

A person wearing a dark grey zip-up hoodie is holding a black rectangular sign with both hands. The sign has white text on it. The background is dark and out of focus.

NOW HIRING:

A MANAGER'S GUIDE
TO EMPLOYING APPLICANTS
WITH A CRIMINAL HISTORY

NICOLE C JONES YOUNG

Now Hiring

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Now Hiring: A Manager's Guide to Employing Applicants with a Criminal History

BY

NICOLE C. JONES YOUNG

Franklin & Marshall College, USA



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INVESTOR IN PEOPLE

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Introduction

As an Organizational Behavior researcher, I have become accustomed to having to explain why I engage in research related to employment and individuals with a criminal history. What, in other words, sparked my interest in reentry and employment? In a way, the answer comes down to necessity.

Back in 2008, I was an HR professional working for a company in lower Manhattan. I began volunteering fairly consistently with an organization called New York Cares, and though I signed up for a variety of projects, I gravitated toward those where my experience seemed most useful: helping clients in need by reviewing their résumés and conducting mock job interviews. One evening, after a volunteer orientation meeting at the New York Human Resource Administration building on 16th Street, I was seated in front of a computer in a semiprivate cubicle when a gentleman brought in his résumé. We exchanged the usual pleasantries, and then I asked the usual cursory questions (*Are you currently working? What do you want to do? Where have you worked in the past?*), then he paused, seemingly overwhelmed as he asked a question of his own: “How can I explain all these gaps?”

As I began to issue my standard response, I took a pause of my own. I slowed down and really looked at his résumé. This man wasn’t missing a few months of employment here and there, the kind that might signal a job change or temporary loss of employment. He was missing *years*. And a lot of them. As it happened, he was previously incarcerated. It is not that this was the first time I had seen this – in fact, I have personal connections with people who have been arrested and incarcerated – but for some reason, on this particular night on 16th Street in Manhattan, the enormity of the problem became clear to me in a new way. Together, the gentleman and I did our best to translate his work experience while incarcerated into transferable skills, omitting employer names where possible and focusing instead on locations, dates, and responsibilities. Our goal was to cobble together a résumé and craft a verbal response he might use (and an employer might buy) to explain why he was qualified, gaps and all, for what would almost certainly be a low-wage, low-skilled job. That night, on my long train ride uptown to the Bronx, I could not shake my frustration. My mind had simply fixed itself on the problem of criminal history and the uphill battle to secure employment.

Unsure what to do or where to go from there, I eventually left my job for what I like to think of as a late “gap year.” I pursued a one-year volunteer position with AmeriCorps VISTA, working on a prison reentry project. There I worked with and got to know a variety of different people, many of whom had a criminal

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history. We had great conversations, particularly during my weekly visits to the probation and parole office. Alongside other service providers, I would sit in a conference room, ready to help individuals with various tasks as they awaited appointments and meetings with their parole officers (POs). For my part, I was there to ask whether they were interested in signing up with our reentry mentorship program. Occasionally, someone would accept. More often, they brushed me off with a casual, “Nah, I’m good”, or a more direct response such as, “I’m a grown man, what do I look like getting a mentor?” The best conversations happened when I got the “no’s” out of the way, when people asked things like “What would I do with a mentor?” Then we talked about their lives, about their pressing need for employment – specifically, employment that fulfilled the terms of their release, paid enough that they could support themselves and meet their legal financial obligations, and came with a bit of dignity. I spent this year learning about a pool of willing workers – in the United States, some 70 million individuals have a criminal history – and the hiring managers who seemed to consider them too risky to hire.

Debates about employment and individuals who have a criminal history – whether formerly incarcerated or not – often involve assumptions, even outright assertions, that people who have criminal histories are not motivated to work. I am not of that mindset. Instead, I believe that many individuals *do* want to work, and that they simply are not provided with adequate opportunities to do so. Moreover, though we think of “history” as being in the past, criminal history stretches into the individual’s present and future. The numerous requirements of release, such as PO meetings and curfews, can often interfere with job fairs and interviews, limit the hours that individuals may be available to work, and suggest to potential employers their work attendance may be unreliable (given the need to drop everything to report for things like mandatory, random drug testing). And that’s assuming employers are willing to hire those with a criminal history at all. Largely, employers are not – at least, nowhere near enough willing to hire.

This is the criminal justice system (more on this term in a bit) working as designed. It will take the continued, focused work of many, many stakeholders to craft legislation and implement policies to meaningfully address the systemic, negative features of the vicious cycle of arrest, incarceration, barriers to reentry, and recidivism that criminalize race and punish poverty in this country. In the meantime, hiring managers and organizations have an enormous opportunity to substantially alter perspectives, practices, and processes to create, initiate, and motivate change from the bottom up. Organizations should not simply consider this to be an act of altruism – it is good business.

I understand that some readers, particularly within my academic discipline of management, may find these sentiments too radical, but I have engaged in enough conversations and research to share them with confidence. I believe we are all witness to a deep-rooted systemic issue in the way we conceptualize, address, and assign blame for crime. These perspectives have created instability and a continued maintenance of power over some communities. Perhaps one of the positive consequences of the fateful year 2020 is the realization, if not widespread acknowledgment, of the many harms the US legal system creates and perpetuates.

People get nervous when they hear words like “defund,” but underlying such calls is the basic fact that the current system is flawed (too often fatally so), such that proposed tweaks and adjustments are largely no match for its structural problems. I am a new homeowner and a fan of the show *Love It or List It* on HGTV, so I can liken this to home improvements. Without fail, in each episode, Hilary must inform the homeowners that something massive needs repair before the team can get to the cosmetic changes they would love to see. In an old house with structural problems, you simply cannot repaint a wall knowing that there is asbestos within. Instead you have to break it open, remove the poisonous bits, and rebuild. Same here. We can propose and even implement all kinds of changes and “fixes” to the criminal-legal system as it is, yet we must simultaneously acknowledge that the system’s foundations are flawed. While this may seem paralyzing, this paradox does not release us from the collective moral imperative to address the harmful outcomes of the flawed system. Rather, this pressing need for change can specify and situate organizational efforts as both ancillary and urgent.

Those of us concerned about employment and reentry understand that we can offer job training, résumé writing, and interview prep for the millions of formerly incarcerated people in our communities, but if employers are unwilling to hire them, we have our own “asbestos problem.” Hilary would never let us proceed for ignoring it.

This book is my attempt to engage with the scholarly and management literature, to provide the information employers need to adjust and inform their hiring managers, as well as organizational standards and processes, in order to welcome our returning community members to the workforce. These pages will require you to confront some of your ideas about criminal history and who has one, though readers are cautioned that this book does not intend to thoroughly delve into the topics of mass incarceration, racial inequalities, or crime policy and policing practices. You will not read, here, about the overloaded and overworked public defenders sent to aid marginalized clients, but forced to negotiate plea deals, nor about commercial bail, pretrial detention, or the public health disgraces of correctional facilities, revealed so vividly by the uncontrollable spread of COVID behind bars. Nor will I address death penalties, whether imposed directly or via exorbitant, retributive sentencing and inhumane carceral conditions. I will not delve into the trauma experienced by the families, children, and the communities from which the incarcerated are extracted, nor the juveniles transferred from classrooms to cellblocks. These are crucial topics – just the tip of the iceberg, really – and they warrant deep, careful consideration. Fortunately, these topics have been and continue to be written about extensively in books such as *The New Jim Crow* by Michelle Alexander (2012), *Just Mercy* by Bryan Stevenson (2014), and *Locking Up Our Own* by James Forman, Jr. (2017). They have come to life in films like *13th*, *When They See Us*, and *Time: The Kalief Browder Story*, and they are explored in music, podcasts, and novels. I encourage all readers to engage with the truths of the American punishment system through multiple platforms and numerous ways, through a profusion of voices and vantage points. There are ample resources and ample opportunities.

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If my position as the author of this book is not already transparent, let me be clear: I believe that the American criminal justice system lacks *justice*. As such, I will refer to it not as the criminal justice system but as the *carceral system*, and I will try to accord with calls to use humanizing language when discussing individuals impacted by the carceral system (Cerda-Jara, Czifra, Galindo, Mason, Ricks, & Zohrabi, 2019). My grounding (and research-grounded) perspective is that our carceral system was created to maintain the status and power of a majority white society by controlling, marginalizing, and exploiting vulnerable citizens (particularly Black and brown individuals). The system substantially profits from low-income individuals, subjecting them to inequality, inequity, and injustice, then returning them to surveillance within low-resource communities and a never-ending tangle of opportunity-squelching restrictions.

Organizations and hiring managers generally enter the conversation at a later stage, after the convictions, after the incarceration, and after the release. My expertise and focus as a business scholar mean that I generally consider the situation from the point when an applicant with a criminal history sits down and faces a job application, pen hovering over the blank space next to the question “Have you ever been convicted of a crime?” I have a practical mindset (perhaps how I came to the field of business in the first place), and so I have engaged in research with individuals who have been affected by the carceral system, as well as employers who may ultimately hire these individuals. I have reviewed and considered numerous quantitative studies, and delved deeper with qualitative inquiry in the form of interviews, focus groups, and observations. I have conducted studies in correctional facilities and work release facilities, as well as conference rooms. I have strived to understand varying perspectives and provide an opportunity to uplift marginalized voices. My underlying research questions relate to where employers fit into the conversation about mitigating the long-term harms experienced by potential future employees who were impacted by the carceral system. In short, what is the employer’s responsibility in creating change and opportunity, and how can they best meet that responsibility?

To survive and thrive in this country, individuals must be able to obtain and maintain employment. For the individual who has been formerly incarcerated, an inability to do so significantly increases the likelihood of a return to incarceration. For entire disadvantaged populations and communities, that inability exacerbates inequities, invites deeper scrutiny from the carceral system, and reinforces the negative outcomes of unequal protection. In the chapters to come, I will focus on understanding how employers can interject themselves in a positive way, moving us forward on the path toward employment, community stability, and greater equality. As individual employers explore their stances on hiring individuals with a criminal history, employers may be surprised to see that creating space for this commonly overlooked and marginalized population may also be a benefit for other commonly forgotten populations as well.

Had it not been for the public murder of George Floyd in 2020, I highly doubt that many of my management colleagues would have any knowledge of or interest in the kinds of critical media about policing and incarceration I rattled off just a few paragraphs ago. As my predominantly white field of management scholars

tends to look and experience the world a bit differently than me, I have aimed to “meet them where they are.” Now my goal is to take them – and you – with me on a journey. My colleagues may not change their positions on whether and how the carceral system demands change, and how organizations can assist with this change, but I believe now they are listening.

The timing of this book is of course not only tied to George Floyd’s death but also to the COVID pandemic, unfolding as I began to write in 2020. In the United States, the outbreak caused a historically low unemployment level (just 3.5% in December 2019, Bureau of Labor Statistics, 2020a) to skyrocket to a historic high of 14.7% in a matter of weeks (US Bureau of Labor Statistics, 2020b), with some estimates placing unemployment at even higher levels. As economic insecurity invaded all households, the few employers who were previously open to hiring individuals with a criminal history shifted their priorities and sought, to the extent they hired at all, to hire people the general public deemed “more deserving.” A former study participant of mine called me at the beginning of 2020 to let me know that he had secured employment, only to call again in a few weeks when he had been laid off. His chances of getting another interview, let alone a job, were suddenly worse than ever. In times like these, all of us suffer in some way, yet it is the most marginalized who experience the hardest downturns and for the longest duration. It is hard to predict how these consequences will shake out for the labor market, though we can imagine candidate pools flush with people laid off in the early pandemic will further disadvantage the employability of individuals with a criminal history. In the best of times, not everyone has access to the same resources and opportunities. In a crisis, these disparities are acute.

While many may ascribe some workplace issues to COVID, I contend that COVID simply exacerbated or revealed many employment issues already in existence. For instance, as many workers and students shifted to remote work and learning, it became readily apparent that the digital divide is real and immensely consequential. Individuals with limited access to technology and Internet access are shut out. Caretakers, particularly women, were frequently forced to exit the workforce as schools and childcare facilities closed down, or try to juggle remote work and new roles as teachers and tech support for their school-aged children throughout much of 2020 and 2021. They may now struggle with employment gaps and burnout.

Simultaneously to these employee-level effects, many employers are now also experiencing difficulty finding enough employees to hire, particularly in the service and hospitality industries. As the demand for services increases, employers have been forced to increase compensation and offer benefits to recruit workers. While many individuals are rejecting these opportunities, these shifts in the labor market may allow employers to consider a broader population of applicants, such as those with a criminal history. Employers have a key role to play in the continued recovery and successful reintegration of all individuals, and we cannot risk leaving behind society’s most marginalized. This moment is a chance to make serious changes in the ways we hire by thinking hard about who we hire and who we typically exclude.

Neither management researchers nor employers are *required* to delve into the history and harms of the carceral system. Management scholars regularly earn PhDs, publish widely, and get tenure, while employers and small business owners can successfully launch, acquire, partner, and invest, all without ever attending to this topic or considering the plight of people caught up in the carceral system. But by remaining focused on their specific areas of expertise – say, studying the various characteristics that increase worker performance or decrease workforce turnover – we leave a lot of structures intact, ignoring, for instance, the myriad factors that disproportionately affect some individuals positively or negatively during hiring and throughout their employment.

What message does it send when we put on our blinders? Succinctly: that individuals with a criminal history are not an important enough part of the workforce or society to warrant our attention. Many researchers and employers will find their heartstrings tugged by individual tragic tales, yet regard the underlying issues as outside their concern or control. Those who *are* interested, such as myself, have often been told “I think you belong in the Sociology department.” I am an organizational behavior researcher whose significant personal interest is in the carceral system and the individual-level effects within the realm of employment. I am also convinced that I am not alone – you, for one, are reading these pages. (Welcome!) I want to better understand the employment experiences of those with a criminal history, and I want to better understand and engage in the conversation with employers and management scholars – the individuals who actually engage in and affect hiring, whose concerns are, first and foremost, the business of running successful businesses.

To move the conversation about hiring individuals with a criminal history forward, we will start by delving deeper into the effects of criminal history on employment. I firmly believe that some of the best practices emerge when we consider real-world problems and the approaches and solutions that *work*. While it is necessary to delve a bit into some factors, such as race, which are highly correlated with who is often arrested, convicted, and thus in possession of a criminal history, this book considers management-related research that can assist hiring managers develop more inclusive practices to increase consideration of these system-impacted applicants, which can ultimately assist all members within our society.

A Note on Terms

Admittedly, I am not always the most precise in my usage of language and terms, yet I affirmatively acknowledge that language and terms are *important*. As it is my intent to humanize individuals who may have been arrested or incarcerated, I rely throughout this book on terminology guides advanced by authors such as Cerda-Jara, Czifra, Galindo, Mason, Ricks, and Zohrabi (2019). You will read direct quotes in which people use words like “felon,” “inmate,” and “convict,” and I do not alter their language, but I endeavor in my own words to adopt less stigmatizing and dehumanizing terms. As such, I will use phrases that may feel

unfamiliar or clunky, like “returning citizen” or “individual” with a clarifier of “formerly incarcerated” or “criminal history” (respectively, these refer to a person who has served a period of incarceration in a correctional facility, a person who has been convicted of a criminal offense – whether or not they have actually committed the offense, or even a person who has any documented contact with the criminal or carceral justice system, but has not served time).

Language and terms change, not only with temporal frequency, but also by vantage point. Thus, different terms may be preferred or required, depending on whose voices are amplified. For instance, and perhaps because I am specifically a Black woman from the United States who is a descendant of slavery, I personally prefer to use specific terminology in regard to my own race and racial identity. I tend toward the use of “African American,” “Black American,” or “Black,” as opposed to “person of color,” “POC,” or “BIPOC.” However, I use these latter terms when I am referring to a mixed group of individuals who identify as a variety of different ethnicities and racial backgrounds. Additionally, I choose to use the term “Latine” as opposed to “Latinx,” in line with a recent study demonstrating that individuals so categorized least prefer the latter (Noe-Bustamante, Mora, & Lopez, 2020) and with another showing that many Spanish speakers find it [Latinx] difficult to pronounce (Cobo, 2021). “Latine” is admittedly less popular; however, in this current moment, it has been perceived as an acceptable, gender-neutral term (Caraballo, 2019). In every case, I aim to use language in ways that aid reader clarity. I want you, in other words, to know what I am talking about, and so wherever it seems helpful, I will provide definitions for terms or offer brief explanations about why I have opted to use one term over another.

It should also be noted that I capitalize racial groups with the exception of “white.” This distinction aligns with the editorial guidance of the Associated Press (Bauder, 2020) and the *Columbia Journalism Review* (Laws, 2020), both of which note that Black, for example, is often representative of a shared identity and culture in a way that white is not. It also accords with my anecdotal experience; my white students over the years have not, for instance, identified white as a significant part of their identity nor a race. Many have insisted that they did not *have* a race (an uncritical assumption of the “unmarked” status of whiteness, but their comments also reflect their social reality). Particularly in our current context of heightened racial awareness, this convention is a conscious and considered choice.

All said, language is fluid. It is quite possible that even next year, the terms I have selected for this text will be deemed inadequate or inaccurate. That is the risk with all work, mine included.

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