

EMPLOYER DEMAND FOR EX-OFFENDERS:

Recent Evidence from Los Angeles

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Abstract

In this paper, we analyze employer demand for ex-offenders using a recent employer survey taken in Los Angeles in 2001. We analyze not only employer stated preferences to hire offenders, but also the extent to which they actually do so. In addition, we examine the extent to which employers check the criminal backgrounds of job applicants, and the nature of such criminal background checks. We find that employers stated willingness to hire ex-offenders, as well as their actual hiring of such workers, is very limited. This aversion varies with the characteristics of the offender - with employers being less averse to those charged with drug or property offenses, and more averse to those charged with a violent crime, those recently released from prison, and those without work experience. We also find that employer use of criminal background checks increased over the 1990s – and increased particularly after 9/11/01. The implications of these findings for the employment opportunities of ex-offenders and for policy are discussed.

1. Introduction

Between 1988 and 2000, the nation's incarceration rate doubled from about 250 to nearly 500 per 100,000 persons. The Bureau of Justice Statistics (BJS) estimates that approximately 9 percent of all men will serve some time in state or federal prisons, with considerably higher figures for blacks (about 30 percent) and Latinos (16 percent). These trends are especially pronounced for California, and within California, for Los Angeles in particular. California houses a disproportionate share of the nation's recently released prisoners. In 2001, about 23 percent of the nation's approximately 600,000 recently-released prisoners resided in California, in contrast to a state population equal to 11 to 12 percent of the nation's. What's more, of the approximately 140,000 released prisoners in California in 2001, a disproportionate share of these - nearly 34 percent - returned to Los Angeles County (which houses about 28 percent of the state's population).¹

No doubt, the successful reintegration of this growing population depends in part on the employment potential of ex-offenders. Several studies have analyzed the labor market consequences of involvement in the criminal justice system by testing for direct effects on future employment and earnings of being arrested (Grogger 1995) or of serving time (Freeman 1996; Kling 1999; Kling et. al., 2000). These studies show that arrests and imprisonment are both associated with lower employment and earnings, ranging from reductions of 10-30% for employment and/or earnings. These reductions might be associated with factors operating on both the supply (i.e., worker) and demand (i.e., employer) sides of the labor market, but recent evidence points to very strong effects operating on the demand side of the market (Pager, 2002).²

¹ This data is reported from the Bureau of Justice Statistics (2001) and the U.S. Census Bureau (2001) for California.

² Using data from an audit study of matched pairs of offenders and non-offenders by race in Milwaukee, Pager shows that having a criminal record reduced the frequency of job offers by half among whites and by two-thirds among blacks. Even among non-offenders, there was a strong negative effect of being black as well.

Our earlier work using data from the early 1990s on employer demand for ex-offenders documents the correlates of employer willingness to hire ex-offenders, criminal screening practices, and the impacts of these factors on racial hiring outcomes (Holzer, Raphael, and Stoll forthcoming, 2002a, and 2002b).³ This research demonstrates that employer willingness to hire ex-offenders is very limited, even relative to other groups of disadvantaged workers (such as welfare recipients and the long term unemployed), but varies with particular establishment and job characteristics. Employers act on this aversion to ex-offenders by reviewing the criminal history records of applicants, or in the absence of a formal background checks, by statistically discriminating against those perceived to be ex-offenders (Holzer, *et. al.*, 2002a and 2002b).

While instructive, this research leaves many unanswered questions. For instance, does self-reported employer willingness to hire ex-offenders correlate with their actual hiring behavior or vary with the characteristics of ex-offenders or the type of offense with which they were charged? Has the use of criminal background checking increased over the 1990s, particularly since the cost of checking has decreased? If so, which kinds of firms are associated with the greatest growth in checking? Finally, a number of other questions about criminal background checks remain such as to what extent are employers legally required to check, by which method and when do they check, and which firm and job level characteristics are associated with this checking. The implications of the answers to these questions for labor market opportunities for ex-offenders and public policy need to be discussed as well.

This paper investigates these and other related questions using a recent survey of employers in Los Angeles. Our investigation into these questions will complement earlier and related work using data from the early 1990s. This research attempts to characterize the labor

³ A limited number of questions on willingness to hire ex-offenders have also been included in other employer surveys that we administered in the late 1990's. See, for instance, Holzer and Stoll (2001).

market prospects of ex-offenders in greater detail by describing the specific employment barriers that confront this growing population of mostly young men.

2. Data and Definitions of Main Variables

Our data were collected using 20-minute telephone surveys administered to 619 establishments in Los Angeles. The survey was administered between May 2001 and November 2001. We chose to survey employers in Los Angeles for a variety of reasons. It is a large and populous metropolitan area in a state with a large incarcerated population in which nearly a third of recently released prisoners return to Los Angeles County, the geographic boundaries of our study area. At the time of the survey its regional economy registered some of the lowest unemployment rates in thirty years and appeared relatively strong while the national economy had dipped into a recession.

However, while the survey was in the field, the Los Angeles economy began to weaken, particularly in the manufacturing sector; and, of course, the events of September 11 took place. These events are likely to have affected employer responses to questions about their willingness to hire ex-offenders, perhaps in the negative direction, which we explore later in this paper.

By and large, the sample of establishments drawn and other survey methods were borrowed from the earlier survey of employers that we have analyzed in previous papers.⁴ Employers were drawn from lists compiled by Survey Sampling Inc. (SSI), primarily from telephone directories. To the extent possible, the phone interviews were conducted with the person in the establishment who is responsible for entry-level hiring. Establishments were

⁴ Harry J. Holzer developed and administered this survey, called the Multi-City Employer Survey (MCES). MCES includes observations on 3,220 employers in four cities (approximately 800 per city): Atlanta, Boston, Detroit, and Los Angeles. The Los Angeles portion of this survey used the identical geographic sampling unit as that used in the survey we report on here. See Holzer (1996) for an extensive discussion of the survey methods and data.

screened according to whether they had hired an employee into a position not requiring a college degree within the previous year. However, this screen eliminated no firms from our sample. The overall survey response rate was about 65 percent, in the range of other similar recent firm surveys (Holzer and Stoll, 2001).

The surveyed firms were drawn from a sample that was stratified ex-ante by establishment size. Sampling across strata was performed in proportion to the amount of regional employment accounted for by the establishment size category. Within strata, firms were sampled at random. Thus, the sample is representative of the distribution of the workforce in the Los Angeles region across establishment size categories without any need for additional size-weighting.

The survey contains extensive information on the establishment's characteristics (e.g., size industry, presence of collective bargaining, minority ownership status, and the racial composition of its applicants). In addition, the survey contains information on the characteristics of the most recent job filled in the firm that did not require a college degree (i.e., non-college job). This includes the screening and hiring behavior of employers in filling that job and the task and skill requirements for the job, among other factors.

The main variables we focus on in this analysis are indicators of employers' *prospective* willingness to hire ex-offenders and their *actual* hiring of ex-offenders. With respect to the former indicator, for the last job filled that did not require a college degree, we ask the employer "Would you accept for this position an applicant who had a criminal record? definitely will, probably will, depends on the crime, probably not, absolutely not?" In addition, we also ask employers generally "Suppose you were contacted by an employment agency that was trying to place young males with criminal records. Do you currently have any open positions that you

might consider filling with this group of workers? yes, depends on the crime, no.” To gauge employers’ actual hiring of ex-offenders we ask “To your knowledge, has your business in the past year hired any men with criminal records? yes, no, do not know.”

Although the prospective measures are conceptually a cleaner measure of demand for ex-offenders, these variables measure what employers say rather than their actual behavior. To the extent that employers don’t actually do what they say they are willing to do, their reliability is subject to questioning. Hence, we also include the actual (or realized) measure of hiring. On the other hand, a weakness in this measure is that while it provides information on employers actual behavior with respect to hiring male workers with criminal backgrounds, it is also likely to reflect a mix of demand-side (i.e., firms) and supply- side (i.e., workers) factors that might influence access of such workers to these firms. However, a comparison of the outcomes observed for these two demand measures should provide greater insight into the overall demand for male workers with criminal backgrounds.

Still, these measures of employer willingness and actual hiring of ex-offenders raise other concerns. The first concerns the exact definition of ‘criminal background.’ For the purposes of this study, a person has a criminal history record if they have been previously convicted of a felony, regardless of whether the person has served time in prison. The questions in the survey ask employers whether they would accept or have positions open that they might consider filling with those with criminal records, so it is open ended as to whether the person served time in prison. However, with our data, we will to some extent be able to examine the extent to which employer responses depend on the nature of the applicant’s offense and on whether the applicant has recently served time.

An additional issue concerns whether employers know they have hired ex-offenders. It is unlikely that all employers know whether they have hired ex-offenders, or the true number of them they have hired, but there are strong reasons to believe that their errors are not large. As we document below, about half of the employers in this survey actually check for criminal backgrounds, and another 20 percent check sometimes. Moreover, previous work using similar employer surveys show that a large fraction of employers (about 30 percent) have contact with employment agencies that attempt to place disadvantaged workers, including ex-offenders, into jobs (Holzer and Stoll, 2001). Finally, employers have incentives to know the backgrounds of their workers to claim the Work Opportunity Tax Credit, though there is evidence that not many employers claim such credits.⁵

Finally, we explore in detail questions concerning whether and the extent to which establishments do criminal background checking. We ask in the survey “How often do you check the applicant’s criminal record? always, sometimes, never.” We also follow include a series of questions concerning whether the employer checked the last filled non-college position, whether they were legally required to do so, from what source did they get information on the applicant’s background, and when in the hiring process did they conduct the check.

3. Results

A. Employer Willingness to Hire and Actual Hiring of Ex-Offenders

Figure 1 presents the distribution of employer responses to the question inquiring about the likelihood that the employer would be willing to accept an applicant with a criminal record into their most recently filled job that did not require a college degree. Over 40 percent of

⁵ In fact, our survey asked of those employers who had hired an ex-offender over the last year whether they claimed the Work Opportunity Tax Credit when hiring ex-offenders and only 21 percent of employers indicated that they

employers indicate that they would “probably not” or “definitely not” be willing to hire an applicant with a criminal record. Only about 20 percent of employers indicate that they would definitely or probably consider an applicant with a criminal history. On the other hand, about 35 percent of employers indicate that their response depends on the crime of the applicant, the modal response.

These figures, while not directly comparable to those from a survey done in the early 1990s, suggest that employer willingness to accept applicants with criminal histories did not increase significantly over the 1990s during the economic boom.⁶ Of course, employer willingness to hire offenders in these data appear to be dampened by the events of September 11 (as we indicate below), and perhaps also by the economic downturn that was growing in seriousness while the survey was in the field. On the other hand, earlier comparisons between data from 1992-94 and 1998-99 also suggested little increase in employer willingness to hire this group over the decade.⁷ The apparent lack of increase in demand for ex-offenders while the labor market tightened might reflect the continuing shrinking of those sectors (such as manufacturing and blue-collar jobs) where such demand is relatively high (as we note below).

To put the current survey responses into greater perspective, our survey also asked about employer responses to similarly worded questions concerning the likelihood that employers would accept applications from other groups of low-skilled and possibly stigmatized workers –

did.

⁶ Similarly worded questions are included in our earlier employer survey during 1992-94 for Los Angeles. However, our current survey is slightly different; it includes a “depends on the crime” response, while our previous survey does not. Still, if we examine the extreme response categories to this question, we find that in Los Angeles for both 1992-94 and 2001 about 20% of employers indicate that they will absolutely not accept ex-offender applicants. Alternatively, 13 percent of employers in 1992-94 indicate that they definitely will accept ex-offender applicants, while 5 percent of employers responded this way in 2001.

⁷ See Holzer, *et. al.* (Forthcoming, 2002a). Those data showed little increases in willingness to hire within the Detroit or Los Angeles metropolitan areas, but significantly more willingness to hire in Milwaukee than elsewhere. While some of the differences between Milwaukee and other areas might reflect the extreme tightness of the labor

e.g., welfare recipients, applicants with a GED but no high school diploma, applicants with spotty work histories, and applicants who have been unemployed for a year or more.

Approximately 93 percent of employers indicate that they would definitely or probably hire former or current welfare recipients, 97 percent indicate that they would probably or definitely hire workers with a GED in lieu of a high school diploma, 66 percent indicate that they would hire workers with a spotty employment history, while 80 percent indicate that they are likely to consider an application from an individual who has been unemployed for a year or more. In contrast, only 20 percent of employers indicate that they definitely or probably would accept an application from an ex-offender. Even if we include the “depends on the crime” response to this category, the fraction of employers that would consider ex-offenses (55 percent) is still well below that for these other groups.

There are several considerations on both the supply- and demand-sides of the labor market that suggest that serving time in prison may adversely affect employment prospects. The incarcerated do not accumulate work experience and may experience an erosion of skills while serving time. Furthermore, any ties to legitimate employers are likely to be severed by an initial arrest and by a prison spell. From the viewpoint of employers, a criminal history record may signal an untrustworthy or otherwise problematic employee. Employers may avoid such workers due to a perceived increased propensity to break rules, steal, or harm customers.

This unwillingness of employers to hire ex-offenders may be prompted by fiat or fear of litigation. Certain occupations, such as jobs with contact with children, are legally closed to individuals with felony convictions under state and, in some cases, federal law (Hahn 1991). In addition, employers may place a premium on the trustworthiness of employees, especially in jobs

market that they experienced in the past decade, it is also possible that the cross-sectional differences reflect variation in attitudes, political climate, and other such factors.

that require significant customer contact or the handling of cash or expensive merchandise and especially when the ability to monitor employee performance is imperfect. Finally, employers can be held legally liable for the criminal actions of their employees, and thus fear of litigation may substantially deter employers from hiring applicants with criminal history records (Holzer *et. al.*, Forthcoming; Bushway, 1996).

Though there are strong reasons to suspect that employers would be averse to hiring ex-offenders, one concern is that our measure of demand may reflect employers' subjective responses to this question and therefore may not correlate with their actual behavior. Figure 2 provides some evidence on this question by showing the fraction of employers that have hired at least one ex-offender over the past year stratified by their responses to the question concerning willingness to consider ex-offenders.⁸ We do note the limitations of these comparisons as employers willingness to accept an applicant with a criminal background into the last filled noncollege job may be influenced by the characteristics of that job (e.g., job requires customer contact or employer is required by law to do a background check for that job). Still, the comparison is likely to be instructive.

Figure 2 shows that about 20 percent of employers responded that they hired at least one ex-offender over the past year.⁹ To put this number in some perspective, our survey also asked whether the firm hired as least one welfare recipient over this period. About 30 percent of employers indicated that they did. Of course, these differences in actual hiring between ex-

⁸ Alternatively, we compare the current prospective overall demand for ex-offenders defined in Figure 3 with actual overall demand for ex-offenders over the past year, arguably a more direct comparison. We find that the correlation is positive (.35) and statistically significant at the 1% level of confidence.

⁹ Of the employers that had hired at least one an ex-offender over the past year, our survey shows that about 70 percent of these employers indicated that the ex-offenders they hired had work experience since being released from prison, and 21 percent of employers used the Work Opportunity Tax Credit when hiring them, as noted earlier. The low level of use of the WOTC in hiring ex-offenders indicates that the efficacy of these tools will be limited without more outreach to firms or assistance (from intermediaries) in helping them obtain it.

offenders and welfare recipients are determined by supply as well as demand. And, surely, welfare reform as well as a strong economy pushed many welfare recipients into the labor market by the time our survey was administered. Nonetheless, Figure 2 indicate that employers' stated willingness to hire ex-offenders correlates with their actual behavior. Those employers that indicated a willingness to hire ex-offenders were much more likely to have hired ex-offenders over the past year than those employers that were either unwilling or indicated that it depends on the crime.

Figure 3 explores the employer responses to the question about their general willingness to hire ex-offenders currently if they were approached by an intermediary agency trying to place such young men. We find that about 10 percent of employers state that currently they are willing to hire at least one ex-offender.¹⁰ Again, our survey also asks this same question of welfare recipients, and 30 percent of employers indicate that they are willing currently to fill positions with this group. Since the wording of this question effectively holds supply constant, the observed ordering of employer responses confirms their aversion to ex-offenders.

We also examine the responses to this question stratified by employer responses to the question concerning willingness to consider ex-offenders (for the last noncollege job). We do not believe that employers who are unwilling to hire an ex-offender applicant for the last filled job are unwilling to hire ex-offenders more generally. Indeed, such employers may occasionally, but perhaps rarely, be open to hiring them more generally. Here, as with the measure of actual

¹⁰We should note that the measure of employers hiring of ex-offenders over the last year is not directly comparable to that for their willingness to hire ex-offenders currently. As described above, these means of these measures in our sample are .20 and .10, respectively. The actual demand measure over the past year reflect *flows* of ex-offenders to employers, while the current demand measure reflects a *stock* of new demand for ex-offenders at a point in time. We do ask employers their prospective demand for ex-offenders over the next year, which also represent a comparable *flow* of offenders to our actual demand measure, and our data indicate that about 26 percent of employers say that they are willing to hire at least one ex-offender over the next coming year. However, we focus on the prospective demand measure for hiring ex-offenders currently rather than over the next year since it is based

hiring, we find that there is a strong relationship between the fraction of employers that indicate that they are willing to fill positions currently with ex-offenders and their willingness to accept applications from this group into the last filled noncollege job. The ordering of these responses is as follows: those employers that are willing to accept are more likely to indicate that they are willing to fill positions currently with ex-offenders followed by those who indicate that it depends on the crime and then by those who state they are unwilling.

Figures 2 and 3 suggest that employer responses concerning their willingness to hire or actual hiring of ex-offenders are consistent. This lends support to our earlier results, especially of those that require prospective answers from employers (Holzer, *et. al.*, Forthcoming). In addition, employers who indicate “depends on the crime” to questions about their willingness to accept applicants from ex-offenders seem to imply that their willingness to hire any individual from this group is conditional on specific information about the ex-offender. This information could include a host of factors such as how recently the offender was released from prison, offense committed, as well as whether they have any work experience, to name a few.

Employer attitudes towards applicants with criminal histories, as well as their actual hiring behavior, are likely to be associated with the establishment characteristics. Earlier work demonstrates that industries with little customer contact, such as manufacturing, are more willing to hire ex-offenders than others (Holzer *et. al.*, Forthcoming). Table 1 displays averages of establishment characteristics, stratified by the responses to the question concerning willingness to consider ex-offenders applicants (in the last filled noncollege job) and actual hiring of them over the past year. Establishment characteristics include industry, size, vacancy rates, the

on the employer’s current assessment of their labor needs rather than an expected demand over a future time period during which product demand, turnover, and other determinants of hiring are much more uncertain.

percentage of job that are unskilled,¹¹ the total hires over the past year, establishment location, whether the establishment checks criminal background, is union, is non-profit, and whether the establishment is minority-owned. We also analyze the relationship with the racial composition of applicants.

There are several clear patterns in Table 1.¹² First, the distribution of industries among those most willing to accept ex-offenders is skewed towards manufacturing, construction, and transportation, or those industries that likely have fewer jobs that require customer contact. Moreover, the distribution of establishments that actually hire ex-offenders is similarly skewed, indicating a strong correlation between willingness to hire and actual hiring of ex-offenders in these industries. We also find that establishments willing to hire ex-offenders are disproportionately those with a large fraction of unskilled jobs (>0.200) and those that hired over 20 workers over the past year (reflecting size and/or turnover). On the other hand, we find the service industries more represented among those unwilling to accept and that have not hired ex-offenders.

We also find some cases in which the characteristics of those willing to accept ex-offenders do not correlate with those of establishments that actually hire them. For instance, establishments that always check criminal backgrounds are disproportionately represented among those that say they are not willing to accept applicants with criminal records. But these establishments are equally represented among those firms that have hired ex-offenders v. those that have not. This evidence suggests that, with respect to hiring ex-offenders, the prospective

¹¹ Unskilled jobs refer to those jobs that do not require any particular skills, education, previous training or experience when filled.

¹² We also estimated probit regressions in which willing to accept applicants with criminal histories and have hired an ex-offender over the past year are binary dependent variables, with the list of variables identified in Table 1 included as independent variables. The results of these regressions were largely consistent with and qualitatively similar to the descriptive results we present in Table 1. A multinomial logit of employer willingness to hire ex-

and actual behavior of firms that always check backgrounds are not completely similar, and that such checks may not limit the actual hiring of ex-offenders.

On the other hand, background checks may not influence whether a firm hires a least one ex-offender, but they may limit the overall number of them hired at the firm. One possibility is that background checks are used not necessarily to exclude all ex-offender applicants (at least for jobs where ex-offenders are not legally barred from employment), but perhaps in many cases to provide information to employers about specific offending backgrounds to help guide employment decisions. An alternative explanation is that it is likely that fewer ex-offenders apply to firms that always conduct background checks for understandable reasons. However, we are not able to distinguish with our data which of these explanations dominates.

We also find a similar pattern with respect to the racial composition of applicants to the firm. We include this factor in the analysis since blacks and Latinos are overrepresented among the ex-offender population (BLS, 2001), and thus higher percentages of applications from these groups will likely correlate with increased applications from ex-offenders. The average percentage of applications from black males and Latinos are nearly identical across the willingness-to-accept categories. However, the percentage of applications from black males and Latinos for firms that have hired ex-offenders is significantly higher than for those firms that have not.¹³ This suggests that though blacks and Latinos are overrepresented among ex-offenders, firms' willingness to hire ex-offenders seems not to be influenced by the extent to which they received applications from these groups and vice versa. However, whether or not

offenders in which the categories included willing to accept, depends on crime and unwilling to accept was also estimated, but produced qualitatively similar results to those shown in Table 1 as well.

¹³ This result for Latinos is likely driven by male Latinos since ex-offenders are overwhelmingly male. However, our data does not include a variable that measures the percentage of applicants that are male or female Latinos.

they actually hire ex-offenders is correlated with the extent to which they receive applications from groups that are overrepresented among ex-offenders.

Figure 4 provides information on whether employer willingness to hire ex-offenders varies with offender characteristics. The survey asks employers about their willingness to hire offenders who are recently released from prison and without work experience, and their willingness to hire offenders by the offense committed (i.e., violent, property, or drug offense).¹⁴ Other factors that are likely to matter to employers but that are not captured in our survey include whether the offender has multiple offenses, is on probation, or is bonded, to name a few.

The results show some predictable patterns. Employers are strongly averse to hiring ex-offenders charged with violent offenses. Employers also seem somewhat averse to those who are recently released from prison and without work experience, though we are unable to specify which of these is a more important factor driving this response.

This variation by offender characteristic indicates that potential employer demand for non-violent offenders may be substantial than previously thought. Employers are clearly less averse to those charged with drug and property offenses. Over the 1990s, most of the dramatic rise in the prison population was driven by increases in drug related offenses, of which a disproportionate share were charged to young black men. Employers report being more averse to hiring ex-offenders charged with violent crime, but violent criminals make up a smaller and declining fraction of all offenders (Holzer, et. al., 2002a).

Thus, this variation in employer demand by category of offense could have important implications for the employment opportunities of offenders. Specifically, it may create situations

¹⁴ These questions are asked of employers who indicated that they are currently willing to hire ex-offenders; those employers who indicated that they are currently not willing to hire ex-offenders are excluded. It is likely that their responses to their willingness to hire ex-offenders currently are influenced by the characteristics of ex-offenders as well.

in which third-party intermediaries might provide information that convinces employers to hire offenders who otherwise might be turned away because they have any kind of record.

B. Employers' Use of Criminal Background Checks

Criminal background checks are one mechanism through which employers' access information about the criminal histories of applicants. Such checks are also an alternative indirect manner of gauging employer aversion to applicants with criminal histories. Figure 5 presents the distribution of employer responses to the question concerning the frequency with which employer check the criminal background of job applicants. In addition, we present the distribution of these responses to the exact question asked in the earlier employer survey data collected in Los Angeles in 1992-1994. The earlier survey likely collected data on this question before the emergence of internet services which provide low-cost criminal background checks.¹⁵

The results show that criminal background checks have risen substantially over the 1990s, perhaps because of the decreasing cost and easier access of doing such checks through the internet. The employer data for 1992 to 1994 shows that approximately 32 percent of employers in the sample say that they always check, 17 percent indicate that they check sometimes, while 51 percent say the never check. By 2001, approximately 44 percent of employers in the sample say that they always check, 18 percent indicate that they check sometimes, while 38 percent say they never check.

In light of these findings, an important set of questions includes whether this increase in checking over the 1990s was experienced equally across different firms, and which establishments drove most of this increase in checking. Table 2 shows the percentage of firms that indicate that they always checked in both 1992 to 94 and 2001, and the raw percentage-point

¹⁵ For instance, companies, such as Pinkerton Security Services, provide criminal background checking services for as little as \$15.

difference in checking over this time period stratified by the characteristics of firms that are identically measured in these two surveys. We also show the proportions of all firms with each characteristic, and the weighted contribution of each firm characteristic to the mean difference in checking over this time period -i.e., the product of the proportions and the percentage-point differences, using the 2001 proportions to generate the weights.¹⁶

The results show that checking increased over this time period in most of these establishments. However, we find variation in the differences in checking over this time period. Checking increased rather dramatically in retail trade, manufacturing, in large firms (100+ employees), and in the suburbs. On the other hand, checking decreased in construction and wholesale trade, and increased nominally in small firms, who are also among the least likely to check in 2001. However, once we account for the distribution of firms across these characteristics, our results show that the rise in checking in suburban, large and medium sized firms, and firms in the service, retail trade, and manufacturing industries drove much of the overall increase in checking we observe in Figure 5.

In addition to the factors mentioned above, firms may also do criminal background checks because they are legally required to do so. As noted earlier, many states require employers to check the criminal histories of applicants for certain occupations and jobs. Figure 6 provides some information on the extent to which employers check because they perceive that they are legally required to do so.¹⁷ As pretext to these responses, our survey asks whether the employer always, sometimes or never checks generally. It then asks whether the employer

¹⁶ We also estimated these weighted contributions to the overall increase in checking over this time period using the 1992 to 94 proportion of firms with these characteristics, but found similar results to those we show here. This is because the differences in these proportions between 1992 to 94 and 2001 are very small.

¹⁷ Of course, we are unable to verify employer responses regarding whether they are actually required to check by law. Hence, these responses can be interpreted as employer's perception of their legal responsibility to check.

checked the criminal histories of applicants for the last filled noncollege job, of whom 70 percent of employers say they did. Conditional on answering yes to this question, we then ask whether they were legally required to do the criminal background check.

Figure 6 shows that about half of employers indicate that they were legally required to conduct the criminal background check for the last filled noncollege position. We also display this information stratified by the distribution of employer responses to the question of how often employers check criminal backgrounds generally. Of course, those employers who indicated that they never check are not included in the summary data shown in Figure 6. Here, we find that a little over 50 percent of employers that always check believe that they are legally required to do so, while the comparable figure for firms that sometimes check is about 20 percent. Thus, compared with firms that check sometimes, firms that always check seem much more likely to do so because they are legally required.

In Table 3, we examine the averages of establishment characteristics, stratified by employer responses to the question concerning the frequency with which employers check criminal backgrounds generally and whether they were legally required to do so for the last filled noncollege job. The establishment characteristics include those described above. The results with respect to the frequency of background checks indicate that establishments that are large, in the service sector, in the central city, and not-for-profit, as well as those with collective bargaining agreements and higher percentages of black applicants, are overrepresented among those firms that always check. On the other hand, manufacturing, smaller and minority-owned firms, as well as firms with a larger percentage of unskilled jobs are overrepresented among those firms that never check. These results are consistent with our earlier work and suggest that firms in industries with greater customer contact, with more formal human resource systems, and

that are closer to ex-offender populations (or that receive a greater number of applications from ex-offenders) are more likely to run background checks (Holzer *et. al.*, forthcoming).

Table 3 also shows the averages of these establishment characteristics stratified by whether employers were legally required to check. Here, we find somewhat similar patterns to those we found for the frequency of checking. Establishments that are larger, not-for-profit, in service industries, have no unskilled jobs, as well as those that have collective bargaining agreements and higher percentages of black applicants are overrepresented among those that are legally required to check. On the other hand, manufacturing, construction, smaller, and minority-owned firms, as well as firms with a large fraction of unskilled jobs are underrepresented amongst firms that are legally required to check.

Taken together, these results suggest that the greater propensity of firms that always check (e.g., large and service firms) is in large part prompted by the legal requirement to do so. Given the very widespread legal barriers to employment in many occupations that occur in most states, it is perhaps not surprising that legal requirements drive a great deal of employer behavior in this regard. But these findings also suggest that the laws that prevent employers from hiring offenders might need to be reviewed, in light of the strong negative effects they appear to have on the ability of ex-offenders to gain employment.

The substantial increase in the proportion of establishments that always check the criminal histories of applicants over the 1990s, as shown in Figure 5, also suggests that the availability of low-cost checking services in the private market may be in part driving this increase. Although we do not have data in both 1992 to 94 on the method by which employers check backgrounds to fully explore these factors, our 2001 survey does ask this question. Figure 7 shows the method by which employers check criminal histories stratified by their responses to

the frequency with which they check. The data show that nearly 50 percent of employers in Los Angeles in 2001 use a private source to check criminal backgrounds of applicants, while nearly 40 percent of them use criminal justice agencies such as the attorney general office and the police. Interestingly, only 6 percent of employers gather this information by asking the applicant themselves. The patterns for those employers that always or sometimes check are nearly identical to those just described, except that firms that sometimes check are slightly more likely to use private sources and criminal justice agencies than those that always check.

The data in Figure 7 does suggest that the availability of low-cost criminal background checking services has played a part in the increase in checking over time, especially since there were few such services to do this checking in the early 1990s. Of course, the increasing availability of these services may have allowed the latent demand for these services by employers to be actualized. Moreover, this demand may have been increasing over the 1990s as employers awareness of the growing presence of ex-offenders in the low-skill labor supply likely increased as well.

Figure 8 shows employers responses to the question of when they conduct criminal background checks stratified by their responses to the frequency with which they check. Figure 8 shows that the vast majority of employers who check criminal backgrounds do so before they fill the position. About 20 percent of employers check criminal backgrounds after they have filled the position, while a small fraction, about 5 percent, check some other time. Though not shown here, our data also show that employers who check after they have filled the position mostly do so during the employees' probationary period. These patterns hold both for those employers that check always and those that check sometimes.

Thus, employers check criminal records before most ex-offenders have had a chance to demonstrate their ability to successfully hold the jobs to which they are applying. The potential negative effect of such information on the employment prospects of offenders is thus reinforced.

Finally, and as noted earlier, our survey was conducted over the period of May 2001 and November 2001 during which time the events of September 11 took place. In fact, about 62 percent of our surveys were completed before September 11, leaving a substantial fraction completed thereafter. These events no doubt raised awareness about the backgrounds, in particular criminal backgrounds, of individuals, and perhaps increased employers' concerns about hiring ex-offenders. Figure 9 present some data on employer responses pre and post September 11 to the questions of hiring ex-offenders and conducting criminal background checks that we examined earlier. The data show that employers report no difference in hiring ex-offenders over the past year pre and post September 11, which is expected since these events came well after much of this hiring had taken place. However, when asked whether they would consider hiring ex-offenders currently, about 12 percent of employers indicated that they would pre September 11, while 6 percent of employers said they would not post September 11. In addition, a slightly higher fraction of employers indicated that they always check criminal backgrounds of applicants after September 11. However, whether this increase in checking can be attributed to these events remains in question, since the overall time trend for checking is positive over the period of our survey.

4. Conclusions

In this paper, we analyze employer demand for ex-offenders using a recent employer survey taken in Los Angeles in 2001. We analyze not only employer stated preferences to hire

offenders, but also the extent to which they actually do so. In addition, we examine employer behavior and practices that might limit the employment prospects of ex-offenders, namely the extent to which employers check criminal backgrounds of job applicants they are considering. This examination also considers the extent to which such checking has increased over time, the methods that employers use to do such checking, and when they check during the hiring process. In many instances, we also investigate the firm characteristics that correlate with these measures of employer demand. Finally, we also examine differences in employer behaviors and attitudes towards ex-offenders pre and post September 11.

Our data indicate a number of important findings. We find that, consistent with previous studies, employers stated willingness to hire ex-offenders is still very limited, even relative to other groups of disadvantaged workers (such as welfare recipients). Despite the boom of the 1990's, employer demand for offenders does not seem to have risen much over time. Also, this willingness appears to have been negatively affected by the events of September 11.

But employer aversion to ex-offenders seems to vary importantly with the characteristics of the offenders. Employers report being less averse to those charged with drug or property offenses, and more averse to those charged with a violent crime or are recently released from prison and without work experience.

Moreover, we find evidence that employers' stated willingness to hire ex-offenders correlates with their actual behavior, thus putting greater confidence in our demand measures for this group. Employer willingness to hire is highly correlated with establishment characteristics in predictable ways that are consistent with previous research, but our work here shows that such correlations appear to translate into their actual hiring of them. For instance, employers' willingness to hire ex-offenders in establishments with a high percentage of unskilled jobs, or in

manufacturing, construction and transportation industries is correlated with their actual hiring of these people.

The results further show that employer tendencies to check criminal backgrounds have increased over the 1990s and perhaps in response to the events of September 11. Over the 1990s, this increase in checking occurred most dramatically in retail trade, manufacturing, suburban and large firms. However, when we account for the proportion of firms across the different establishment characteristics, we find that much of this increase in checking was driven by service firms – where, of course, most current and future employment growth will occur. This increase in checking is appears to be driven at least partly by legal requirements to do so. In fact, our results show that about half of firms that check criminal backgrounds indicate that they do so because they are legally required. A near majority of firms use private services when they conduct criminal background checks, and over half of employers check before they hire an applicant.

The latter results are interesting and raise a number of important questions. For instance, how accurate is the criminal history information that is provided by private services, many of whom are internet-based? Do such services provide information on arrest, conviction or imprisonment? Are the apparent effects of September 11 on decreasing employers' willingness to hire ex-offenders and increasing the frequency with which they check backgrounds relatively short-lived or long-term trends?

These findings suggest a number of important implications for policy as well. For instance, some advocates seek to suppress the information to which employers have access regarding criminal records. But it is possible that the provision of more information to these firms will *increase* their general willingness to hire young black men, since we have previously

found evidence that employers who do not have such information often engage in statistical discrimination against this demographic group (Holzer *et. al.*, 2002a and 2002b).

Even for men who actually have criminal records, the provision of more information (assuming it is accurate) might help as well. For instance, labor market intermediary organizations can provide information to employers about the nature of the offense committed by offenders, and any productive work experience that they might have gained before or since release.¹⁸ In fact, the relatively lesser aversion employers express to those ex-offenders with some recent work experience suggests some potential returns to the provision of such experience (in the form of publicly provided “transitional jobs”) to those leaving prison.

Some public funding for organizations that provide this information to employers, as well as various services and/or work experience to the offenders, might therefore be appropriate. Furthermore, given that so many employers check backgrounds and often refuse to hire ex-offenders because they are legally required to do so, some review of these legal barriers – particularly the laws that prevent employers from hiring them into specific occupations and industries - might be in order as well.

¹⁸ In fact, organizations such as the Center for Employment Opportunities in New York and the Safer Foundation in Chicago, as well as America Works and the Welfare-to-Work Partnership, are now playing those roles for ex-offenders.

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Figure 1
Employer Willingness to Accept Applicants with a Criminal Record
into Last Filled Noncollege Job, 2001

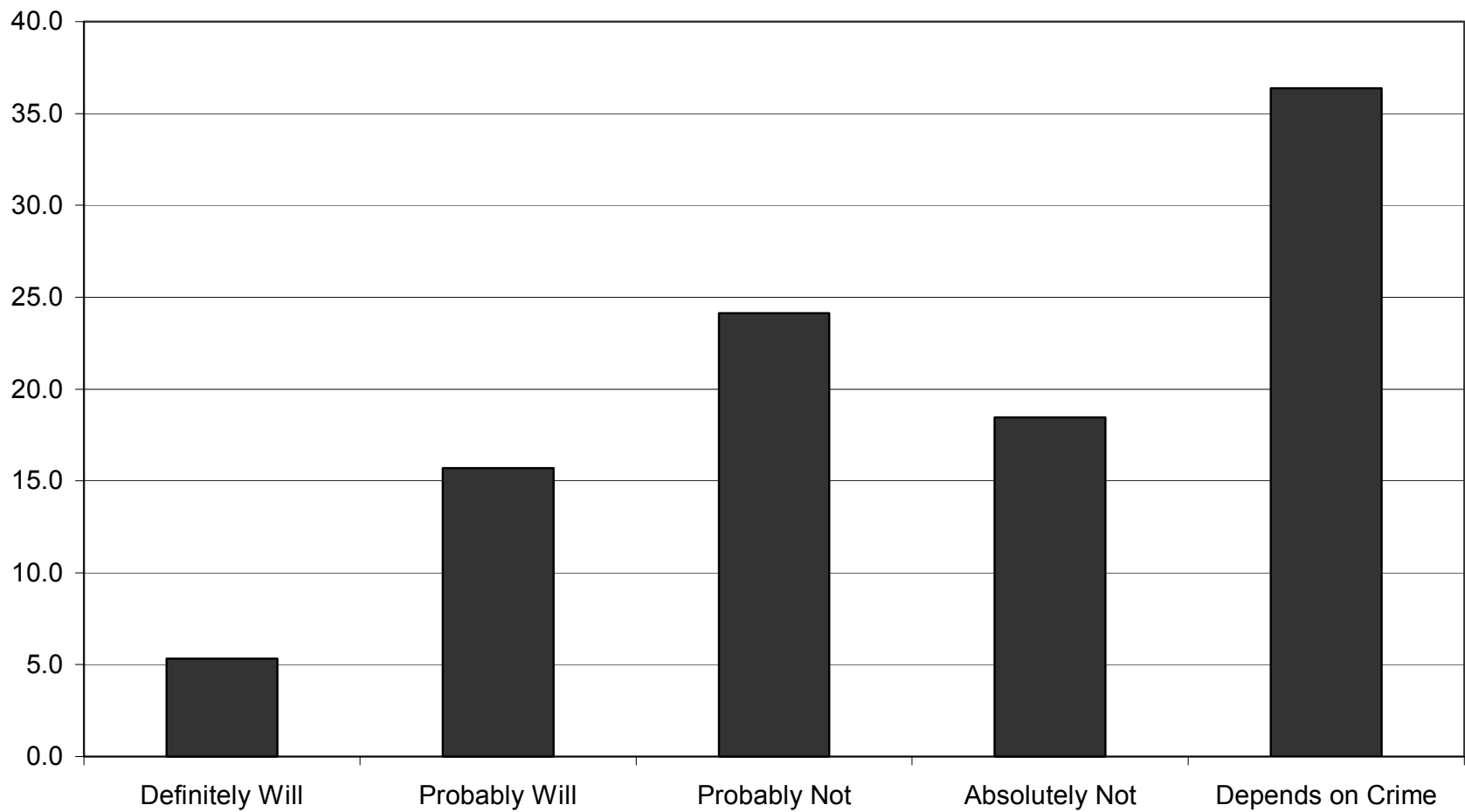


Figure 2
Percentage of Employers who Hired Ex-Offenders Past Year by Willingness to Accept Applicants with Criminal Records, 2001

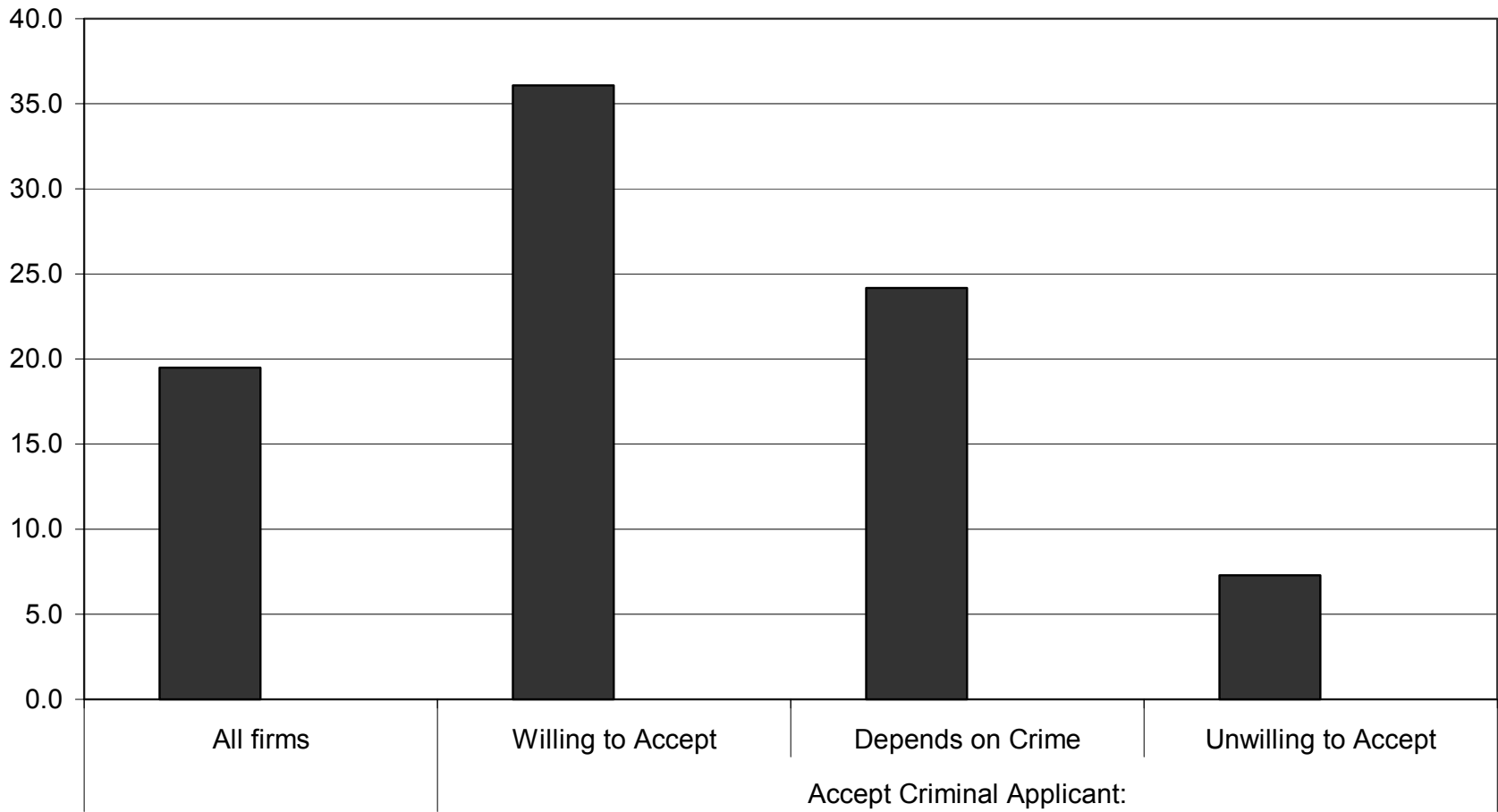


Figure 3
Percentage of Employers Willing to Hire Ex-Offenders Currently by Willingness to Accept Applicants with Criminal Records, 2001

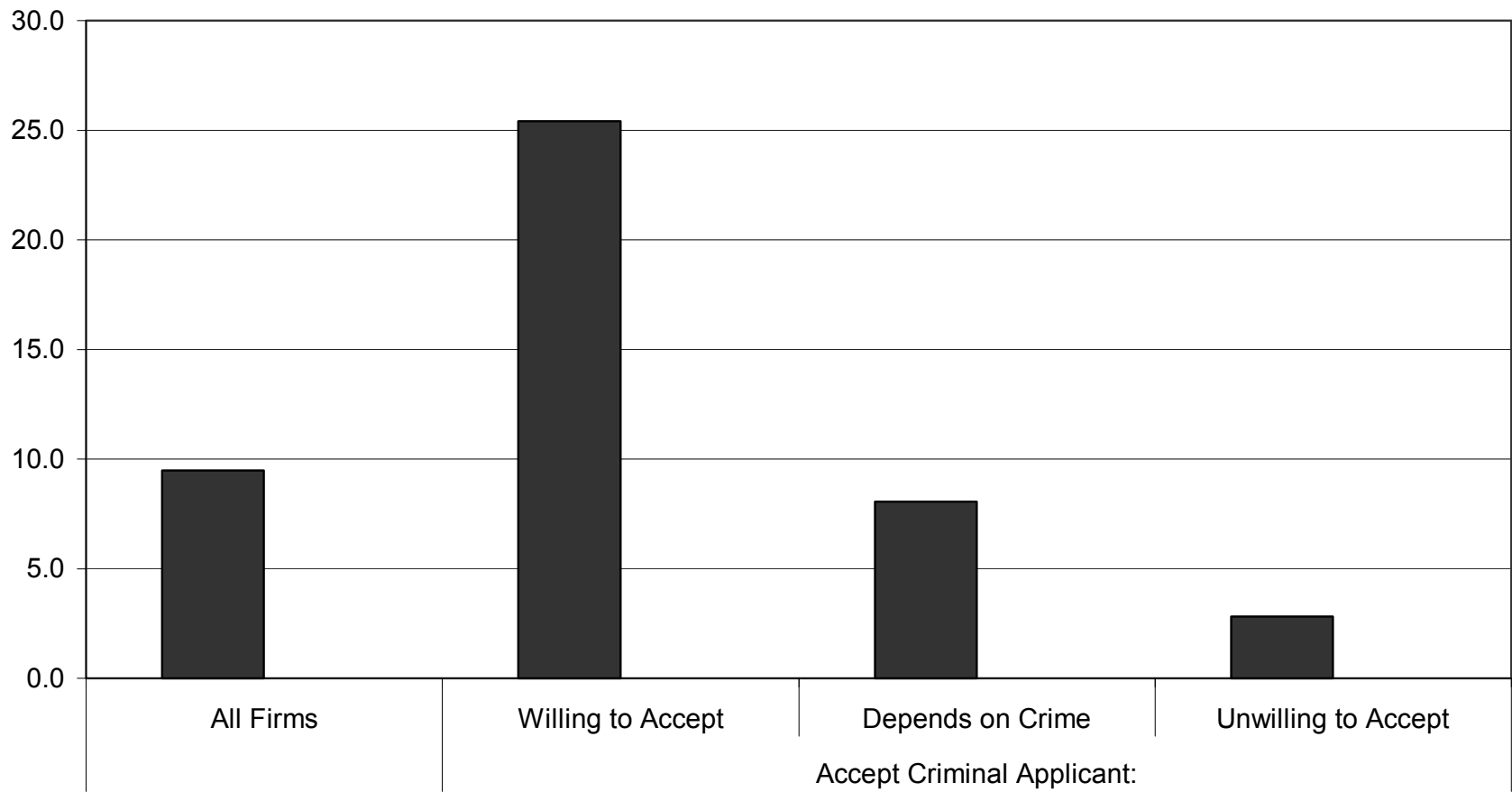


Figure 4
Percentage of Employers Willing to Hire Ex-Offenders Currently by Characteristics of Offenders, 2001*

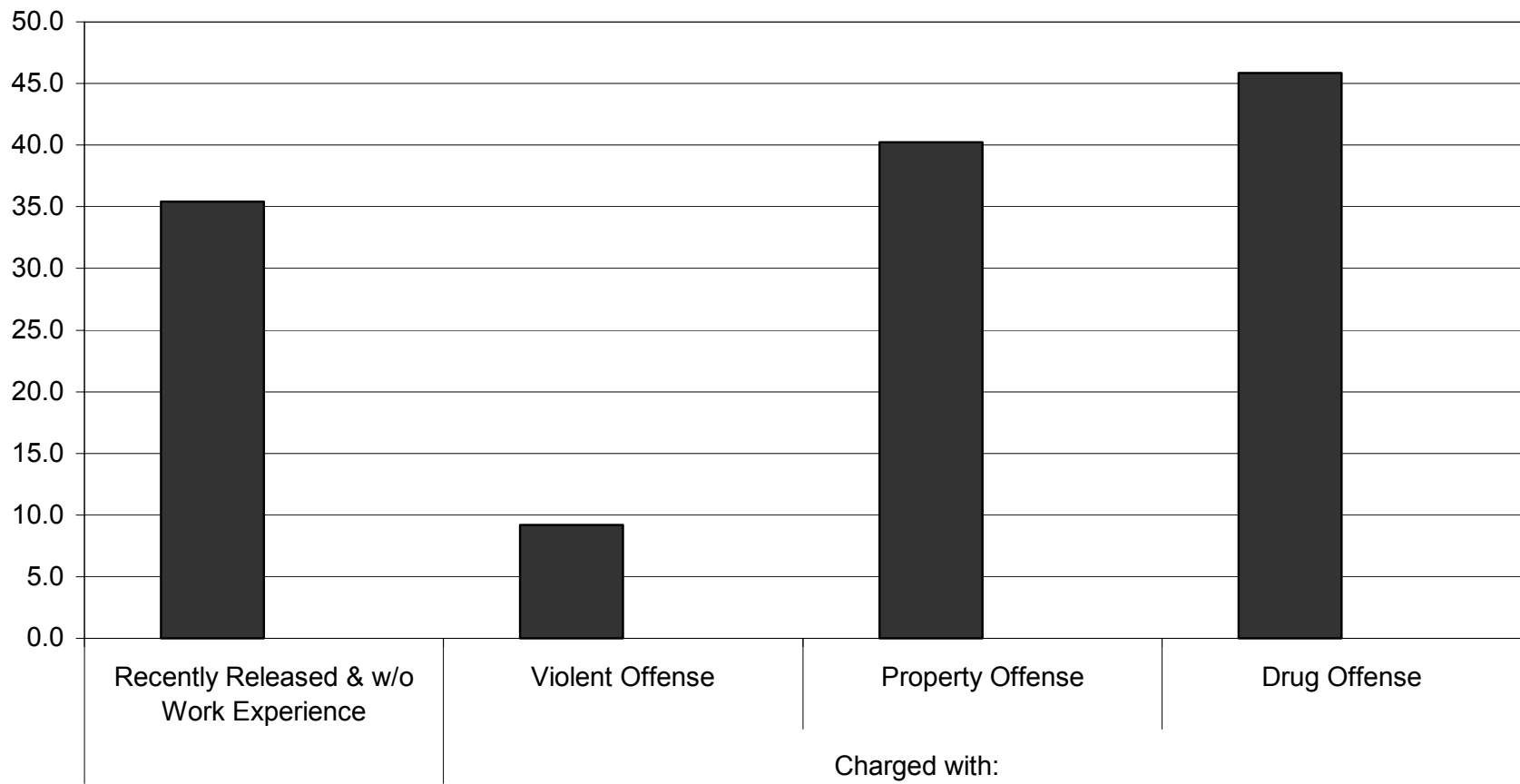


Figure 5
Frequency with which Employers Check the Criminal Backgrounds of Applicants,
1992-94 and 2001

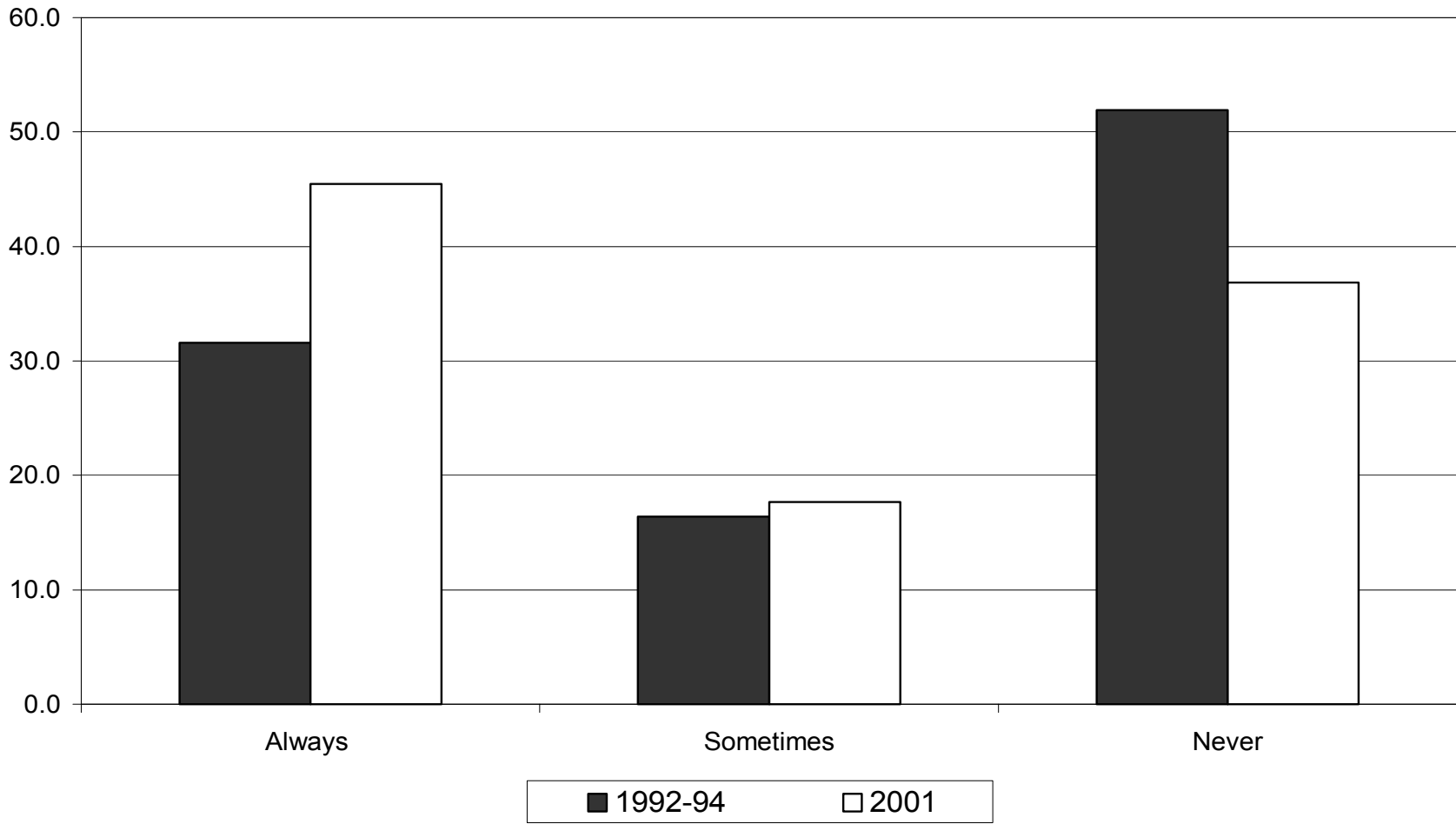


Figure 6
Percentage of Employers Legally Required to Check Criminal Backgrounds by Frequency
with which Employers Check, 2001

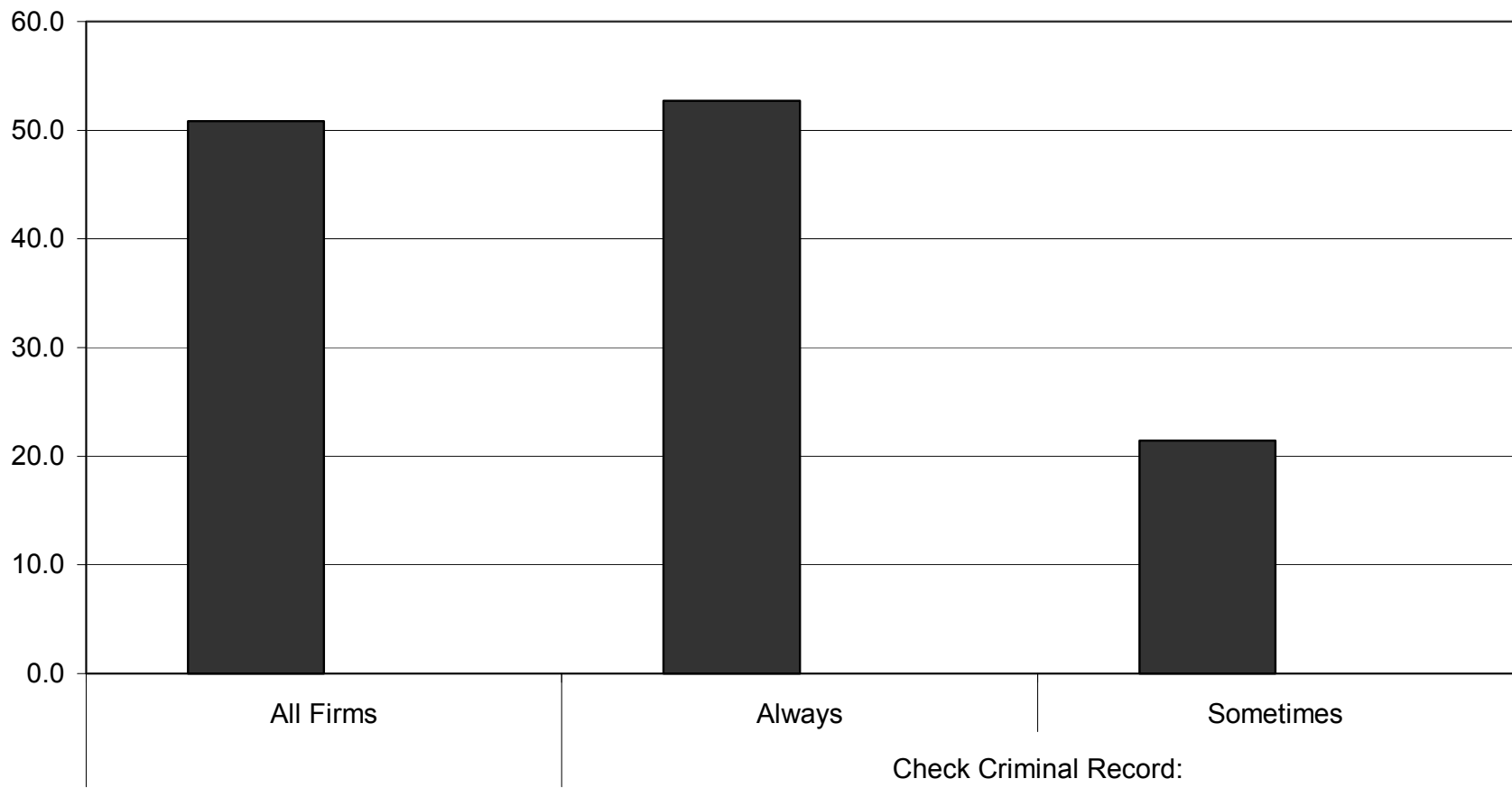


Figure 7
Method by which Employers Check Criminal Backgrounds of Applicants by Frequency with which Employers Check, 2001

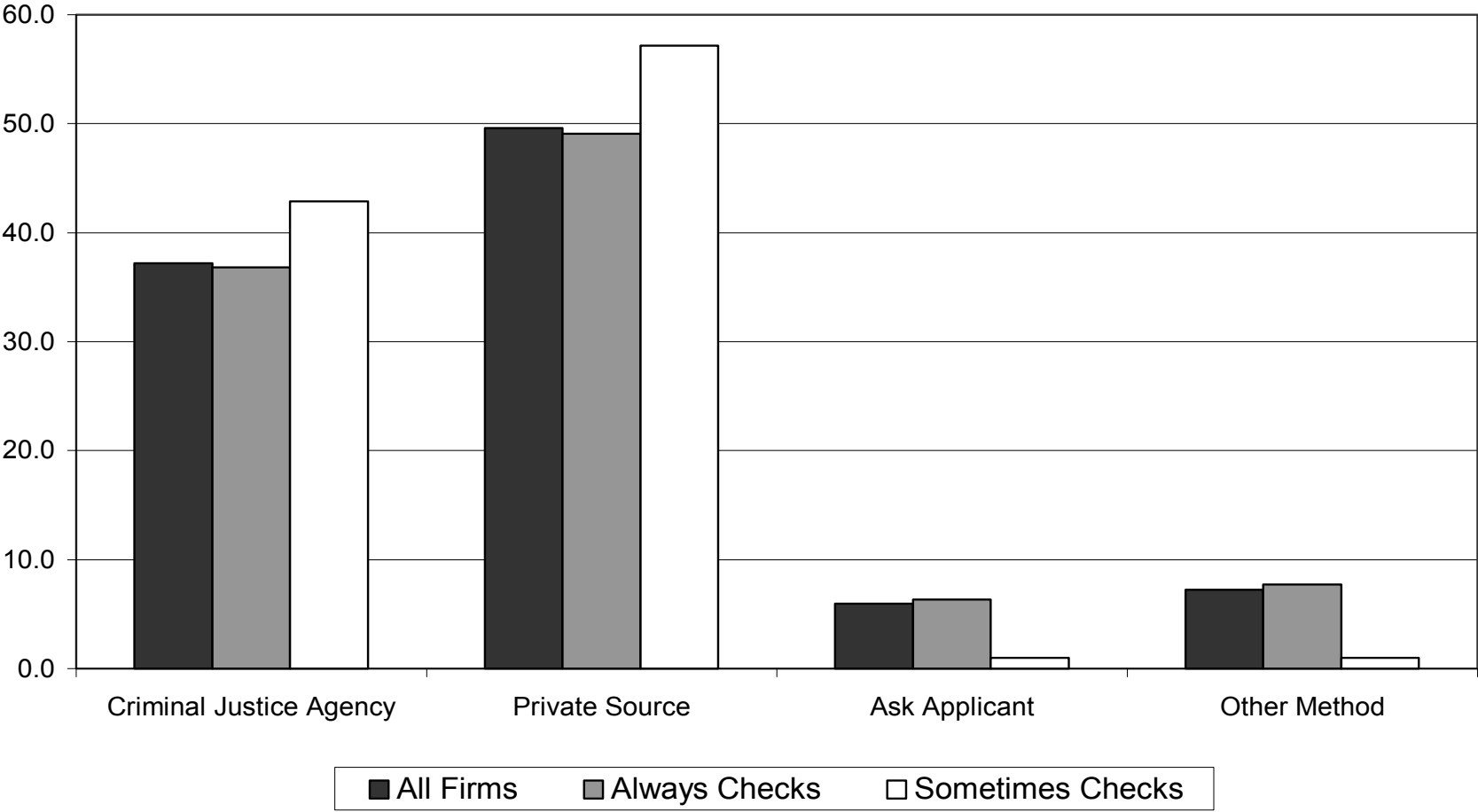


Figure 8
Timing of Employers Criminal Background Checks of Applicants by Frequency with which Employers Check, 2001

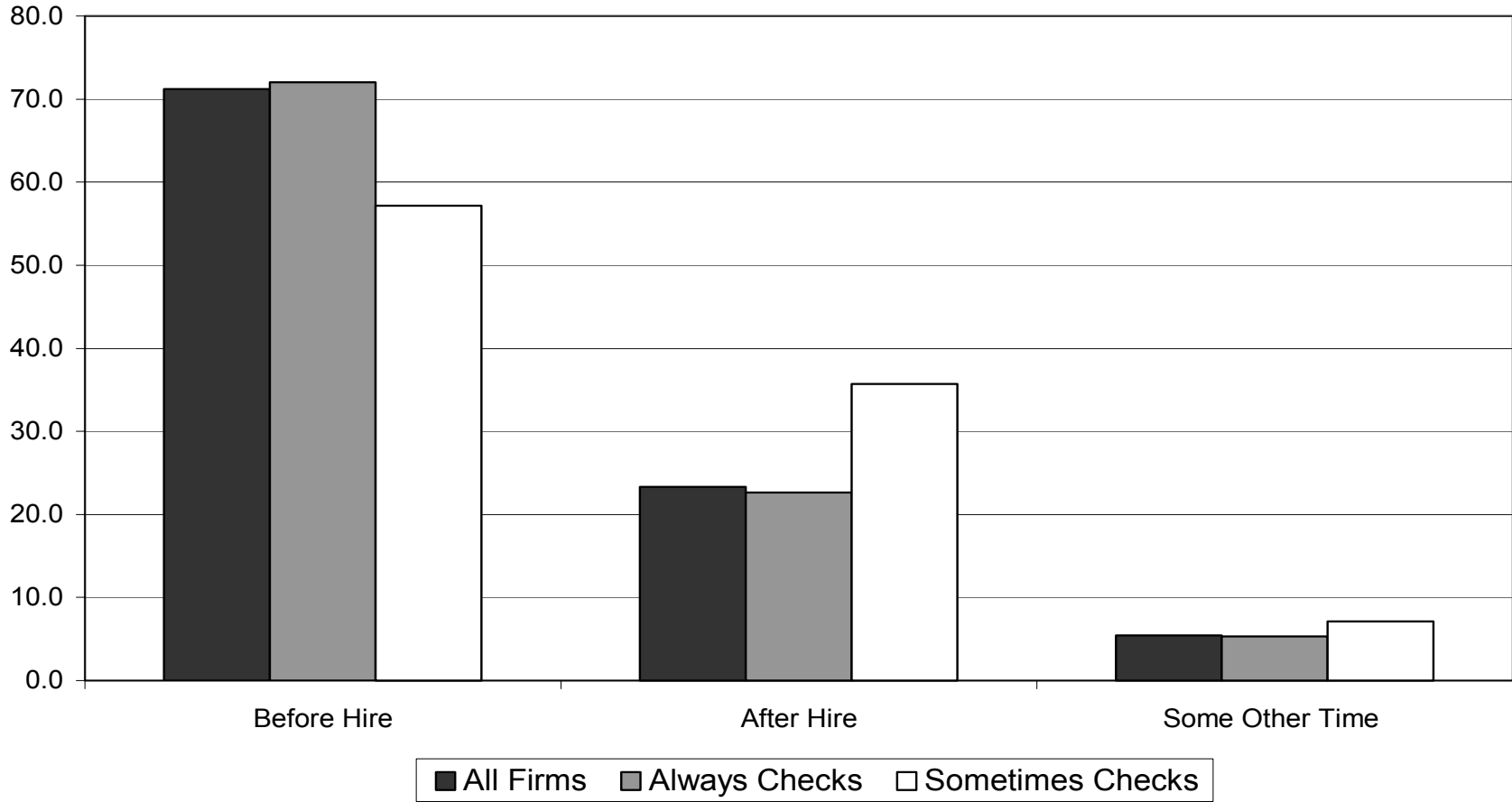


Figure 9
Percentage of Employers Responding to Questions Concerning Hiring of Ex-Offenders and
Use of Background Checks Pre and Post September 11: 2001

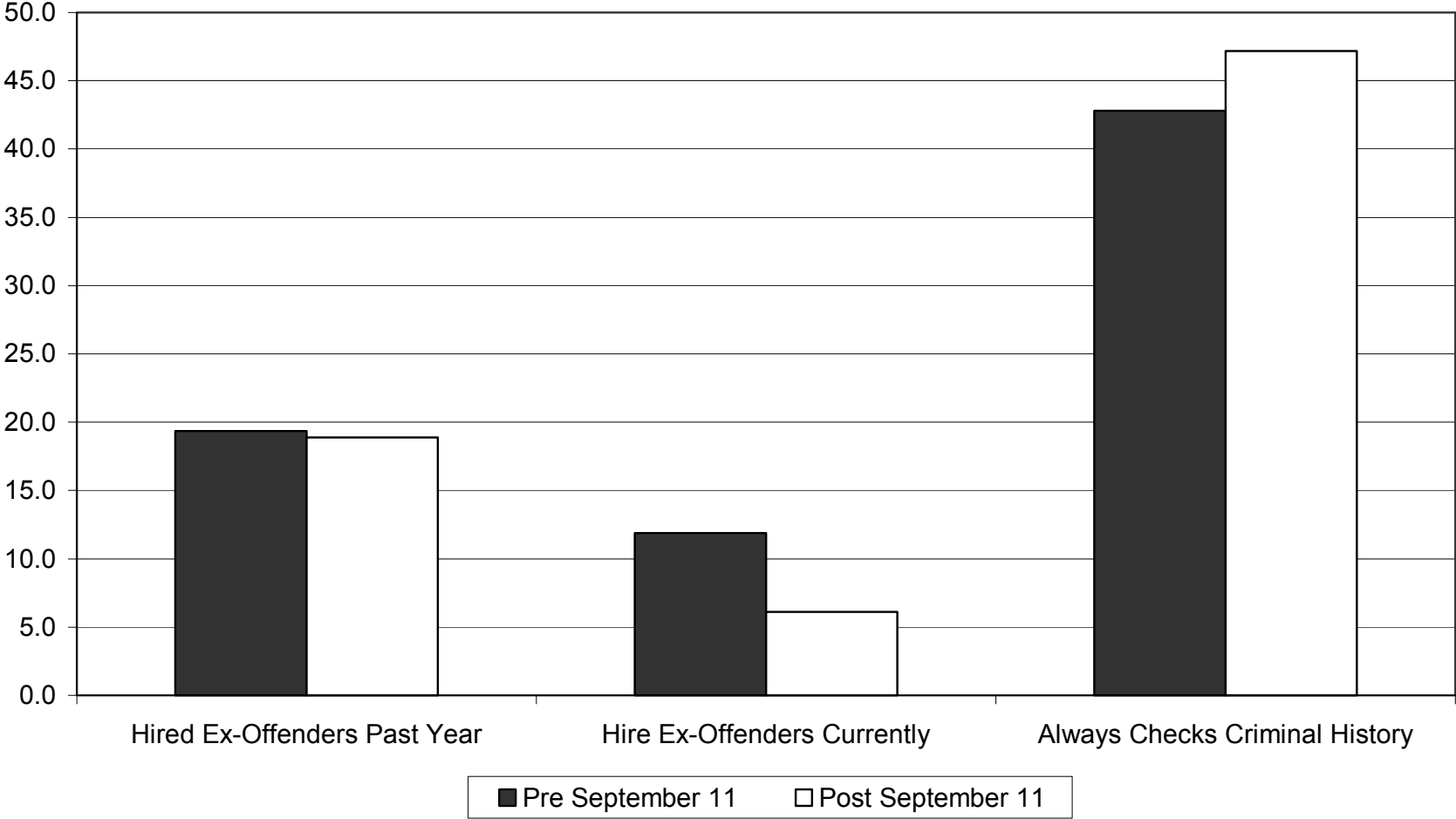


Table 1
Means (std.devs.) of Firm-Level Characteristics by Employer Willingness to Accept Applicant with Criminal Backgrounds and Actual Hiring of Ex-Offenders Last Year

| | All | Willing to Accept | Depends on Crime | Unwilling to Accept | Have Hired | Have Not Hired |
|------------------------------|-------------------|-------------------|-------------------|---------------------|-------------------|------------------|
| Industry | | | | | | |
| Manufacturing | 0.171 | 0.230 | 0.142 | 0.162 | 0.242 | 0.154 |
| Retail | 0.186 | 0.213 | 0.194 | 0.166 | 0.233 | 0.174 |
| Service | 0.435 | 0.344 | 0.436 | 0.470 | 0.308 | 0.465 |
| Construction | 0.034 | 0.049 | 0.028 | 0.036 | 0.058 | 0.028 |
| Trans., Comm., and Utilities | 0.053 | 0.057 | 0.085 | 0.028 | 0.067 | 0.051 |
| Firm Size | | | | | | |
| 1-19 | 0.172 | 0.190 | 0.176 | 0.174 | 0.085 | 0.192 |
| 20-99 | 0.422 | 0.397 | 0.373 | 0.488 | 0.402 | 0.427 |
| 100+ | 0.406 | 0.413 | 0.451 | 0.339 | 0.513 | 0.380 |
| Vacancy Rate | 0.030 (0.071) | 0.039 (0.087) | 0.023 (0.044) | 0.033 (0.084) | 0.022 (0.046) | 0.031 (0.076) |
| 0.000 | 0.560 | 0.545 | 0.542 | 0.577 | 0.547 | 0.563 |
| 0.001 – 0.040 | 0.235 | 0.231 | 0.276 | 0.195 | 0.291 | 0.222 |
| > 0.040 | 0.205 | 0.223 | 0.182 | 0.228 | 0.162 | 0.216 |
| % Jobs Unskilled | 0.337 (0.334) | 0.389 (0.353) | 0.330 (0.333) | 0.307 (0.321) | 0.426 (0.359) | 0.315 (0.325) |
| 0.000 | 0.460 | 0.402 | 0.460 | 0.494 | 0.350 | 0.487 |
| 0.001 – 0.200 | 0.189 | 0.189 | 0.227 | 0.170 | 0.200 | 0.186 |
| > 0.200 | 0.351 | 0.410 | 0.313 | 0.336 | 0.450 | 0.327 |
| Gross Hiring | 35.14 (117.28) | 36.84 (111.39) | 44.80 (159.39) | 28.27 (79.82) | 83.20 (233.37) | 23.88 (60.40) |
| 0 – 5 | 0.371 | 0.298 | 0.383 | 0.407 | 0.198 | 0.411 |
| 6 – 19 | 0.345 | 0.360 | 0.299 | 0.373 | 0.324 | 0.350 |
| > 20 | 0.283 | 0.342 | 0.318 | 0.220 | 0.477 | 0.238 |

(table continues)

| Table 1 (cont'd) | All | Willing to Accept | Depends on Crime | Unwilling to Accept | Have Hired | Have Not Hired |
|-----------------------------------|------------------|-------------------|------------------|---------------------|------------------|------------------|
| Central City | 0.312 | 0.254 | 0.322 | 0.312 | 0.283 | 0.319 |
| Always Checks Criminal Background | 0.444 | 0.287 | 0.531 | 0.433 | 0.442 | 0.445 |
| Collective Bargaining | 0.240 | 0.200 | 0.232 | 0.263 | 0.291 | 0.228 |
| Not-for-Profit | 0.213 | 0.131 | 0.213 | 0.263 | 0.158 | 0.226 |
| Minority-Owned | 0.216 | 0.295 | 0.175 | 0.215 | 0.192 | 0.222 |
| Black Male Applicants | 8.89 (15.95) | 9.65 (15.64) | 9.47 (16.71) | 9.07 (16.32) | 14.01 (19.06) | 7.66 (14.87) |
| Black Female Applicants | 7.25 (14.27) | 7.40 (13.13) | 7.84 (15.50) | 7.16 (14.31) | 7.61 (13.34) | 7.17 (14.50) |
| Latino Applicants | 33.84 (34.62) | 37.53 (36.05) | 34.46 (34.56) | 33.40 (33.79) | 45.17 (35.79) | 31.11 (33.81) |

Table 2
Percentage of Firms that Always Check Criminal Backgrounds of Applicants from 1992-94 to 2001

| | % Firms Always Check | | Difference In Checking | Proportion of Firms 2001 | Weighted Contribution |
|--|----------------------|-------|---------------------------|--------------------------------|--------------------------|
| | 1992-94 | 2001 | | | |
| Industry | | | | | |
| Construction | 36.10 | 28.57 | -7.53 | 0.034 | -0.256 |
| Manufacturing | 14.59 | 33.02 | 18.43 | 0.171 | 3.152 |
| Trans., Comm., and Utilities | 45.32 | 51.52 | 8.20 | 0.053 | 0.435 |
| Wholesale Trade | 21.15 | 20.59 | -0.56 | 0.055 | -0.031 |
| Retail Trade | 26.64 | 46.09 | 19.45 | 0.186 | 3.618 |
| FIRE | 46.67 | 59.38 | 12.71 | 0.052 | 0.661 |
| Service | 39.91 | 50.93 | 11.02 | 0.435 | 4.794 |
| Firm Size | | | | | |
| 1-19 | 19.61 | 21.15 | 1.54 | 0.172 | 0.265 |
| 20-99 | 31.60 | 41.80 | 10.20 | 0.422 | 4.304 |
| 100+ | 39.59 | 57.32 | 17.73 | 0.406 | 7.198 |
| Central City | 33.14 | 44.04 | 10.90 | 0.312 | 3.401 |
| Suburbs | 30.49 | 44.60 | 14.11 | 0.688 | 9.708 |
| Collective Bargaining | 49.02 | 58.33 | 9.31 | 0.240 | 2.234 |
| Not-for-Profit | 60.75 | 65.15 | 4.40 | 0.213 | 0.937 |
| Black Male Applicants High (> .10) | 38.72 | 46.47 | 7.75 | 0.221 | 1.713 |
| Black Male Applicants Low (0 - .10) | 25.31 | 39.29 | 13.98 | 0.779 | 10.890 |
| Black Female Applicants High (> .10) | 40.08 | 47.97 | 12.72 | 0.189 | 2.404 |
| Black Female Applicants Low (0 - .10) | 23.32 | 35.04 | 11.72 | 0.811 | 9.504 |
| Latino Applicants High (> .40) | 30.06 | 38.60 | 8.54 | 0.347 | 2.963 |
| Latino Applicants Low (0 - .40) | 33.39 | 47.52 | 14.13 | 0.653 | 9.227 |

Table 3
Means (std.devs.) of Firm-Level Characteristics by Whether Firm Checks Applicants' Criminal Background

| | All | Always | Sometimes | Never | Legally Required |
|------------------------------|-------------------|-------------------|-------------------|------------------|-------------------|
| Industry | | | | | |
| Manufacturing | 0.171 | 0.127 | 0.187 | 0.224 | 0.025 |
| Retail | 0.186 | 0.193 | 0.150 | 0.188 | 0.117 |
| Service | 0.435 | 0.498 | 0.477 | 0.341 | 0.742 |
| Construction | 0.034 | 0.022 | 0.037 | 0.045 | 0.008 |
| Trans., Comm., and Utilities | 0.053 | 0.062 | 0.065 | 0.040 | 0.05 |
| Firm Size | | | | | |
| 1-19 | 0.172 | 0.081 | 0.183 | 0.284 | 0.078 |
| 20-99 | 0.422 | 0.396 | 0.423 | 0.450 | 0.379 |
| 100+ | 0.406 | 0.522 | 0.394 | 0.266 | 0.543 |
| Vacancy Rate | 0.030 (0.071) | 0.037 (0.086) | 0.035 (0.071) | 0.019 (0.049) | 0.049 (0.110) |
| 0.000 | 0.560 | 0.444 | 0.548 | 0.704 | 0.371 |
| 0.001 – 0.040 | 0.235 | 0.3 | 0.221 | 0.167 | 0.302 |
| > 0.040 | 0.205 | 0.256 | 0.231 | 0.130 | 0.328 |
| % Jobs Unskilled | 0.337 (0.334) | 0.301 (0.314) | 0.333 (0.324) | 0.387 (0.359) | 0.248 (0.279) |
| 0.000 | 0.460 | 0.484 | 0.486 | 0.417 | 0.533 |
| 0.001 – 0.200 | 0.189 | 0.229 | 0.140 | 0.157 | 0.258 |
| > 0.200 | 0.351 | 0.287 | 0.374 | 0.426 | 0.208 |
| Gross Hiring | 35.14 (117.28) | 45.58 (101.79) | 50.61 (225.75) | 16.24 (28.07) | 72.03 (220.84) |
| 0 – 5 | 0.371 | 0.3 | 0.29 | 0.491 | 0.278 |
| 6 – 19 | 0.345 | 0.369 | 0.37 | 0.313 | 0.4 |
| > 20 | 0.283 | 0.331 | 0.34 | 0.196 | 0.322 |

(table continues)

| Table 2 (cont'd) | All | Always | Sometimes | Never | Legally Required |
|---|------------------|------------------|------------------|------------------|------------------|
| Central City | 0.263 | 0.309 | 0.336 | 0.309 | 0.308 |
| Always Checks Criminal Background | 0.444 | 1 | 0 | 0 | 0.975 |
| Collective Bargaining | 0.240 | 0.317 | 0.19 | 0.163 | 0.435 |
| Not-for-Profit | 0.213 | 0.313 | 0.168 | 0.112 | 0.525 |
| Minority-Owned | 0.216 | 0.16 | 0.308 | 0.247 | 0.167 |
| Black Male Applicants | 8.89 (15.95) | 10.93 (17.80) | 8.47 (15.41) | 6.51 (13.08) | 10.88 (17.38) |
| Black Female Applicants | 7.25 (14.27) | 9.37 (16.78) | 7.58 (15.78) | 4.56 (8.95) | 12.57 (18.80) |
| Latino Applicants | 33.84 (34.62) | 31.39 (32.75) | 31.29 (34.12) | 39.12 (36.96) | 31.18 (31.01) |