and colleagues (2002b) recently used demographic life tables combined with recidivism probabilities to produce national estimates of the number of current and former criminal offenders in the United States in 2000. Their results are striking.

As shown in table 6.1, a growing number of Americans are now considered part of the criminal class, having been convicted and sentenced for a felony crime. This ex-felon lifetime stigma is significant and disproportionately felt among black adult males. Uggen and colleagues estimate that 15–19 percent of U.S. adult black males are current or former prisoners, and 29–37 percent are current or former felons. The authors note: "We realize that these estimates may appear surprisingly large in magnitude . . . yet it is extremely unlikely that our estimates of current prisoners and current felons are biased upward."

Not only are more Americans acquiring a criminal record, but also

Table 6.1. U.S. adult population with criminal records, 2000

Type of criminal record	Total	Percentage of Population		
		All adults	Adult males	Adult black males
Prisoners (includes current or former prisoners and parolees, federal and state)	5 million	2.5	5	15–19*
Felons (includes prison, parole, felony probation, and convicted felony jail populations)	13 million	6.5	11	29–37*

*The lower bound estimates assume a 25% higher recidivism rate for black prisoners, probationers, and parolees.

Source: Uggen et al. 2002b.

the growing use of computerized record-keeping systems means that the information is more easily shared. A major initiative of the U.S. Department of Justice in recent years has been to give financial support—nearly $400 million between 1995 and 2001—to help states improve the quality, completeness, and accessibility of their criminal history records. The National Criminal History Improvement Program's (NCHIP) goal is to enhance and upgrade the nation's criminal history records. These enhanced computerized systems—initially designed to assure that criminals did not buy weapons or hold positions involving children and the elderly—certainly affect the efforts of convicts trying to go straight as well. By the end of 2002, 40 states reported that more than 75 percent of their criminal history records are automated.

Certainly, the public safety benefits of sharing criminal record information are undeniable. But, as in other areas where private information is publicly shared, there are inherent dangers as well. Some of the criminal record information in the FBI and state registries has been shown to be inaccurate, and yet it is shared with landlords, financial institutions, and employers as if it were valid. In fact, in a recent Department of Justice review of the nation's criminal history information systems, data quality emerged as one of the most important issues identified by users. This report also noted that about 60 percent of the arrest entries fail to record final disposition data. Yet,

as noted below, 10 states provide members of the general public with this arrest-without-disposition information.

Criminal history information, once available solely to law enforcement and the courts, is now widely available to the public at large, although the degree of openness varies from state to state. Nearly all states make a distinction between arrest records and conviction records. In general, states are less likely to freely disseminate information on arrests, especially arrests for cases that are still open or have occurred within the previous year. States tend to place fewer restrictions on public access to conviction records.

At the end of 2002, 33 states allowed anyone to obtain criminal record, or "rap sheet," information, whereas the other states limited the dissemination of rap sheet information to individuals or organizations specified or authorized by statute (e.g., criminal justice agencies, employers). These results are contained in table 6.2. Just 15 states notify the rap sheet subject when an individual or organization requests information from his record. Of the states that allow anyone to have access, 20 limit the disseminated data to conviction-only information. The remaining states generally provide requesters with all information except sealed or expunged records or most juvenile data (Johnson 2001).

A survey recently completed by the Legal Action Center (see table 6.3) found that criminal records are now widely available to the public via the Internet. They reported that, in 25 states, the public has access to criminal records on the Internet for all individuals in prison. In 6 of those states, information that the public can access pertains only to inmates currently in prison or on parole. In 19 of those states, the publicly accessible information is on currently and formerly imprisoned and paroled offenders (Mukamal and Stevens 2002).

The information available to the public via the Internet includes both criminal record and personal information. For example, the public can search the Illinois Department of Corrections' (DOC) website using an inmate's name, date of birth, or DOC number. A screen will immediately appear with a current picture of the inmate (or parolee), the inmate's current status, residence location (if paroled), date of birth, height, weight, race, color of hair and eyes, scars or tattoos, security classification, county of commitment and release, discharge date, conviction crime, number of counts, sentence imposed, and other personal information. In some other states' Internet sites, information on modus operandi, cars driven, home address, gang affiliation, and substance abuse histories are also included.

Table 6.2. State policies on access to state criminal history records

Available to the general public	Available to criminal justice personnel only	Available to non–criminal justice entities if authorized by statute
Alabama*	Arkansas	Indiana
Alaska	California	Louisiana
Arizona*	Kentucky	New York
Colorado	Maryland	
Connecticut	Massachusetts	
Delaware*	New Jersey	
Florida*	New Mexico	
Georgia	Nevada	
Hawaii	North Carolina	
Idaho	Ohio	
Illinois	Rhode Island	
Iowa*	Tennessee	
Kansas*	Utah	
Maine	Vermont	
Michigan*		
Minnesota		
Mississippi		
Missouri		
Montana		
Nebraska*		
New Hampshire		
North Dakota		
Oklahoma*		
Oregon		
Pennsylvania		
South Carolina		
South Dakota		
Texas		
Virginia		
Washington		
West Virginia		
Wisconsin		
Wyoming*		

Note: Asterisks (*) indicate states that provide the public with "everything on record," including arrests without final dispositions.

Source: Johnson 2001, with additional updates provided by Johnson 2002.

Table 6.3. State policies on making prisoner records publicly available on the Internet

Records available for current and former prisoners and parolees	Records available for current prisoners and parolees only	Prisoner records not publicly available
Arizona	Alabama	Alaska
Arkansas	Iowa	California
Florida	Kentucky	Colorado
Georgia	Nevada	Connecticut
Illinois	Pennsylvania	Delaware
Kansas	Vermont	Hawaii
Louisiana		Idaho
Michigan		Indiana
Mississippi		Maine
Montana		Maryland
Nebraska		Massachusetts
New York		Minnesota
North Carolina		Missouri
Ohio		New Hampshire
Oklahoma		New Jersey
South Carolina		New Mixico
Texas		North Dakota
Washington		Oregon
Wisconsin		Rhode Island
		South Dakota
		Tennessee
		Utah
		Virginia
		West Virginia
		Wyoming

Source: Mukamal and Stevens 2002.

The Florida DOC, for example, supports public access to its state criminal record system, and it is more inclusive both in the kinds of people it covers and the information it contains. Florida's DOC Internet website allows the public to search for current and former prisoners, current and former parolees, current and former felony probationers, and absconders or fugitives. For each of those databases, detailed personal and crime information is available, including aliases, fingerprint classification, driver's license number, prior criminal record, and for those in the community, the address of the ex-prisoner's stated residence upon release.

In addition to the greater openness and completeness of state repositories, several services have emerged that perform nationwide criminal history record reviews for small fees. An Internet search of the term "criminal history record" will turn up several companies that will perform multistate criminal background checks for as little as $15 to $30 per state. An example of a widely used service is www.backgroundferret.com. This organization advertises that it can conduct a background check in any one of 34 states within four hours, and it will also do searches of county-level records.

Of course, such open access to criminal records is tremendously useful in protecting victims, community members, and employers. This value cannot be overstated. But we also need to think seriously about the detrimental effects on returning inmates, given that these records—some of them inaccurate—will be used to make decisions about them for the rest of their lives. A compromise policy seems reasonable. For example, perhaps only offenders with particularly serious crimes, or those whose crimes were recent (e.g., within the past five years) would have their records publicly shared. It would also make sense to limit what is shared with persons requesting information, for example, sharing only arrests followed by convictions or the mere existence of a prison record.

Employment Barriers and Workplace Restrictions

Most experts, as well as prisoners themselves, believe that finding a job is critical to successful reintegration. Employment helps exprisoners be productive, take care of their families, develop valuable life skills, and strengthen their self-esteem and social connectedness. Research has empirically established a positive link between job stability and reduced criminal offending. Lipsey's (1995) meta-analysis of nearly 400 studies from 1950 to 1990 found that the single most effective factor in reducing reoffending rates was employment. For recent reviews of the relationship between employment and crime, see Uggen (2000), and Bushway and Reuter (2002).

Parole boards always require parolees to "look for work" or "obtain a job" as a condition of release. However, it is important to recall that 18–21 percent of prison inmates report having a mental or physical condition that limits their ability to work (see table 2.6). A survey by the Association of Parole Authorities, International (APAI) found that 14 states say they would revoke for "failing to secure or hold a job," even if no crime were committed, while 31 states say they would not revoke if the person were attempting to locate work. Among parole violators in state prison in 1997, 1.2 percent (about 28,000 persons) reported that their parole had been revoked for "failure to maintain employment."

Holzer, Raphael, and Stoll (2002) note that, aside from their offender status, ex-prisoners have a number of other significant barriers to employment, including:

- very low levels of education and of previous work experience
- substance abuse or other mental health issues
- residing in poor inner-city neighborhoods that have weak connections to stable employment opportunities and are relatively removed from centers of job growth
- a lack of motivation for and attitudes of distrust and alienation from traditional work

In addition, ex-offenders are legally barred from a growing number of jobs, and they face an explicit unwillingness of many employers to hire them for the jobs from which they are not legally barred.

Formal Restrictions on Jobs, Bonding, and Licensing of Ex-Convicts

It is generally illegal for an employer to impose a flat ban on hiring ex-offenders. However, employers are increasingly forbidden from hiring them for certain jobs and are mandated to perform background checks before hiring an applicant for many others. The most common types of jobs with legal prohibitions against ex-offenders are in the fields of child care, education, security, nursing, and home health care, particularly where vulnerable populations (e.g., the elderly or disabled) are involved. Since 1985, the number of barred occupations has increased dramatically.

In California, for example, parolees are legally barred from working in the professions of law, real estate, medicine, nursing, physical therapy, and education. In Colorado, the jobs of dentist, engineer, nurse, pharmacist, physician, and real estate agent are closed to convicted felons. All states restrict former offenders from employment as barbers (even though many prisons provide training programs in barbering), beauticians, and nurses. In some instances, newly released offenders may find themselves legally barred from jobs they held before they were incarcerated. Even a prior arrest as a juvenile is an absolute bar to employment in a criminal justice occupation in many states, despite the fact that criminal justice agencies that have hired former convicts rate their job performance equal to or better than that of the average employee (Clear and Cole 2000).

Even when employers are willing to employ former inmates in entry-level jobs, they are sometimes unwilling to advance them to positions of responsibility. In addition to restrictions imposed by employers, some unions flatly exclude all ex-convicts. Ex-offenders also have difficulty in meeting employers' requirements of bonding against theft, a common practice in many service businesses. *Bonding* is a type of insurance that protects an employer against negligent or criminal activities committed by its employees. The courts ruled in *Hawker v. New York* (1968) that employers are legally allowed to refuse bonding to felons, stating, "Employers may make the record of a conviction conclusive evidence of the fact of the violation of the criminal law and the absence of the requisite good character." Prospective employers sometimes insist on bonds from people with criminal records that they would not require from other employees, and many bonding companies flatly refuse to underwrite bonds for ex-prisoners.

Moreover, the licensing requirements applicable to many jobs present still further obstacles to the employment of ex-offenders. Nearly 6,000 occupations are licensed in one or more states in the United States, many of which would be otherwise within reach of the ex-offender populations (Clear and Cole 2000). Licensing regulations, which apply to occupations ranging from law and medicine to collecting garbage and cutting hair, frequently contain broad enough standards of competency and honesty to result in flat proscriptions against all offenders. Often, there is no rational connection between the restriction placed on an ex-offender's occupation and the crime she committed.

Ironically, it is sometimes the jobs on which prison job programs focus that require licensing for which the ex-convict is ineligible. For example, one of the most popular vocational training courses in the New York City Reformatory is the barber school, but New York state usually denies applications for barber's licenses when the applicant has a prison record. It is important to remember all of these barriers when we question the relationship between in-prison work-training programs and postprison employment and ask, "Why don't they work better?"

Public employment (e.g., working for the county, state, or federal government), usually the largest employer in most states, is permanently denied to felons in six states: Alabama, Delaware, Iowa, Mississippi, Rhode Island, and South Carolina (Kuzma 1998). The remaining jurisdictions permit public employment in varying degrees. Of these states, 10 leave the decision to hire to the discretion of the employer, while 12 jurisdictions apply a "direct relationship test" to determine whether the conviction offense bears directly on the job in question. But the courts have interpreted the direct relationship standard liberally. For example, a California case (*Golde v. Fox*) found that the conviction for possession of marijuana for sale was substantially related to the business of real estate broker as it shows lack of honesty and integrity.

There are practical problems as well. Even for jobs that are legally accessible, ex-convicts are often precluded from applying because they do not possess the necessary documentation. Ex-convicts often need assistance in applying for various forms of identification and other important documents, such as drivers' licenses, Social Security cards, and birth certificates. These documents are vital for obtaining employment. Applying for and getting these documents can be particularly confusing and frustrating for a former prisoner, and the individual often needs one piece of identification in order to get another. Also, since the terrorism events of 11 September 2001, securing government-issued identification is more difficult.

A driver's license is often a prerequisite to establishing one's identity or obtaining many jobs, and some states are working with the Department of Motor Vehicles to renew inmates' drivers' licenses (if eligible) before release. However, Congress passed a law in 1992 requiring states to revoke or suspend the drivers' licenses of people convicted of drug felonies or lose 10 percent of the state's federal highway funds. This federal law requires states to revoke mandatorily or suspend individuals' drivers' licenses for at least six months upon conviction of a drug-related felony, and drug-related felonies are defined within the law as including DUIs (driving under the influence). As of 2002, 19 states and the District of Columbia had enacted conforming legislation (Travis 2002). The states that revoke drivers' licenses to conform with this federal law are Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Utah, Virginia, and Wisconsin.

Employer Use of Criminal History Records in Hiring Decisions

Whether or not the felon is *legally* eligible for the job or not, research suggests that most employers will ask about the applicant's criminal record, and once it is revealed, the applicant's chances of being hired are significantly reduced. Western, Kling, and Weiman (2001) found that employers are less likely to hire ex-convicts than those who provide *no* information about past convictions (i.e., leave the item blank) on employment applications.

Employers may legally consider an applicant's conviction(s) in making hiring decisions. If an applicant fails to disclose such information or misrepresents the information, and the employer discovers the deception, the individual can be legally fired. However, employers cannot legally use arrest records to exclude persons from employment unless there is a business justification. If it can be demonstrated that the applicant actually engaged in the conduct for which she was arrested and that the conduct is job-related and relatively recent, exclusion would be justified (U.S. Department of Labor 2001).

Evidence suggests that employers primarily use a criminal history record to make judgments about the general or essential character of an applicant. Employers who indicate they are not willing to hire ex-offenders say they are most concerned about their general "trustworthiness" rather than anything specifically related to the offense or the job in question. Because ex-offenders are seen as less trustworthy, they are limited to the "spot market," where employers offer only temporary or seasonal employment and thus trustworthiness is perceived to be less important.

Harry Holzer and his colleagues conducted surveys of employers in Atlanta, Boston, Detroit, and Los Angeles. The surveys inquired about the likelihood that the employer would be willing to hire an applicant with a criminal record. More than 60 percent of 3,000 employers surveyed indicated that they would "probably not" or "definitely not" be willing to hire an applicant with a criminal record, with "probably not" being the modal response. The responses were similar across the four metropolitan areas. The survey specifically questioned employers who had recently hired low-skilled workers, since they perhaps would be the most likely to hire ex-offenders. These results confirm that a large majority of employers are unwilling to hire ex-offenders (Holzer 1996).

The Holzer surveys also asked employers about their willingness to hire other categories of applicants. The results showed that 82 percent of those interviewed said they would hire a welfare recipient; 82 percent said they would hire a GED/government trainee; and 68 percent said they would hire someone who had been unemployed for at least one year. These results led Holzer and colleagues to conclude, "Employers are much more reluctant to hire ex-offenders than *any* other group of disadvantaged workers. Employers fear the legal liabilities that could potentially be created by hiring offenders, and they view their offender status as a signal of lack of reliability and trustworthiness" (2002, p. 10).

These results were confirmed recently in a national survey by Wirthlin Worldwide of 600 businesses participating in the Welfare to Work Partnership, a nonpartisan effort to assist businesses with hiring people on public assistance (Wirthlin Worldwide 2000). The Wirthlin survey reported that persons with a past criminal conviction were the "hardest to serve," and 40 percent of the respondents reported that they would "never hire anyone with a felony drug conviction" (see figure 6.1).

Both the Holzer and Wirthlin surveys revealed that employers are reluctant to hire ex-convicts partly because they fear that they will incur liability if that person commits a new crime. This is known as *negligent hiring* and refers to instances where employers who knew, or should have known, that an employee had a history of criminal behavior may be liable for the employee's criminal acts. Under the theory of negligent hiring, employers may be exposed to punitive damages as well as liability for loss, pain, and suffering. The Wirthlin survey found that employers would be more likely to consider hiring an ex-convict if the government would insure them against any financial loss or legal liability should something go wrong. Indeed, a number of state and federal bonding programs now exist.

In most cases, however, an employer will not face legal liability if she hires an ex-offender. While state standards differ, the key to determining liability is usually whether the employer could have foreseen the crime, specifically, whether the employee had a history or propensity for harmful behavior and, most important, whether the employer knew or should have known of the employee's propensity. Generally, an employer's reasonable efforts to check and consider a prospective employee's background will satisfy the legal requirement and eliminate the risk of liability for the employer (U.S. Department of Labor 2001).

Despite these legal protections, most employers simply will not

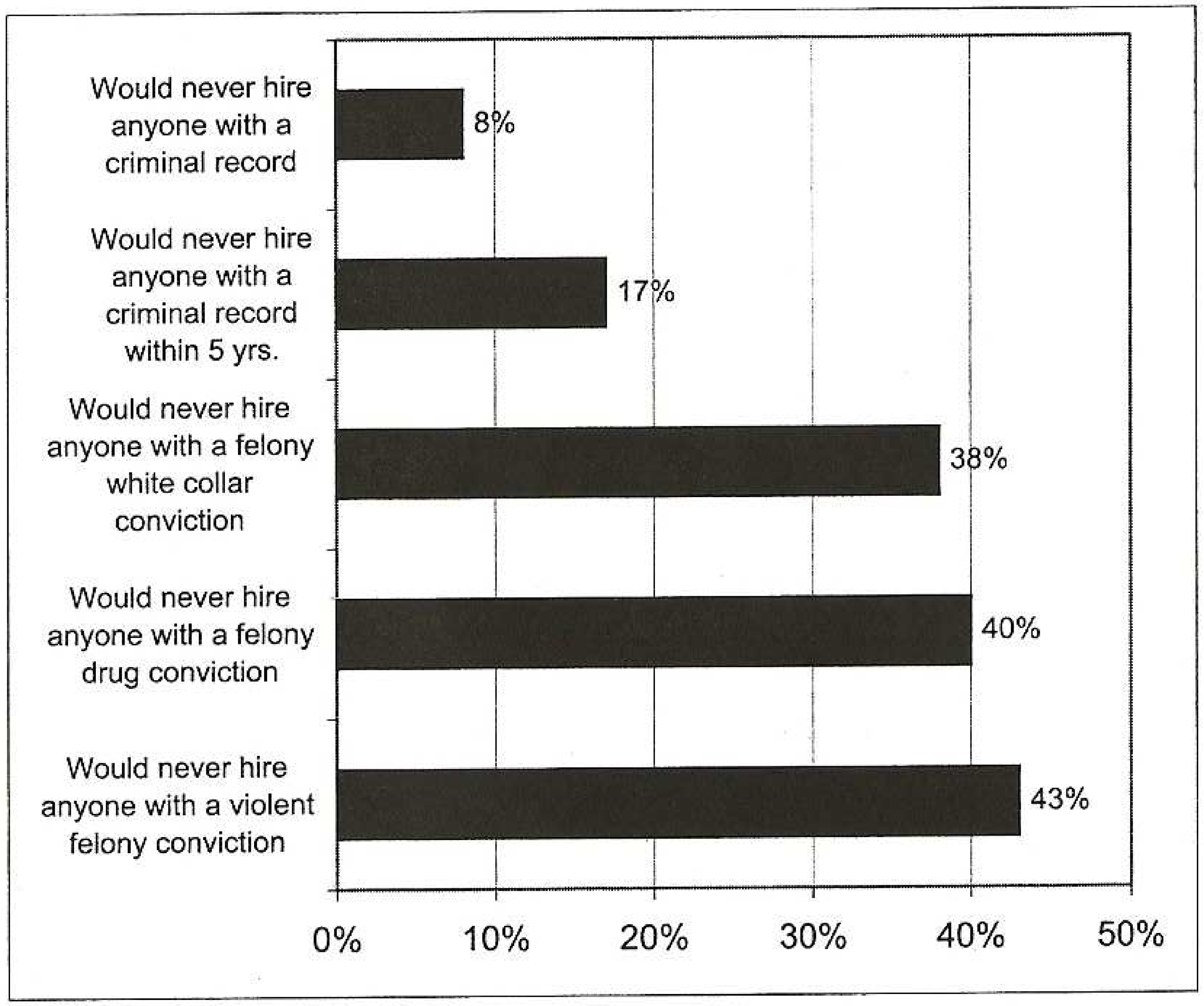

Figure 6.1. Employers' reported levels of comfort with those with criminal records. *Source*: Wirthlin Worldwide 2000.

take the chance when the job entails working directly with customers or handling property that belongs to others. Holzer and colleagues found employers relatively more willing to hire ex-offenders in construction and manufacturing than in retail trade or the services. Unfortunately, the kinds of jobs into which employers are willing to hire those with criminal records are those that are diminishing over time as a fraction of the workforce (i.e., blue collar jobs and those in manufacturing), while those in which employers are most reluctant (i.e., involving customer contact, child care, or elder care) are increasing.

Holzer's research found that, in 2001, about 63 percent of employers always or sometimes checked the criminal backgrounds of applicants, compared to 48 percent in 1994. His team also found that employer uncertainty about the exact identity of ex-offenders also generates the prospect that they might avoid an entire class of workers (i.e., less-educated young black men) whom they suspect of being offenders. Holzer and colleagues found that "employers who are

unwilling to hire ex-offenders but who also do not check criminal records—such as small establishments without human resource departments and with relatively informal screening activities—tend to hire fewer young black men than do establishments that check records." They conclude: "If it is true that the use of record checks is growing over time, our results imply that this will improve the job prospects of young men who might be wrongfully suspected of having had problems with the law, but could further impede the prospects of those who really are ex-offenders" (2002, p. 5).

No state or federal prison tracks the number of inmates employed after release, but the few available statistics continue to reveal high rates of joblessness among this group. Unemployment among ex-offenders has been estimated at between 25 and 40 percent (Finn 1998b). In California, for example, it is estimated that as many as 80 percent of ex-offenders remain jobless a year after being released from prison (Petersilia 2000). Again, however, it is worth pointing out how woefully inadequate our state of knowledge is regarding prisoner reentry. Employment has been shown to be a key factor in reintegration, and yet we make no effort to routinely collect job-related information.

Western and Beckett (1999) have shown that the unemployment of a large number of felons also has broad economic implications. They argue that one of the reasons America's unemployment statistics look so good in comparison to those of Western European nations is that 1.4 million mainly low-skilled workers—precisely the group unlikely to find work in a high-tech economy—are in prison and are thus not considered part of the labor force. If they were included, the researchers note, unemployment statistics would be 2 percent higher than the unemployment level now reported. They caution that the diminished employability of a growing number of ex-convicts points to higher rates of unemployment in the future.

Western and colleagues also find that conviction status imposes a significant, immediate "wage penalty" on criminal offenders and alters long-term earnings trajectories by restricting access to career jobs (Western, Kling, and Weiman 2001). They estimate that when offenders do secure jobs, they earn 10–30 percent less than individuals with the same characteristics who were not incarcerated. Evidence suggests that the effects of arrest and incarceration on finding a job likely decrease over time, however, the effects of incarceration on earnings appear to be sustained. Moreover, Nagin and Waldfogel (1998) find that the effect of imprisonment on employment and future earnings is particularly pronounced for inmates over age 30, suggesting that as the prison and parole population ages, their employment prospects become bleaker.

Finding employment today is much more difficult for the ex-prisoner. Data from the BJS Survey of Prison Inmates shows that in 1974, 62 percent of prisoners reported being employed full time prior to incarceration; this number had fallen to 56 percent by 1997. When the unemployment rate was lower, in 1998–1999, ex-convicts were being hired for some jobs that had been closed to them in the past. But as the economy has slowed, the job prospects for returning prisoners are quite bleak. Not only are low-skill jobs declining overall in the United States, but also there is greater competition for those that remain due to welfare reform legislation.

The 1996 welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act, imposed a five-year lifetime limit on welfare benefits and required welfare recipients to work to receive benefits. Since then, welfare caseloads have dropped nearly 50 percent. These stringent welfare rules made work a more urgent priority, since recipients lose a large portion of their already meager incomes unless they find jobs. As welfare recipients move into the workforce, they compete for the exact same jobs as ex-offenders.

Clearly, the bias and stigma arising from having a criminal record limit the job prospects of ex-inmates. Civil disabilities and other legal restrictions limit the jobs for which they can apply, and in jobs for which they are legally eligible, there is stiff competition for a declining number of them. If parolees are truthful about their backgrounds, many employers will not hire them. If they are not truthful, they can be fired for lying if the employer learns about their conviction.

Housing and Homelessness

Parole officials say that finding housing for parolees is by far their biggest challenge, even more difficult and more important than finding a job. In some states, parolees are given two- to four-week vouchers to pay for an inexpensive room in a hotel or local boarding facility. But that time passes quickly, and without a stable home base, few services can be effectively delivered. As a Massachusetts report on the subject put it:

> 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 linchpin that holds the reintegration process together. Without a stable residence, continuity in substance abuse and mental health treatment is compromised. Employment is often contingent upon a fixed living arrangement. And, in the end, a polity 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. (Bradley et al. 2001, p. 7)

State prisoners are often incarcerated in facilities far away from their return destination and have no opportunity to secure housing prior to discharge. Parole conditions can also prevent parolees from living or associating with others who are criminally involved. This restriction includes family and friends who may be willing to take this person in, further limiting housing options. Since ex-inmates are usually unable to amass the funds required to move into an apartment (first and last months' rent, security deposit), the private housing market—which represents 97 percent of the total housing stock in the United States—is usually cost prohibitive. Even if the ex-prisoner can afford it, landlords conducting background checks or requiring credible work histories usually pass over an applicant with a prison record.

So, ex-prisoners attempt to locate suitable public housing—and yet some laws now *require* public housing agencies and providers to deny housing to certain felons (e.g., drug and sex offenders). Even if they qualify, waiting lists can be as long as two to three years for subsidized housing. Convicts therefore show up at over-crowded shelters with long waiting lists and limits on the number of days they can remain in residence.

Despite its importance, we know almost nothing about the exact housing arrangements of former prisoners, and estimates vary widely. The Bureau of Justice Statistics reports that 12 percent of U.S. prisoners were homeless immediately prior to their incarceration. *Time* magazine reported, "30% to 50% of big-city parolees are homeless" (Ripley 2002, p. 60). Massachusetts reports that nearly a quarter of all released prisoners experience homelessness within a year of release (Bradley et al. 2001). California Department of Corrections officials report that overall 10 percent of the state's parolees are homeless, but in large urban areas (e.g., San Francisco, Los Angeles), the rate of homelessness among parolees is estimated to be 50 percent.

Public housing represents a last resort for the returning prisoner to avoid a shelter or the streets. Yet, subsidized public housing began disappearing as a viable option for many ex-prisoners due to tighter restrictions about who could qualify for the subsidies and who could live in the residences.

Prisoners returning to their families in subsidized public housing complexes are often no longer welcome. Due to the U.S. Department of Housing and Urban Development's "one strike and you're out" policy, the public housing authority may evict all members of the household for criminal activities committed by any one member of a household. These policies were designed to protect law-abiding members of public housing communities from the criminal behavior of other residents. Some courts have upheld these evictions, even if the activities were unknown to the head of the household. Obviously, the fear of being evicted for the future criminal acts of the returning family member is a legitimate concern for the relatives in public housing.

Congress also authorized the exclusion of certain offenders from receiving federally supported public housing. According to the Legal Action Center (2001), public housing law currently requires public housing agencies and providers of Section 8 vouchers and other federally assisted housing to deny housing to

- individuals who have been evicted from public, federally assisted, or Section 8 housing because of drug-related criminal activity (ineligible for public or federally assisted housing for three years)
- any household with a member who is subject to a lifetime registration requirement under a state sex-offender registration program
- any household with a member who is currently abusing alcohol or is illegally using drugs. Current tenants must be evicted on the same basis. The housing provider may permit these individuals to be admitted or remain in such housing if the person demonstrates that he is not currently abusing alcohol or illegally using drugs and has been rehabilitated.

In addition, federal regulations grant the Public Housing Authority the discretion to prohibit admission of all other criminally involved individuals. These restrictions, combined with the fact that the inventory of U.S. public housing continues to shrink, means that parolees are seldom allowed to live in public housing.

The dire housing situation of parolees has led Representative Danny Davis, 7th District of Illinois, to introduce the Public Safety Ex-Offender Self-Sufficiency Act, H.R. 3701, on 2 February 2002. It proposes amending the IRS Code of 1986 to provide landlords with tax credits for renting to ex-prisoners. As of September 2002, it was under review by the House Committee on Ways and Means.

Housing and homelessness certainly affect recidivism, but analysts say there are broader implications, and parolees' homelessness influences overall crime rates in the community. Large numbers of transients/vagrants and panhandling increase citizen fear, and that fear ultimately contributes to increased crime and violence. Wilson and Kelling originally discussed this phenomenon in 1982, labeling their theory "broken windows." Basically, the broken windows theory suggests that neighborhood crime is often caused by the fact that law-abiding citizens are afraid to go onto streets filled with graffiti, panhandlers, and loitering youth. Fearful citizens eventually yield control of these streets to people who are not frightened by these signs of urban decay. Those not frightened turn out to be the same people who created the problem in the first place. A vicious cycle begins where fear-induced behavior increases the sources of that fear. They illustrate this by describing how a broken window can influence crime rates. If the first broken window in a building is not repaired, then people who like breaking windows will assume that no one cares about the building, and more windows will be broken. Soon, the building will have no windows (Wilson and Kelling 1982). As "broken windows" spread—homelessness, graffiti, panhandling—businesses and law-abiding citizens move from the area, and disorder escalates, possibly leading to serious crime.

The broken windows thesis has led to changes in policing that give greater emphasis to enforcement against minor offenses, including the so-called quality-of-life crimes (e.g., homelessness, panhandling). While many find such practices offensive, a study by Fagan, Zimring, and Kim (1998) found that such practices likely contributed to New York City's declining violent crime rate. Unfortunately, many of those picked up by the police and jailed for these offenses are homeless parolees who had few options for housing and work due to the often insurmountable barriers they faced during reentry.

Public Assistance and Welfare

Just as access to jobs and public housing has significantly been curtailed for ex-convicts, so too has general financial assistance. When President Bill Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, it dramatically changed the nature of the American welfare system. The law ended individual entitlement to welfare and replaced it with a block grant to states called Temporary Assistance for Needy Families (TANF). TANF imposed a five-year lifetime limit on benefits, required welfare recipients to work to receive benefits, and strengthened child support enforcement requirements for noncustodial parents. As Jeremy Travis 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" (Travis 2002, p. 19).

One provision of the law requires that states *permanently* bar individuals with drug-related felony convictions from receiving federally funded public assistance and food stamps during their lifetimes. This provision applies to all individuals convicted of a drug felony after 22 August 1996. Patricia Allard (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 a small quantity of drugs. Congressional records indicate that this drug provision was introduced and ratified with bipartisan support after just two minutes of debate.

The law also gives states the option of testing current welfare recipients for illegal drugs and imposing sanctions against those who test positive. While states can exempt some recipients from work requirements and provide some with assistance beyond the five-year limit, many states are implementing work rules and time limits *more* stringent than required under federal law (Rubinstein 2001). As shown in table 6.4, in 22 states, the ban on welfare and food stamps is permanent *for life* for individuals convicted of drug felonies—regardless of whether that person is only a minor or a first offender—and continues despite an individual's successful job history, participation in drug treatment, abstinence from drug use, or avoidance of recidivism.

An offender's eligibility to receive public assistance is critical to

Table 6.4. State policies on implementing lifetime welfare ban for people convicted of drug felonies

Denies welfare benefits entirely, for life	Partial denial/ term denial	Benefits dependent on drug treatment participation	Opted out of federal welfare ban for people convicted of drug felonies
Alabama	Arkansas	Hawaii	Connecticut
Alaska	Colorado	Kentucky	District of Columbia
Arizona	Florida	Maryland	Michigan
California	Illinois	Minnesota	New Hampshire
Delaware	Iowa	Nevada	New York
Georgia	Louisiana	New Jersey	Ohio
Idaho	Massachusetts	South Carolina	Oklahoma
Indiana	North Carolina	Utah	Oregon
Kansas	Rhode Island	Washington	Vermont
Maine	Texas	Wisconsin	
Mississippi			
Missouri			
Montana			
Nebraska			
New Mexico			
North Dakota			
Pennsylvania			
South Dakota			
Tennessee			
Virginia			
West Virginia			
Wyoming			

Source: Allard 2002.

successful reintegration, since many people with criminal records are not immediately "job ready" and require services, such as substance abuse treatment, job training, or education, before they can enter the job market. During this process of becoming job ready, ex-offenders have historically relied on public assistance to pay for food and housing. Since welfare and food stamps often helped fund room and board in alcohol and drug treatment programs, ex-offenders now find it increasingly difficult to pay for their treatment programs. The Legal Action Center recommends that states narrow the ban and exempt individuals who have completed or are in treatment, which gives the individual an incentive to enter and stay in treatment.

The welfare reform 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. These violations may include absconding or not reporting to a parole officer, not attending treatment, or testing positive for drug use. For example, not attending a drug treatment program can result in the loss of welfare support (but attending programs can conflict with the welfare-to-work requirement of working a certain number of hours per day).

These policies affect not only the felon but also her children. As noted earlier, women constitute the most rapidly growing segment of the U.S. prison population; the majority (34 percent) are serving a sentence for a drug crime; and 65 percent of them have children. Before being incarcerated, one-quarter to one-third of parents were unemployed, with significantly more mothers in both systems reporting unemployment (50 percent of women in state prison and 38 percent of women in federal prison). In addition, about 35 percent of mothers (and 11 percent of fathers) in prisons received welfare benefits before being incarcerated (Rubinstein 2001).

Allard (2002) estimates that since the ban went into effect in 1996, more than 92,000 women have been convicted of drug offenses in the states enforcing it, most of them low-income black and Hispanic women. Of these, about two-thirds are mothers, with 135,000 children among them. A *New York Times* article urging states to reconsider this provision of the welfare reform law concluded, "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. And offenders in prison are being supported by the state" (Schwartz 2002).

One wonders how the children in these fragile family units are to survive when their parents return home. They will no longer be able to receive financial subsidies for housing and food, and the parent's criminal record will make it very difficult to get a job. Without access to welfare benefits, these vulnerable families are left with virtually no safety net.

Parental Rights and Marriage

Congress passed another piece of legislation that dramatically affected the families of prisoners, the Adoption and Safe Families Act

of 1997 (ASFA). ASFA was intended to move children into permanent placements within mandated time frames, so that foster children did not languish in foster care, unable to be adopted. But some of its provisions have significantly affected women and men in prison and their parental rights.

ASFA prohibits individuals with certain criminal convictions from being approved as foster or adoptive parents and requires states to terminate parental rights in cases where the parents have been found to have committed murder, voluntary manslaughter, or acts of serious violence against their children. Permanently separating children from their violent parents has merit. But ASFA also accelerates the termination of parental rights for children who have been in foster care for 15 of the most recent 22 months.

An evaluation of ASFA by the Government Accounting Office (GAO) showed that several states have shortened the time frame for initiating the process of terminating parental rights for foster children from the 15-month limit established by ASFA to 12 months. (Government Accounting Office 1999). Although the number of children affected by ASFA is presently unknown, foster care placements have increased dramatically in the last several years. And, since the average prison term served is now 29 months, a growing number of parents in prison will have their parental rights terminated, and clearly, more children will be formally adopted as a result of this act. It is unclear whether this will be beneficial or damaging to the children involved, but the GAO called this a "good piece of legislation."

Criminal Registration and Sex-Offender Community Notification

The rape and murder of seven-year old Megan Kanka in New Jersey by a paroled sex offender led to a series of sex-offender notification laws, called Megan's Laws after the victim. In 1986, only eight states required released offenders to register with local police. By 2002, every state had enacted legislation requiring convicted sex-offenders to register with law enforcement upon release from prison. In 30 states, DNA is also now collected from prisoners convicted of sex crimes. The duration of sex-offender registration requirements range from 10 years to life. Twelve states mandate lifetime registration for sex offenders.

More than 386,000 convicted sex offenders were registered with local law enforcement in 2001—88,000 of them in California alone. The number of registered sex offenders in the United States increased by more than 30 percent since 1998. In 29 states and the District of Columbia, sex-offender information is publicly accessible on a searchable website. A recent publication by the BJS lists the Internet website addresses for each of these states (Adams 2002). On most of these sites, after entering the person's name, a screen will appear showing a photo of the individual, gender, height, weight, color of eyes and hair, ethnicity, date of birth, and conviction offense. Some sites also include the current address, aliases, current vehicles, and target population (for example, see Utah's site at http://www.udc.state.ut.us).

Few would argue with the need to notify communities when dangerous sex offenders are released from prison. Without notification, citizens and victims are denied an opportunity to take precautions to ensure their own safety. With notification, the anonymity of the offender in the community is reduced, thereby increasing public safety.

The more difficult issue is exactly what offenses should require registration and the duration of the registration requirement. "Sex crimes" cover a broad array of criminal behavior, including attempted solicitation of a prostitute, promoting prostitution, oral copulation, kidnapping of a child, rape, sexual abuse if the victim is 16 or 17 years of age and at least 3 years younger than the offender, indecent exposure, and so on. In California and several other states, some of the covered crimes are misdemeanors. In many states, offenders convicted of any of the above crimes are required to register for life.

During the 1990s, the offense categories that trigger the registration mandate have increased. Illinois, for example, now requires sex offenders and those convicted of first-degree murder of a victim under 18 to register. Some states also require all drug addicts, persons convicted of arson or domestic violence, and those designated mentally ill to register.

Increased victim protection and community safety are seen as the positive effects. The negative effect is that registration and public notification are sometimes used to threaten, intimidate, or harass registered offenders. Sex offenders elicit a uniform and united response of revulsion from all of society. Ultimately, this makes it harder for parolees to succeed. They are further alienated from society and ex-

cluded from the very social support factors that might help them succeed. While such laws expressly forbid harassment by private citizens, there have been many instances of this occurring. Some argue that public notification drives parolees underground, encouraging them to abscond supervision. Without formal supervision, parolees become less visible than they would have been under the watchful eye of a parole officer. Of course, if they do not abscond, registration increases their public visibility and reduces their anonymity within the community.

Despite the public attention and concern over sex offenders reentering the communities, we have little solid research to weigh the pros and cons of community notification, sex-offender registries, or different treatment programs on their recidivism. Persons convicted of sex crimes generally have slightly lower rates of recidivism than other offenders, but it is not clear what accounts for those differences. It may be that sex offenders have higher rates of absconding, more effective treatments, or other preexisting characteristics that predict lower recidivism.

Several reviews note the paucity of research in this area. As one review put it: "There is almost no literature on the ability of either supervision or community notification (either as added components of treatment or separately) to reduce recidivism of sex offenders" (Quinsey et al. 1998). Even in studies that examine the issue, details of the crime, treatment, conditions of supervision, or community notification are not systematically included, leading Gaes and colleagues (1999) to conclude that sex-offender treatment and supervision is the most difficult to summarize simply because the data are so inadequate.

The tough-on-crime mood of the public during the 1980s and 1990s was concentrated primarily on drug offenders and those convicted of sex crimes. Police arrested more persons for those crimes; a greater proportion of arrestees were sentenced to prison; and now nearly all of them are returning home. A greater number of sex offenders are being mandatorily sent to prison, released automatically at the end of their term, and sometimes subjected to community notification procedures that backfire in terms of reintegration. Many of these offenders are among society's most serious criminals, while others are minor offenders caught up in a broad label of "sex offender." Policies affecting sex offenders seem poorly thought through.

Voting Rights and Democratic Participation

At the end of 2002, every state but two had disfranchisement laws that deprived felons of the right to vote while serving a prison or jail sentence for a felony offense. Uggen (2002) reports that 34 states also prevent felons from voting while they are on parole or probation or both. These laws are a growing impediment to political participation. It is interesting to note the gradient of restrictiveness: Maine and Vermont currently impose no restrictions, yet 10 states *permanently* deny convicted felons the right to vote after a single felony conviction (see table 6.5). Disfranchising felons for life is a custom unheard of in other democratic countries.

Those voting restrictions have resulted in some 4.7 million Americans currently being unable to vote because of their status as felons or ex-felons. Manza and colleagues estimate that disfranchised felons and ex-felons currently make up 2.09 percent of the voting age population (see table 6.6.), a figure that they project will increase to 3 percent within 10 years (Manza, Uggen, and Britton 2001). They also found that more than one-third (37 percent) of those unable to vote had already completed their criminal sentences: 28 percent are probationers, 9 percent are parolees, and just 27 percent are in prison and jail.

Felony disfranchisement laws most severely affect the African-American electorate, given that they disproportionately experience criminal convictions. Nearly 7 percent of *all* black Americans cannot participate in the electoral process because of a felony conviction (see table 6.6). Of these, 1.4 million are African-American males, representing 13 percent of all black men. Certainly such exclusions are fundamentally contrary to our conceptions of democracy and citizenship.

Fellner and Mauer (1998) report that Florida and Texas each disfranchise more than 600,000 people. In Alabama and Florida, almost one-third of black men are disfranchised for life. In Iowa, Mississippi, Virginia, and Wyoming, one in four African-American men is disfranchised for life. In Minnesota, almost 22 percent of African-American men and 5 percent of African-American women are currently denied the right to vote.

Important new analyses by Uggen and Manza (2001) show that the Republican presidential victory of 2000, in which George W. Bush defeated Albert Gore, would have been reversed had felons been allowed to vote. They statistically modeled the expected voter turnout

Table 6.5. State policies on felon voting rights

Current and former prisoners, parolees, felony probationers cannot vote	Current prisoners, parolees, felony probationers cannot vote	Current prisoners and parolees cannot vote	Only current prisoners cannot vote	No felony disfranchisement; everyone can vote
Alabama*	Alaska	California	Hawaii	Maine
Arizona	Arkansas	Colorado	Illinois	Vermont
Delaware	Georgia	Connecticut	Indiana	
Florida*	Idaho	Kansas	Louisiana	
Iowa*	Minnesota	New York	Massachusetts	
Kentucky*	Missouri		Michigan	
Maryland	Nebraska		Montana	
Mississippi*	New Jersey		New Hampshire	
Nevada*	New Mexico		North Dakota	
Tennessee*	North Carolina		Ohio	
Virginia*	Oklahoma		Oregon	
Washington*	Rhode Island		Pennsylvania	
Wyoming*	South Carolina		South Dakota	
	Texas		Utah	
	West Virginia			
	Wisconsin			

Note: Asterisks (*) indicate states that bar felons from voting after a single felony conviction.

Source: Uggen 2002.

Table 6.6. Percentage of citizens affected by felony disfranchisement provisions

Race	Percentage of voting-age population
Black	6.57
White, Hispanic, and other	1.49
All	2.09

Source: Manza, Uggen, and Britton 2001; Uggen 2002.

and vote choice of disfranchised felons and found that they would have had a sizable impact on this and several other recent elections. They concluded:

> Had disfranchised felons been permitted to vote, we estimate that the Democrat Gore's margin of victory in the popular vote would have risen to approximately one million votes. Regardless of the popular vote, however, one state—Florida—held the balance of power. Florida has more disfranchised felons, 887,000, than any other state. If they participated in the election at the estimated rate of turnout (21.6%) and Democratic preference (74.5 percent), Gore would have prevailed in Florida by more than 90,000 votes. If disfranchised felons in Florida had been able to vote, the Democrat Gore would almost certainly have carried the state and the election. (Uggen and Manza 2001, p. 32)

Because felons are drawn disproportionately from the ranks of racial minorities and the poor, disfranchisement laws tend to take votes from Democratic candidates. The Uggen and Manza analyses predict that, overall, about 31 percent of disfranchised felons would have voted in senatorial and presidential elections, and Democrats would have received seven of the ten votes cast. (Ninety percent of African Americans supported Gore in 2000.) They conclude: "By removing those with Democratic preferences from the pool of eligible voters, disfranchisement laws have thus provided a small but clear advantage to Republican candidates in every presidential and senatorial election from 1972 to 2000" (Uggen and Manza 2001, p. 4).

Uggen and Manza note that this is particularly interesting since Republicans sponsored most of the punitive crime legislation from the 1960s to the 1980s, and that legislation has resulted in greater imprisonment. The result of greater imprisonment has been to remove more and more Democratic voters from the pool of those eligible to vote, ensuring that Republicans have a competitive advantage in the voter base and assuring the continuation of more punitive crime policies.

Of course, losing the right to vote is not the most pressing concern for most convicted felons, and few criminologists have considered its broader implications. But in interviews with 33 felons who had lost the right to vote, Uggen and colleagues found evidence that disfranchisement "carried a sting," "was like salt in the wound," and "part of a larger package of restrictions that confounded efforts to become 'normal citizens'" (Uggen, Manza, and Behrens 2002). Not allowing felons to vote causes some offenders to feel alienated from their communities and the political process, and perhaps restoring their voting rights and other civil disabilities is one way to reengage them in community life. Uggen and colleagues suggest that the process of restoring the felon's civil disabilities not only allows the offender to move beyond the stigma, but if formalized in some type of reintegration ceremony can be part of the "delabeling" or "decertification" process that Maruna (2001) and others say is key to allowing some felons to move on with their lives.

Uggen notes that these civil disabilities also prevent felons from participating in community life more generally. Many convicted felons would like to volunteer, coach youth sports, work in food banks, assist the elderly, or engage in some other form of civic service. Yet many are prevented from doing so as a result of their criminal records. He notes that the impact of such volunteerism on criminal behavior has yet to be established, although some studies suggest that volunteer activities may reduce offending.

Seven states have recently undertaken initiatives to restore or preserve felons' and ex-felons' voting rights. In Alabama, Florida, Pennsylvania, and Nevada, members of the legislature have proposed the automatic restoration of ex-felons' voting rights once their sentence has been completed, and in Connecticut, the legislature is considering restoring the voting rights for probationers and parolees (Allard and Mauer 2000).

Ranking the States in Felon Exclusion Policies

Tables 6.2, 6.3, 6.4, and 6.5 reveal widely varying state policies regarding the public sharing of criminal records and the exclusionary policies imposed on felons. Some states allow the general public to have full access to the criminal records of everyone else in the state, whereas others permit only criminal justice personnel to access them. Some states disfranchise for life persons convicted of a single felony, whereas Vermont and Maine let those in prison and jail vote. Similarly, some states exclude first-time drug offenders from receiving food stamps and living in public housing, whereas other states have opted out of this federal ban, knowing that they sacrifice federal funds by doing so.

In figure 6.2, the author has combined the information in these four tables to create a summary "felon exclusion" index in the hopes of discerning geographical patterns. The index simply assigned a score of 1 to 3 to each state's response in tables 6.2 and 6.3, a score of 1 to 4 for each response in table 6.4, and a score of 1 to 5 for each response in table 6.5. These individual scores were added, and the states were arrayed from lowest (most exclusionary policies) to highest (most inclusive policies). The states were then grouped into equal quartiles, and the results appear in figure 6.2. States in black have the most exclusionary policies; those in white have the most inclusionary policies.

Information in the four tables appears interconnected. In other words, states that disfranchise all convicted persons and impose lifetime welfare bans on drug offenders also tend to be those that post criminal records on the Internet and allow open public access to them. Differences among the states were substantial as well, with ratios of roughly 3:1 between high- and low-ranking states. For example, Mississippi had the most exclusionary policies, with a summary score of 4, whereas Vermont had the most inclusive, with a summary score of 12.

Geographically speaking, the national map is fairly straightforward. Felons face the most exclusionary policies in the South and in Texas, although Arizona, Nebraska, and Kansas also scored in the highest categories of exclusion. States that were more inclusive, in that they continued to provide welfare and housing subsidies to convicted felons and did not post criminal records on the Internet, were in the Northeast section of the nation, but Oregon, Ohio, Indiana, and Utah were also included in this category. California lies near the national average.

It is not clear what causes states in the Northeast to have such different policies, but social historians found higher levels of civic engagement, social capital, and social trust in these states as well and

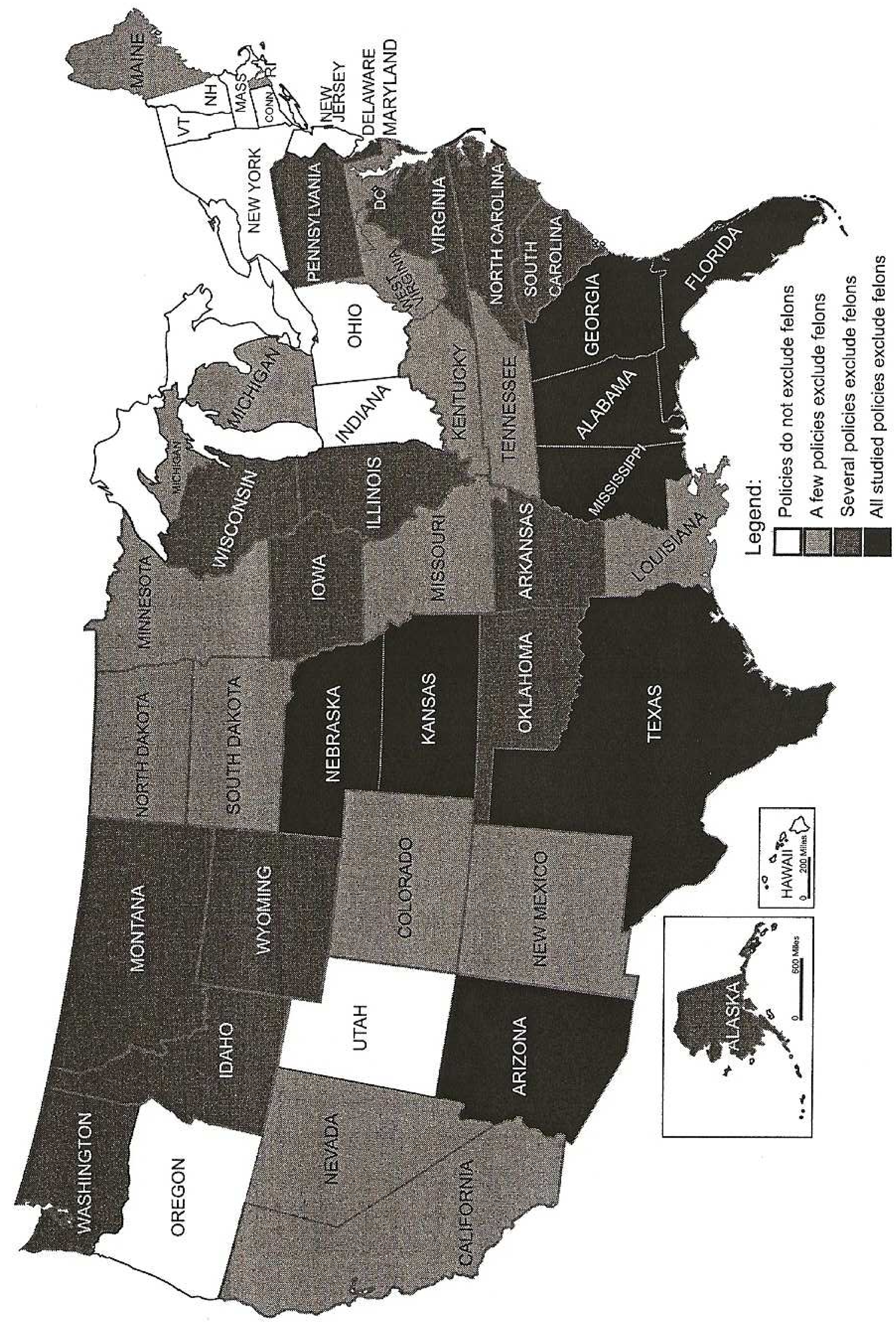

Figure 6.2. Felon exclusion policies by state.

have attributed the differences to paths of migration and patterns of nineteenth-century immigration (Putnam 2000). What is more important for our interests in prisoner reentry is: what difference do these policies make, and how do they enhance or impede an inmate's chances of remaining crime-free? That is a critical but unanswered question.

Conclusions

Denying certain rights and benefits of citizenship to those who commit crimes is certainly not new. Throughout history, felons have suffered a kind of civil death. Historically, they have been barred from certain trades and lost the right to inherit or bequeath property or enter into contracts. The Fourteenth Amendment to the U.S. Constitution explicitly recognizes the power of the states to deny the right to vote to individuals guilty of "participation in rebellion or other crimes" (Travis 2002).

What is new is that these invisible punishments and legal restrictions are growing in number and kind, being applied to a larger percentage of the U.S. population and for longer periods of time than at any point in U.S. history. Given that 59 million Americans (29 percent of all adults) have a criminal record on file with state authorities, and 5 million (6.5 percent of all adults) have served a prison term, the effect of these restrictions has a profound effect on American democracy. And the fact that blacks are overrepresented in all major categories of criminal justice populations means inevitably that these legal restrictions have taken an especially heavy toll on minority communities.

Recent enactments are qualitatively different as well. The denial of welfare, food stamps, and public housing to convicted offenders removes the only existing safety net for poor people in this country. Such policies explicitly reduce the chances that large numbers of citizens will ever enjoy legitimate work, housing, or drug- and alcohol-free lives, since the financial supports that might have enabled them to get back on their feet after prison have been eliminated. Moreover, the growing legal barriers to employment coupled with the growing public and Internet access to their criminal records reduce ex-offenders' legitimate chances further. Jeremy Travis (2002) sees parallels with practices from another era when convicts were sent to faraway lands, and punishments became instruments of social exclusion.

Of course, these laws and restrictions also serve an important public safety benefit. For instance, denying drug offenders access to public housing is designed to create safer housing conditions for other residents, many of whom are elderly or disabled. Not allowing ex-convicts to work with vulnerable populations is also designed to protect innocent victims. Requiring violent and sex offenders to register with local law enforcement helps police notify citizens and victims of their release. It also assists the police in solving crimes.

So, laws imposing restrictions on felons struggle between the need to protect the community versus the need to foster offender reintegration. If we prioritize the personal freedoms of returning offenders, we might oppose the growing number of restrictions. On the other hand, if we believe that protecting the public should take precedence over individual rights, we might applaud them. It is these tensions between individual-rights advocates and public-order advocates that create most of the crime policy debates in the United States.

How these civil disabilities benefit communities and disadvantage returning convicts is of critical importance and a question for which no empirical data exist. Of course, it does not have to be an all-or-nothing proposition. As Travis (2002) notes, a more fruitful approach would be to narrow the range of crimes or offenders subject to various restrictions, or limit the time frame for which they apply. Currently, a felon convicted of the lowest felony in Florida loses his right to vote for life, as does a serial murderer. Similarly, a minor drug user can be evicted from public housing as easily as a major drug dealer can. A teenager convicted of statutory rape for consensual intercourse with his underage girlfriend may be subject to lifetime registration along with a repeated child molester—and both will be identified as sex offenders on publicly accessible Internet websites (Travis 2002). Clearly, such policies need review. We will likely discover that some of these broad policies are crime enhancing rather than crime reducing over the long run.