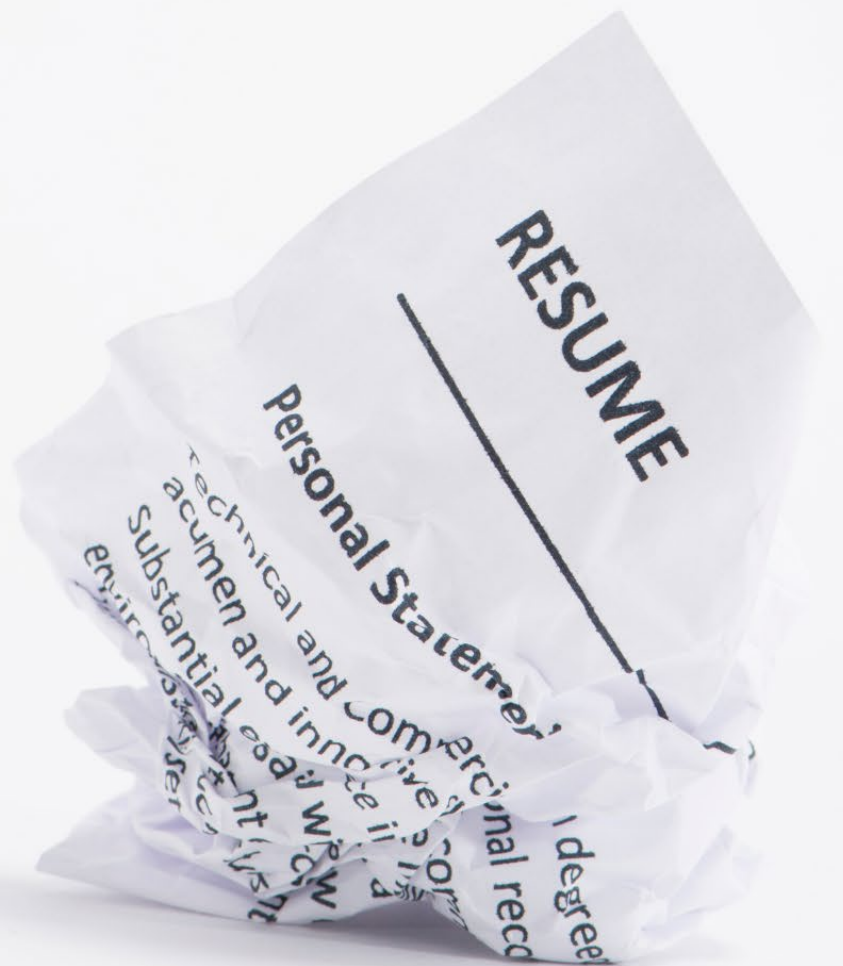


NOT IN MY WORKPLACE

Addressing Workplace Exclusion of
Individuals with Criminal Records



ABOUT US

For more than 90 years, the John Howard Society of Ontario has worked to keep the humanity in justice. Today we continue to build a safer Ontario by supporting the people and communities affected by the criminal justice system. Our 19 local offices deliver more than 80 evidence-based programs and services focused on prevention, intervention and re-integration across the province.

We promote practical, humane policies while raising awareness of the root causes of crime and calling on Ontarians to share responsibility for addressing them. Within our criminal justice system, we work toward the fair treatment of all. As the system evolves to reflect our changing society, we ensure that no one is left behind. We believe that policy should be grounded in the day-to-day reality of the people it impacts. That's why our Centre of Research & Policy specializes in bridging the gap between analysis and frontline service delivery. By collaborating closely with our local offices, the Centre's team of analysts and researchers develops policy positions that truly reflect the needs of each community, advances those positions to governments and other organizations, educates the public on the critical issues, and evaluates program efficacy to guide future work. Through it all, we're committed to ensuring that innovative ideas can translate into real action.



AUTHORS

Lead Author:	Hannah Cook
Co Authors:	Safiyah Husein
	Reza Ahmadi
	Jacqueline Tasca
	Alicia Abbott-McLeod
Key Contributors:	Justin McNeil
	Meaghan Costa
	Aileen Simon

ACKNOWLEDGMENTS

Data from the report was collected as part of a research project funded by Social Science and Humanities Research Council (SSHRC) Insight Development Grant. The project is entitled, *The Stigma Shadow: Employment Reintegration Post-Incarceration* in collaboration with **Dr. Kemi Anazodo** (Principal Investigator, Odette School of Business, University of Windsor), **Dr. Chris Chan** (York University), **Dr. Brent Lyons** (Schulich School of Business, York University), **Dr. Rosemary Ricciardelli** (Memorial University of Newfoundland), **Dr. Jakari Griffith** (Bridgewater State University), **Dr. Nicole C. J. Young** (Franklin & Marshall College), **Dr. Abdifatah Ali** (Carlson School of Management, University of Minnesota), **Dr. Candalyn Rade** (Meredith College). We are grateful for the support and commitment of Dr. Anazodo and her colleagues in making this report possible.

In addition, we would like to gratefully acknowledge the significant contributions of JHSO Volunteers **Sara Mansueto**, **Rebekah McNeilly**, **Tatum Donovan**, and **Jaycee Rowe** in assisting with the development of this report.

CONTENTS

- ABOUT US 2**
- AUTHORS..... 3**
- CONTENTS..... 4**
- SYSTEMIC ACKNOWLEDGEMENT 5**
- ACKNOWLEDGMENTS..... 3**
- PART 1: Introduction, Current Context & Our Work..... 6**
 - Introduction 6**
 - Current Context 10**
 - Recent Work 13**
- PART 2: Current Research..... 17**
 - Participant Profile 17**
 - Key Research Findings 19**
 - Comparison of Previous and Current Research 30**
- PART 3: Discussion and Policy Recommendations..... 33**
 - Conclusion 44**

SYSTEMIC ACKNOWLEDGEMENT

When recognizing the systemic challenges within the Canadian criminal justice system, it is important to acknowledge the historical and present day impacts of colonialism and systemic discrimination which includes but is not limited to the over-representation of Black individuals and Indigenous Peoples throughout the criminal justice system.

Black and Indigenous populations face higher levels of policing, incarceration, and biased treatment within the criminal justice system, with Black people being over-represented by more than 3 times that of the general population, and Indigenous Peoples by more than 5 times.

This overrepresentation exacerbates pre-existing structural barriers rooted in systemic racism and colonialism. The intersection of racial disparities and the presence of a criminal record creates distinct challenges for Black and Indigenous populations, especially when it comes to obtaining employment. Despite the growing understanding of how racial identity influences individuals with criminal records in Canada, it is not reflected in hiring practices.

It is our hope that this acknowledgement contextualizes the research found in our report and serves as a reminder of our shared responsibility to engage in open dialogue, challenge biases, and work collaboratively towards dismantling the systems of oppression that result in persisting inequities in our criminal justice system.

PART 1: Introduction, Current Context & Our Work

Introduction

If you have a criminal record and you're looking for work, to say you have an uphill battle is to put things mildly. People with criminal records face a significant stigma and often blatant discrimination when looking for a job. Even in situations where a hiring panel doesn't explicitly ask whether a person has a record or require a background check, jobseekers with criminal records will often agonize over whether to proactively disclose their record or refrain, with both options having the potential for negative outcomes.¹ If a person proactively volunteers that they have a record, this disclosure may very well lead to them being rejected from that competition, with no questions asked. If a job applicant is not asked by the hiring panel about a record, and chooses not to proactively share it, their past can still come back to haunt them, for instance, by a colleague who does an internet search and reveals the findings to the employer, leading to termination.² As this report will demonstrate, there are, unfortunately, well-founded reasons for jobseekers with criminal records to approach new job opportunities and hiring processes with trepidation and unease. With limited meaningful human rights or other legal protections from criminal record-based discrimination in employment, people with criminal records are at the mercy of individual hiring managers' discretion, and a corporate culture of risk aversion that characterizes many industries in Canada. Both individual hiring manager attitudes and entrenched risk mitigation policies reflect deeply entrenched stigma and misapprehensions about people with criminal records and what a criminal record actually tells you about a person's future performance.

Some Key Terms:

Criminal record - documentation of an individual's criminal history, containing details of arrests, convictions, and other interactions with law enforcement. They are commonly used as a screening process for employment or volunteering opportunities. For more information visit policerecordhub.ca.

Recidivism - when someone with a prior history of involvement with the criminal justice system commits another offence or encounters criminal legal issues again.

Record suspension (formerly known as a pardon) - keeps an individual's record of criminal convictions from being disclosed on a criminal record check. This process seals the person's record but does not erase it.

Fair Chance Hiring (FCH) - refers to policies, best practices, and training that any employer can use to help fairly assess candidates with a criminal record. They're built on the fundamental idea that every qualified candidate, regardless of background, has a right to a fair assessment free from stereotypes or misconceptions. For more information visit fairchances.ca.

Having a criminal record creates significant barriers to finding meaningful and gainful employment, even when the record is unrelated to the job being pursued. Paradoxically, work plays an essential and necessary role in successful reintegration. Having a job provides individuals with a sense of agency, independence, increased social connection, self-esteem, and a sense of belonging. A quality job is also one of the best protective factors against homelessness, addiction, and recidivism,³ and has been found to be one of the most crucial predictors of successful reintegration among previously incarcerated individuals.⁴ Not only does a person with a criminal record benefit from access to employment, but the community also profits from reducing recidivism-related costs.⁵

A criminal record can continue to impact a person's life long after their involvement with the criminal justice system.⁶ This is especially true for those who are overrepresented in the criminal justice system, including Black and Indigenous individuals.⁷ Research shows that more than half of formerly incarcerated people struggle with unemployment, even if they had a job prior to their incarceration.⁸ While not all individuals with a criminal record have been incarcerated, for those who have, the combination of incarceration and a subsequent criminal record can further reinforce the associated stigma that they must learn to navigate post-release.⁹

Many people with a criminal record consider the process of finding and keeping a job to be difficult. One study tracked the earnings of formerly incarcerated individuals and found that only half reported being satisfied with their pay eight months after their

release.¹⁰ To put this into perspective, in 2014, the median income for Canadian men was on average \$39,580 and \$27,750 for Canadian women. In contrast, both men and women who had been in a federal correctional institution had a median income of \$0.^{11,12} This means that half of the people with criminal records were not earning *any* income, even a decade after their incarceration. This demonstrates the limited access that individuals with a criminal record have to the Canadian labour market and contributes to higher rates of recidivism.¹³

While research has continuously shown that applicants with criminal records are less likely to find employment, obtaining specific qualifications and credentials can significantly boost their chances of being hired. One study showed that obtaining a minimum of one year of relevant experience, having a General Educational Development (GED) or a post secondary degree/diploma, or having a strong recommendation from a former employer can improve chances of being hired, even surpassing similar applicants without records who lack these credentials.¹⁴ Similarly, a 2019 study highlighted that while criminal records can create barriers to employment, employers often consider factors such as qualifications, interviewing skills, references, and sincerity of the applicant when making hiring decisions.¹⁵ This suggests that individuals with criminal records might be able to increase their chances of being hired by demonstrating that they are qualified for the job, can provide a strong reference, and display effective interviewing skills.

Fair and individualized assessments of job candidates that consider qualifications and relevant skills can help organizations make

more informed and equitable hiring decisions. Yet criminal records are often viewed by HR professionals as inherent liabilities, leading to these candidates being screened out for risk management purposes. However, research has shown that in workplaces open to hiring people with criminal records, HR professionals report a high level of satisfaction with their experience working with employees who have criminal records. In the 2021 study conducted by the Society for Human Resource Management and Charles Koch Institute, HR professionals were asked to compare workers with criminal records to those without. Almost all HR professionals (81%) found the work of new employees with criminal records to be of similar or higher quality when compared to employees without criminal records. HR professionals also ranked individuals with criminal records highly in terms of their potential for promotion (77%), dependability (75%), and ability to retain a job (72%).¹⁶ The results of this study emphasize the significant value and potential for growth that individuals with criminal records can bring to the workforce. Despite this research demonstrating the potential of individuals with criminal records and their capacity to contribute to the labour market, especially when they have relevant experience and qualifications, employers in Canada often remain hesitant to consider hiring applicants with criminal records in a meaningful way. This reluctance causes employers to miss out on this untapped pool of talent.

It is crucial to emphasize that criminal records have very little predictive value in determining risk. There is no compelling criminological evidence to support the idea that individuals with criminal records create

a higher risk of workplace violence.¹⁷ In fact, past criminal convictions are not associated with an increased likelihood to commit a work-related offence in the future.¹⁸ After a few years, there is no difference in the risk of offending between those with a prior conviction to those without one. This is based on the notion that stable employment, income, housing, and social networks act as significant protective factors against reoffending.¹⁹

Despite research demonstrating the employment potential of individuals with criminal records, and their capacity to contribute to the labour market, especially when they have relevant experience and qualifications, employers in Canada often remain hesitant to meaningfully consider applicants with criminal records in their hiring decisions. The John Howard Society of Ontario (JHSO) has studied and profiled the scope of this issue, both in terms of the human impacts it has on people attempting to find jobs with criminal records, as well as documenting employer/HR practices, for over a decade. The body of research to date consistently shows obtaining stable, quality employment significantly reduces recidivism. What is perhaps less discussed in the literature is how the exclusion of this talent pool from the labour market increasingly works against the best interest of companies, particularly in the context of significant post-pandemic labour shortages. We have previously argued that promoting and supporting successful reintegration should be a societal priority, since it benefits employers and the community as a whole.²⁰ This continues to remain true as we highlight in the findings and recommendations of this report. Below are the findings of new survey research of Canadian employers about the

use of criminal record checks. The report will first review our previous findings and current labour market trends to contextualize the new data results. It will conclude with a

discussion of the implications of these results, as well as outline policy recommendations aligned with evidence.

Additional information and resources can be found at JHSO's [Police Record Hub](http://www.policerecordhub.ca) available at: www.policerecordhub.ca

Current Context

In Canada, 3.8 million people have a criminal record²¹ but are 50% less likely to secure employment due to the stigma associated with their record.²² According to the Ontario Minister of Labour, within the province of Ontario alone, 1 million people have a criminal record.²³ Despite some recent efforts to support these individuals in finding meaningful employment, they continue to face significant challenges. This section explores three distinct areas. First, it examines disparities in employment opportunities among Black and Indigenous populations. Second, it outlines recent and relevant legislation at both provincial and federal levels. Lastly, it addresses the impact of the pandemic on labour market shortages.

Black and Indigenous overrepresentation in the criminal justice system and the impact on employment opportunities

The impact of having a criminal record is especially significant for those who identify as Black and/or Indigenous, as these populations face higher levels of policing, incarceration, and biased treatment within the criminal justice system. Although there has been a growing understanding of how racial identity affects individuals with criminal records in Canada, this is not always reflected in hiring practices.

The overrepresentation of Black individuals and Indigenous Peoples in the criminal justice system compounds the structural barriers they face due to their racial identity alone.^{24,25} The combination of racial disparities and criminal records creates distinct challenges for Black and Indigenous populations, especially when it comes to getting a job. This challenge becomes more

evident after individuals have been incarcerated. While the average unemployment rate for those with a criminal record is around 50%, breaking this number down by racial identity reveals striking disparities. White individuals have an unemployment rate of 38%, while Black and Indigenous individuals experience significantly higher rates of unemployment, around 60% and 54%, respectively.²⁶

A research study examined the difference in call-back rates between Black and White candidates, some of whom had a criminal record. The findings highlighted employer reluctance to consider applicants with criminal records, particularly impacting Black candidates who were significantly less likely to receive an interview invitation. While employer reactions were similar for Black and White applicants with criminal records, actual employment outcomes varied for those provided the chance to discuss their criminal record, such as during an interview. This discrepancy had less of an impact on White candidates compared to Black candidates, whose job opportunities were substantially reduced.²⁷

The limited job opportunities available to Black and Indigenous individuals with criminal records extends beyond Ontario. The intersection of racial identity and criminal records compounds these challenges, exacerbating the existing structural inequities these communities face. Addressing these disparities requires a deeper examination of the underlying factors contributing to these barriers and the implementation of policies to create equitable opportunities for all.

Relevant Legislation

Understanding the current context requires a discussion of relevant legislation, both provincially and federally.

In Ontario, human rights legislation ensures equal treatment in various contexts, including the hiring process. While employers can ask about a person's qualifications, they are prohibited from discriminating based on protected grounds, which includes someone's race, gender, or their "record of offences." The protected ground "records of offences," is narrowly defined in the *Ontario Human Rights Code* to include convictions that have received a pardon (now known as a record suspension) or convictions for provincial offences, such as a violation under the *Highway Traffic Act*.²⁸ This means that human rights legislation **does not** protect against discrimination based on an individual's criminal conviction if they have not received a record suspension.

Ontario also has the *Police Record Checks Reform Act* (PRCRA) which was enacted in 2018. This legislation was designed to address the negative impacts of non-conviction information that was previously disclosed in a criminal record check for employment, education, or volunteering opportunities. Prior to the PRCRA, information like police stops where no charges were laid, and mental health crises were coming up on criminal record checks. The PRCRA aimed to standardize and regulate the information disclosed to ensure fairness, privacy protection, and consistency in information disclosure. Its primary objectives were to uphold public safety while eliminating unnecessary barriers that individuals might encounter due to inappropriate information being disclosed in their criminal record checks.²⁹

For more information on Police Records and Human Rights:

<https://policerecordhub.ca/wp-content/uploads/2020/07/Police-Records-and-Human-Rights.pdf>

A record suspension (formerly known as a pardon) keeps an individual's record of criminal convictions from being disclosed on a criminal record check. It does not erase an individual's criminal record. Record suspensions serve an important role in enabling people who have made positive life changes to move on from past criminal justice involvement. The framework for record suspensions is set out in federal legislation called the *Criminal Records Act*.

In Canada, the federal government implemented two significant changes to the record suspension process. First, in response to the legalization of cannabis in Canada in 2018, Bill C-93 was passed in August 2019. This bill introduced a no-cost expedited record suspension process for individuals who only had convictions of simple possession of cannabis on their record.³⁰ Second, in January 2022, the application fee for a record suspension was substantially reduced to \$50, down from the previous cost of \$631. These changes were

aimed at making the record suspension process more accessible and affordable for individuals seeking to obtain a record suspension.³¹

However, despite these changes, record suspensions continue to remain out of reach due to the complex application process, eligibility restrictions, and lengthy waiting periods. In Ontario, if someone with a criminal conviction does not apply for or receive a record suspension, their criminal record will be disclosed indefinitely, regardless of how much time has passed. This situation leaves many jobseekers with criminal records to face what effectively becomes a life sentence, with their records being disclosed on record checks in perpetuity.

In summary, there is little in terms of legal protections against discrimination in Ontario for jobseekers with unpardoned criminal records.³²

Labour Market Trends & COVID-19

In recent years, there have been significant shifts in Ontario's labour market landscape.

A major factor contributing to the labour market shortages has been the COVID-19 pandemic, which created an unprecedented scarcity of workers across the province. Prior to March 2020, there were approximately 200,000 job openings that remained unfilled. Following the pandemic, this number surged significantly to 380,000, with notable shortages in sectors like construction and healthcare.³³

Recognizing the impact of the pandemic, in September 2022, the Ministry of Labour, Immigration, Training and Skills Development (Ministry of Labour) office announced a substantial investment of \$90 million in the Skills Development Fund (SDF) to aid post-pandemic economic recovery.³⁴ This initiative was established to provide assistance to individuals who have been

disproportionately affected by the COVID-19 pandemic, including women, youth, people with disabilities, Indigenous Peoples, racialized groups, and most notably those involved in the criminal justice system. The funding's primary objective is to connect these groups with meaningful employment, with a particular focus on skilled trades, healthcare, technology, and manufacturing sectors.³⁵

Furthermore, promoting fair chance hiring is a priority for the current provincial government. As part of the investment announcement, the then-Labour Minister, Monte McNaughton, passionately called on Ontario employers to consider opening their doors to applicants with criminal records.³⁶

These trends in the labour market present an opportunity for employers to tap into this pool of qualified candidates who are largely excluded from the current market.

Recent Work

Since 2014, JHSO has conducted extensive research to gain insights into employers' hiring practices as they relate to individuals with criminal records. Over the years, several surveys have been conducted, including those in **Hastings and Prince Edward County (2014)**, **London (2015)**, **Toronto (2018)**, and most recently across **Ontario (2023)**. These surveys have engaged:



*Survey conducted by JHSO partner, *Human Resources Professional Association*

Each survey has looked at how many employers use criminal record checks, the process, and the internal policies and procedures that surround these checks. The research has continuously shown that criminal record checks play a significant role in hiring decisions, with many employers relying heavily on them when considering job candidates. A brief overview of each survey is provided below:



Help Wanted*, Hastings and Prince Edward County, 2014: This report looked at youth unemployment throughout eastern Ontario. In our study, we found that some social factors such as being part of a racialized community, living with mental illness, using substances, or having developmental disabilities made it even harder for young people to find employment. As a result, these young Ontarians were more likely to encounter the criminal justice system and obtain a criminal record. The key findings from Help Wanted* showed:

1. Half of the organizations surveyed (51%) required criminal record checks for potential employees during the hiring process.
2. There was a clear relationship between the size of a company and the requirement of criminal record checks (i.e., larger enterprises were three times more likely to require a criminal record check).
3. Certain sectors such as construction, accommodation, and food/service industries were much less likely to require background checks.

For youth involved in the justice system, having a criminal record created a significant barrier when seeking employment, as it increased the chances of being rejected from job opportunities, especially within larger organizations. The Help Wanted* report also laid out policy recommendations that would reduce these barriers for the benefit of the community, employers, youth with criminal records and the job market.

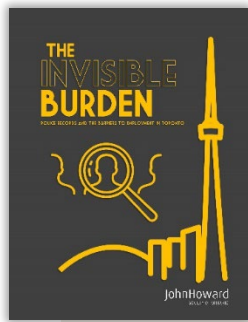


Police Record Check Use in Hiring Practices, London, 2015: JHSO conducted a similar study throughout London and Middlesex County,* a community with some of the highest unemployment rates in Ontario. This survey focused on the inequities in the job market for people with a criminal record. The key findings highlighted that:

1. Larger organizations and employers were more likely to conduct criminal record checks on their potential employees compared to smaller organizations.
2. Inconsistencies in terms of policies and procedures existed within hiring processes as it related to those with a criminal record.
3. Liability/risk management and legal requirements for Vulnerable Sector Checks (VSC) were the most popular reasons that employers required criminal record checks for incoming employees.

These findings demonstrated the widespread use of criminal record checks among employers in Western Ontario, largely for reasons related to risk management and legal requirements relating to vulnerable sectors.

* In collaboration with United Way Elgin Middlesex, this research project was undertaken by a student from Western University as part of their undergraduate thesis project



Invisible Burden, Toronto, 2018: This report delved into the difficulties faced by individuals with criminal records when seeking employment, offering insights into potential improvements that can benefit employers, those with records, and the community. Building upon JHSO's earlier research, this study had a particular focus on Toronto's diverse population. The main findings highlighted that:

1. About 60% of employers wanted a criminal record check for all new hires.
2. A vicious cycle of unemployment begins when people with criminal records are denied work opportunities as unemployment increases the chances of criminal justice involvement and vice versa.
3. Criminal records disproportionately impact Black and Indigenous populations.

The results from this survey echoed what was found in previous research. The results emphasized the significant impact of criminal record checks and their consequences, especially among individuals from Black and Indigenous populations. The report also suggested various policy recommendations to minimize the negative consequences associated with criminal records and promote the participation of marginalized communities in the labour market.



The Use of Police Record Checks in Ontario Workplaces, Ontario, 2023:

JHSO collaborated with the Human Resources Professionals Association (HRPA) to administer a survey targeting Human Resources Professionals in Ontario.

This survey, issued in September 2023 by the HRPAs, received 445 responses from HRPAs members, offering valuable insights into the criminal background check policies and processes utilized by their respective organizations. The key findings from the survey highlighted the following:

1. A substantial 80% of respondents included criminal record checks as a standard screening tool during the hiring process.
2. Of those conducting criminal record checks, over two-thirds (68%) conducted level 1 Criminal Record Checks, while half (50%) conducted the more in-depth level 3 Vulnerable Sector Check as part of their screening procedures.
3. Three-quarters of HRPAs members (75%) indicated that, at their respective organizations, criminal record checks are a standard requirement for most positions when hiring.

In summary, the findings from these four studies consistently revealed that criminal record checks are extensively used by employers, posing significant obstacles for those who have criminal records seeking meaningful employment. Across all groups, many companies reported the mandatory use of criminal record checks during the hiring process, with larger companies conducting them more frequently than smaller businesses. The research further revealed that Black and Indigenous populations, youth, and those dealing with mental health and addiction face the most barriers. These collective findings highlight the widespread use of criminal record checks across diverse sectors in Ontario, limiting people with a criminal history from obtaining employment.

In summary, the findings from these four studies consistently revealed that criminal record checks are extensively used by employers, posing significant obstacles for those who have criminal records seeking meaningful employment. Across all groups, many companies reported the mandatory use of criminal record checks during the hiring process, with larger companies conducting them more frequently than smaller businesses. The research further revealed that Black and Indigenous populations, youth, and those dealing with mental health and addiction face the most barriers. These collective findings highlight the widespread use of criminal record checks across diverse sectors in Ontario, limiting people with a criminal history from obtaining employment.

PART 2: Current Research

JHSO's earlier research was limited to specific jurisdictions throughout Ontario, which is reflected in the sample sizes. To expand on this research, between 2020-2022, JHSO partnered with a research team led by Dr. Kemi Anazodo to develop a new project to explore the perspectives of hiring managers across Canada on hiring individuals with criminal records. This research is part of a larger Social Sciences and Humanities Research Council (SSHRC) study focused on employment and reintegration issues.³⁷

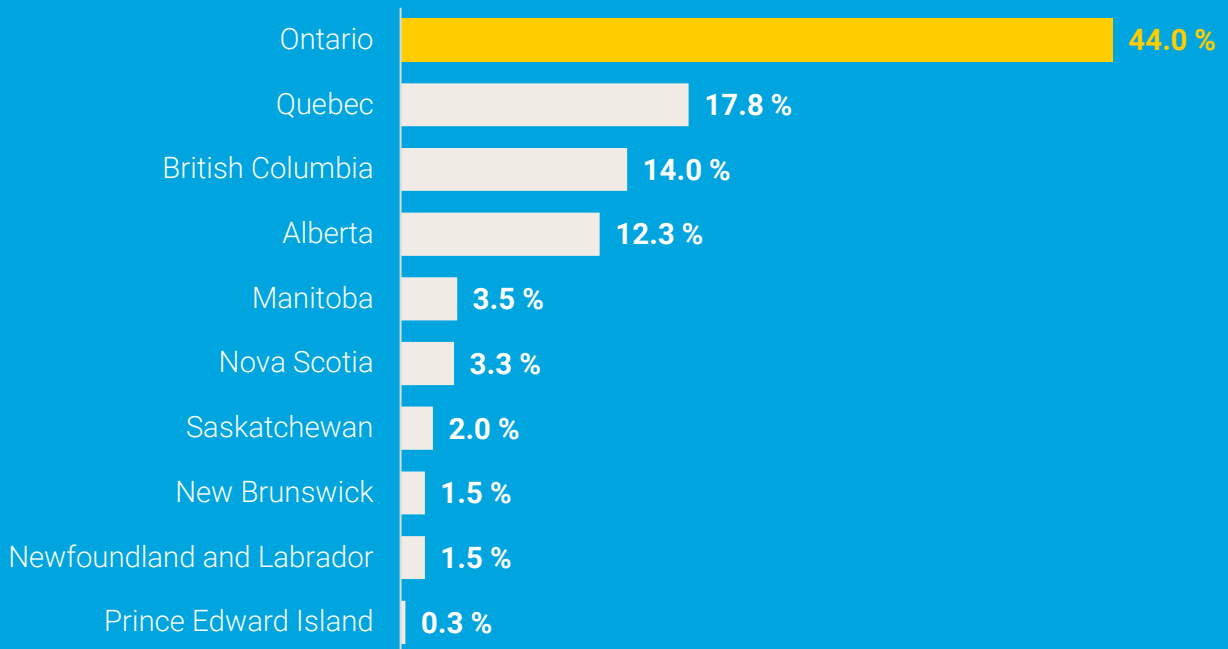
This study involved surveying hiring managers across Canada with the aim of gaining insight into their attitudes and viewpoints when it comes to hiring people with criminal records. The survey covered various topics focusing on hiring managers' attitudes toward those with criminal records, current hiring practices, procedures and policies, whether they are willing to hire people with criminal records, and what factors, if any, would make them more open to doing so. In the following sections, the results of this new research are outlined and compared to the responses from JHSO's previous surveys.

Participant Profile

A total of **400** hiring managers from across Canada took part in the survey. Of those respondents, **100%** were involved in the interview and selection processes at their organization and prior to their current role, **80%** had previous experience with making hiring decisions. Over half (**54%**) reported being top (i.e., CEO, President, Owner) or senior (i.e., Director, Vice President) level management of the organization.

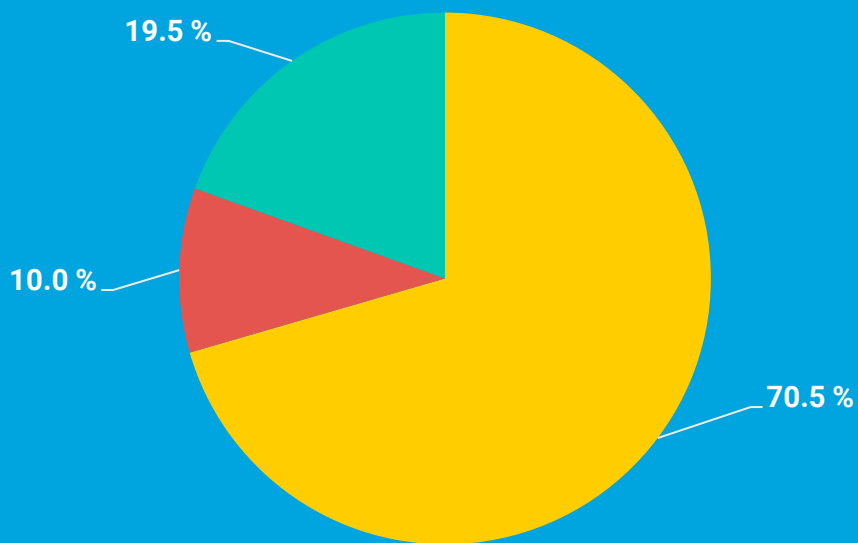
While respondents were recruited across Canada, almost half (44%) resided in Ontario, followed by 18% from Quebec, 14% from British Columbia, and 12% from Alberta. No individuals from the Northwest Territories, Yukon or Nunavut participated in the survey.

Representation Across Canada (N=400)



Most of the respondents worked in smaller organizations (70%) with 1-99 employees and came from a wide variety of industries/sectors.

Size of Organization (N=400)



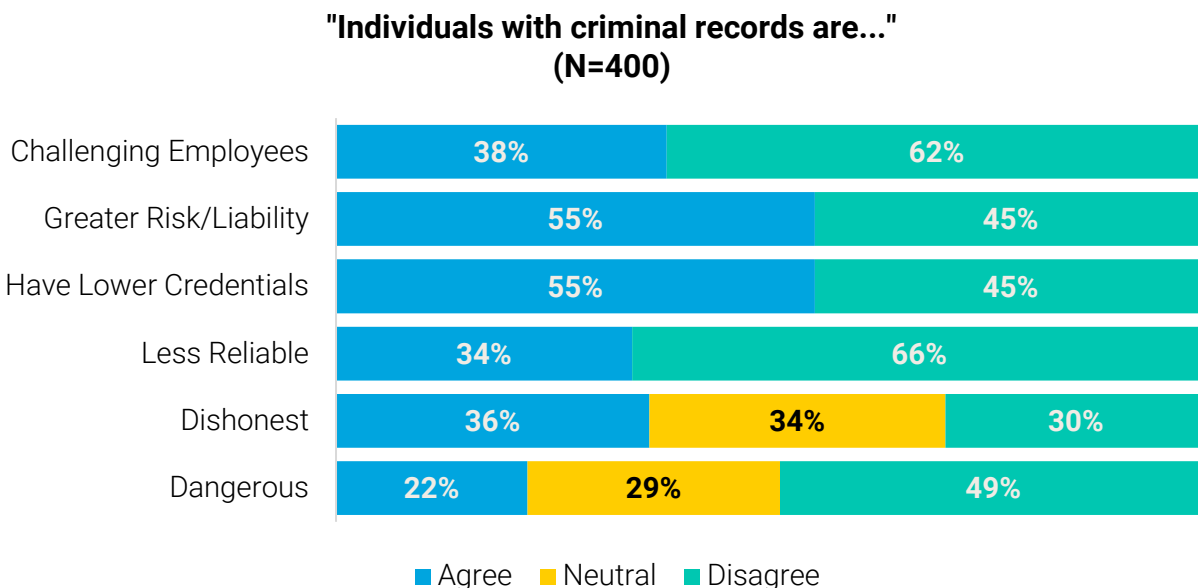
■ Small (1-99 employees) ■ Medium (100-499 employees) ■ Large (500+ employees)

Key Research Findings

KEY FINDING 1: Despite being supportive of reintegration generally, employers hold negative perceptions about people with criminal records.

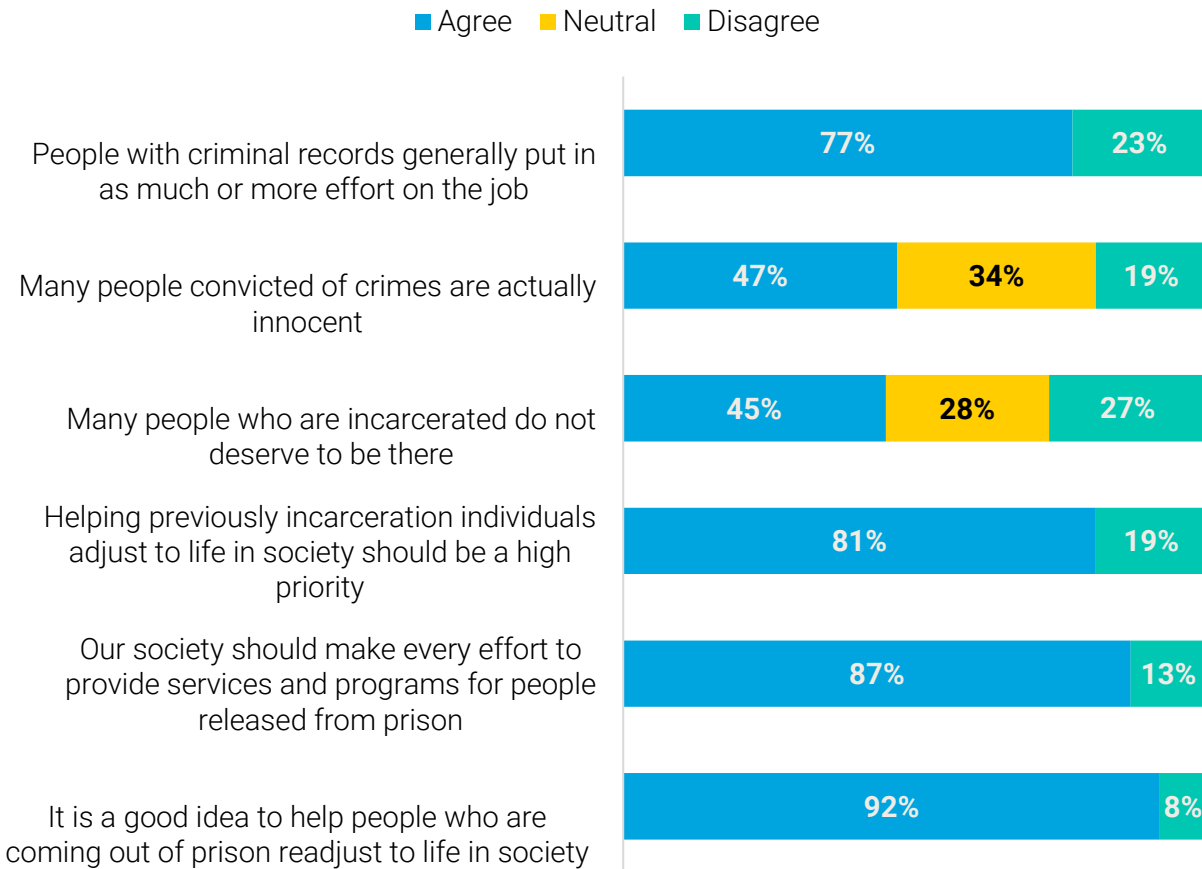
When it comes to hiring people with criminal records, some respondents expressed negative views. Respondents were asked to share their level of agreement with different versions of the following statement, “individuals with criminal records are...” and a little over half (55%) of the respondents agreed that those with a criminal record pose a greater risk or liability and have lower credentials compared to those without a record. Also, a significant portion thought that those with a criminal record were challenging employees (38%) and dishonest (36%).

When looking at the perceptions across different industries, those working in business/administration, finance, and healthcare/social assistance industries consistently maintained more negative perceptions toward individuals with criminal records. Additionally, in terms of the perception of whether those with criminal records are deemed dangerous, respondents from the education/childcare and retail/wholesale trade industries held more negative perspectives compared to other respondents.



Despite many respondents' negative beliefs about those with criminal records, they generally supported the idea of reintegration for individuals involved in the justice system. Nearly all respondents (92%) agreed that it is beneficial to help those coming out of incarceration reintegrate back into society. There was also an overall support for services and programs that support those coming out of incarceration (87%) and prioritizing the reintegration process for those exiting corrections (81%). Additionally, there was a prevailing belief that people with criminal records tend to put more effort into their job compared to those without a record (77%).

Indicate the extent you agree or disagree... (N=400)



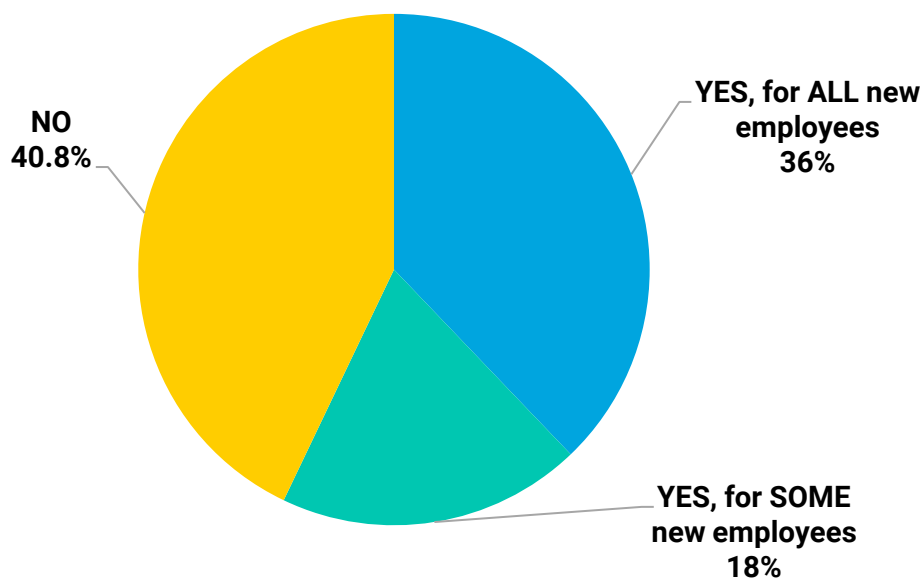
Findings of the survey suggest that while an overwhelming number of respondents were supportive of successful reintegration, including finding employment, many still held negative perceptions, which could potentially impact hiring decisions. This is consistent with our previous research, which essentially found that employers are supportive of the concept of reintegration and the need for individuals to find work post-justice involvement in the abstract, but do not necessarily apply these principles in their specific workplaces.

KEY FINDING 2: Criminal record checks continue to be used as a core component of assessing candidates during the hiring process.

Criminal record checks continue to be a standard tool used by employers when screening job candidates. When asked if they believe a record check should be required for all job applicants, 60% of respondents agreed.

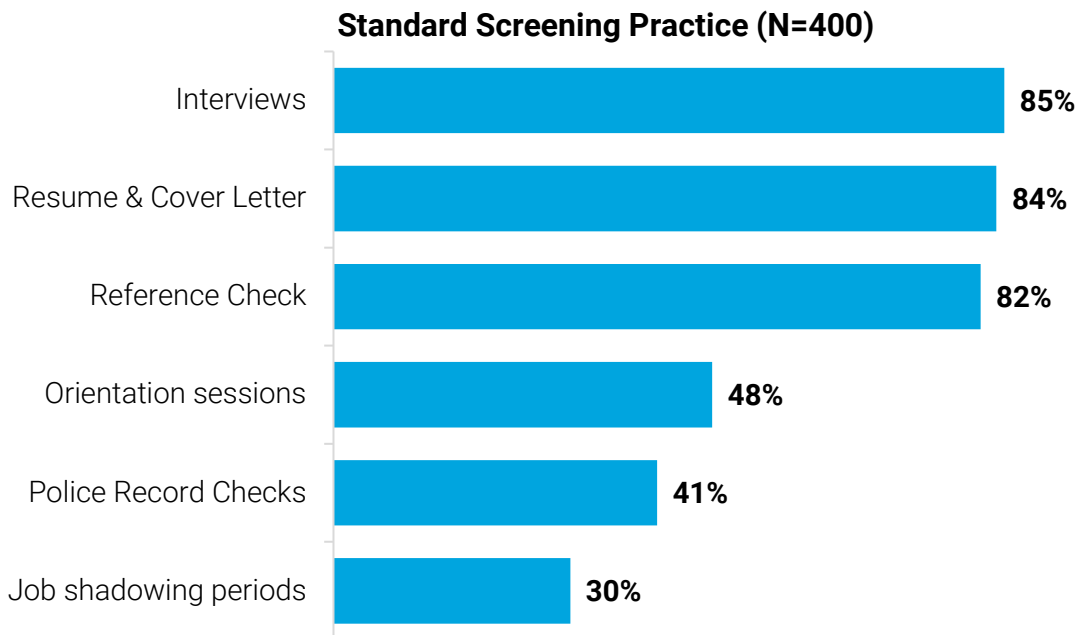
Further, more than half (54%) confirmed that they require a criminal record check for either all or some of their new employees and 72% shared that they have a formal or written policy around the use of criminal record checks. Based on survey findings, large and medium sized organizations conducted criminal record checks more often than small organizations. Those working in industries such as healthcare/social assistance, finance, and government were more inclined to require a criminal record check for all or some new employees compared to sectors such as arts/media and retail industries.

% of organizations that require any form of criminal record checks (N=400)



During the hiring process, most respondents considered interviews, resumes/cover letters and reference checks as standard practices. While 54% required a criminal record check for some or all new employees, only 41% included record checks in their standard screening process. This discrepancy in findings may be attributed to the fact that employers only apply these checks to some of their new hires and therefore it may not be part of their standard hiring practices.

However, **66%** stated that their organization had not engaged in internal discussions regarding record check procedures in relation to the hiring and screening process.

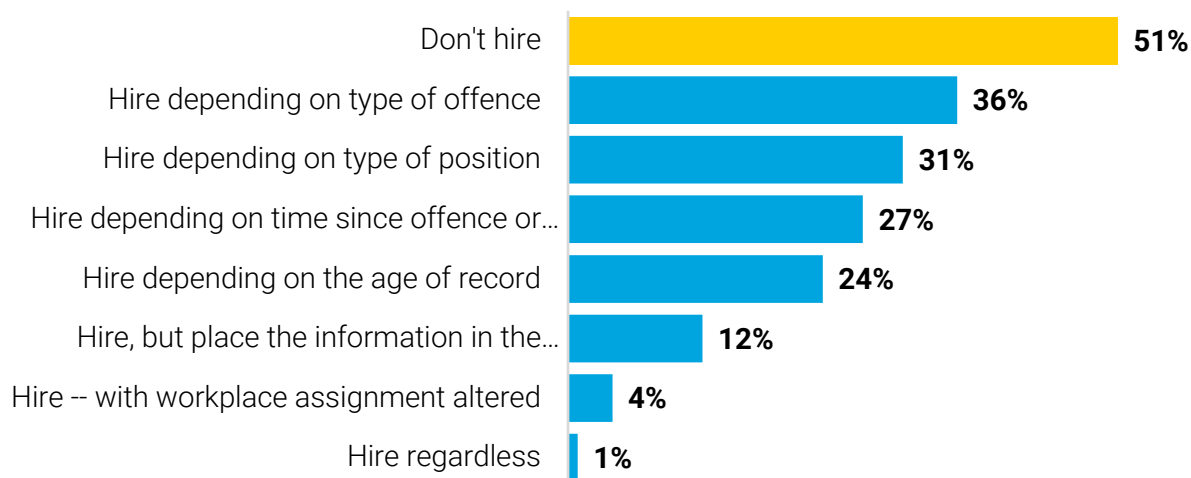


Overall, many respondents indicated that they incorporate criminal record checks into their regular hiring procedure, with **60%** of respondents of the opinion that it should be done for all job applicants. This practice is particularly prevalent among larger and medium-sized organizations, as well as certain industries like government. Despite the substantial role that record checks play in the hiring process, only a small number of organizations have discussed the internal procedures related to record checks.

KEY FINDING 3: While there is a degree of willingness among employers to hire individuals with criminal records, half of the respondents would not.

Although there appears to be some support for hiring individuals with criminal records, half of the respondents selected that they would simply not hire a candidate whose record check revealed a positive result. Survey respondents were asked to select *all that apply* on a range of actions when deciding on an applicant who failed a pre-hire screening. Over half (51%) selected that they would not hire the candidate – with 42% of respondents only selecting that response. Among those open to considering these candidates, they indicated their decision is often dependent on the type of offence (36%), type of position (31%), and/or how much time has passed since the offence/conviction (27%).

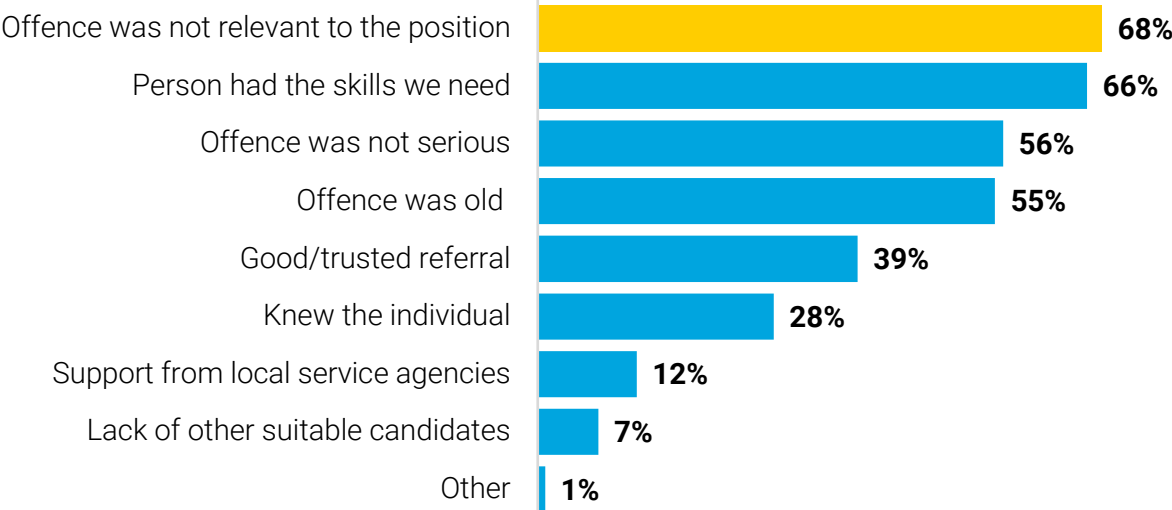
When an applicant fails a pre-hire screening, how does this generally affect hiring decisions at your organization? (n=217)



When asked if they had ever knowingly hired someone with a criminal record, only 27% of respondents revealed that their organization had employed someone with a criminal record, while 73% had not or were unsure. Among the few employers who had knowingly employed someone with a criminal record, they generally held more positive attitudes compared to those who had never hired a candidate with a criminal record. Said differently, respondents with actual experience hiring and working individuals with criminal records tended to hold more positive views of them. This survey findings also suggest that many negative perceptions held by the survey respondents about job candidates with criminal records are informed by stereotypes and assumptions, rather than by any direct personal experiences. Notably, larger and medium-sized organizations were more likely to answer 'yes' or 'unsure' than smaller organizations. Larger and medium-sized organizations also reported hiring individuals with criminal records more frequently. This might be tied to the fact that smaller organizations are less inclined to request criminal background checks, and therefore, would not be aware of a person's criminal record.

Among those who have hired someone with a criminal record, the most common factors that influenced their decision for hiring the candidate were that their offence was not relevant to their role (68%), they have the required skillset (66%), their offence was not serious (56%), or their offence was old (55%).

**Factors of influence for hiring candidates with criminal record
(n=109)**



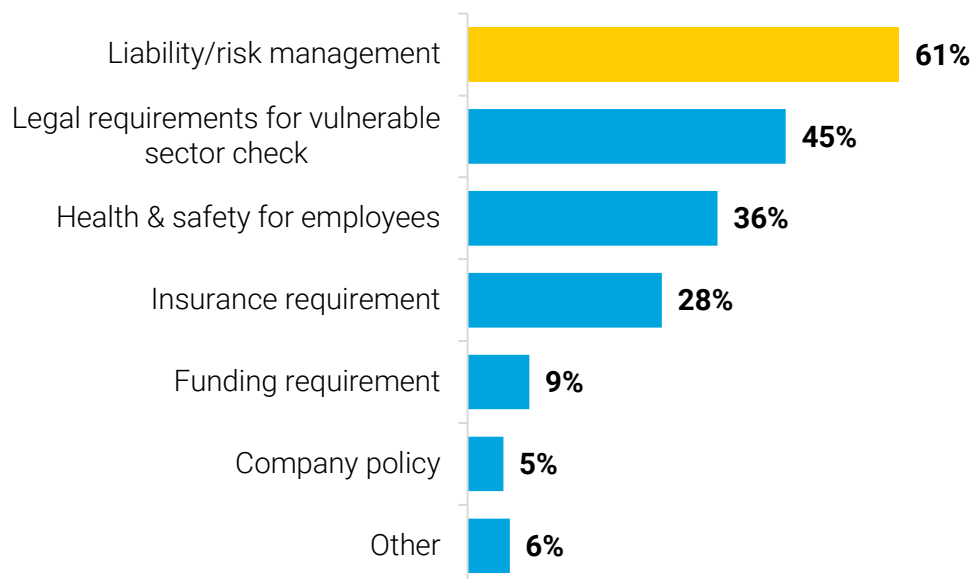
Although there was some willingness to employ individuals with criminal records, 51% of respondents would not consider such candidates. While there appeared to be openness to the idea in theory, only 27% actually acted on it. For those open to hiring, their considerations were typically related to the offence – its relevance to the position, the severity of offence, and the amount of time passed since the offence. This underrepresentation of individuals with criminal records in the workforce suggests persistent stigma and biases within HR departments and the job market.

KEY FINDING 4: Employers used criminal record checks for various purposes, but many lacked clear organizational policies and communication regarding this practice.

Even though 41% of respondents stated that criminal record checks are used as part of their company/organization’s standard screening process, almost 60% noted a lack of clear communication from senior leadership about policies regarding hiring individuals with criminal records and 45% found the communication about these policies to be unclear.

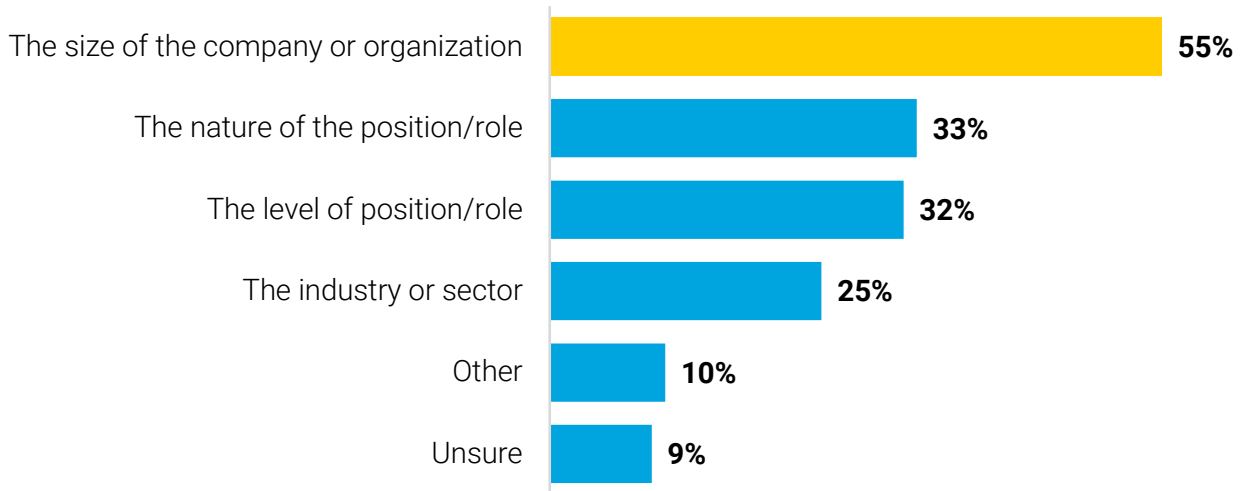
Of those organizations **that do** conduct record checks, only 5% indicated their reasoning for doing so was due to company policy. More commonly, the reasoning was based on concerns about liability/risk management (61%) and due to legal requirements for a Vulnerable Sector Check (45%).

Reasons for Conducting Criminal Record Checks (n=218)



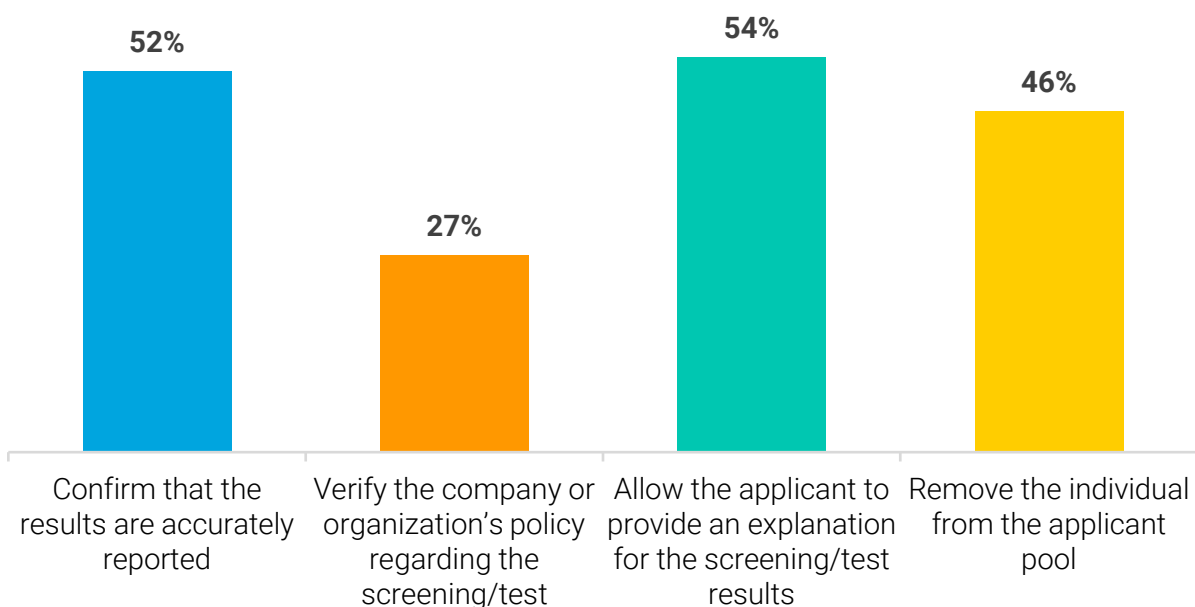
Among those who **do not** conduct criminal record checks, the most frequent reason provided was the size of the organization (55%) – smaller organizations are less likely to conduct criminal record checks. They also took into consideration the type of position/role (e.g., customer/client facing, finance related, interaction with vulnerable individuals) (33%) and the level of the position/role (i.e., entry-level vs. senior management) (32%).

Is there a specific reason your organization decided not to request police checks? (n=163)



Respondents were also asked to *select all that apply* to how their company responds when they find out a job candidate has a criminal record, and the responses varied. A little over half expressed that they would let the applicant provide an explanation for the screening/test results (54%) and/or confirm that the results have been accurately reported (52%), while a little less than half of the respondents said that they would no longer consider the candidate for the position (46%).

What actions are taken when an applicant fails a pre-hire screening? (n=217)

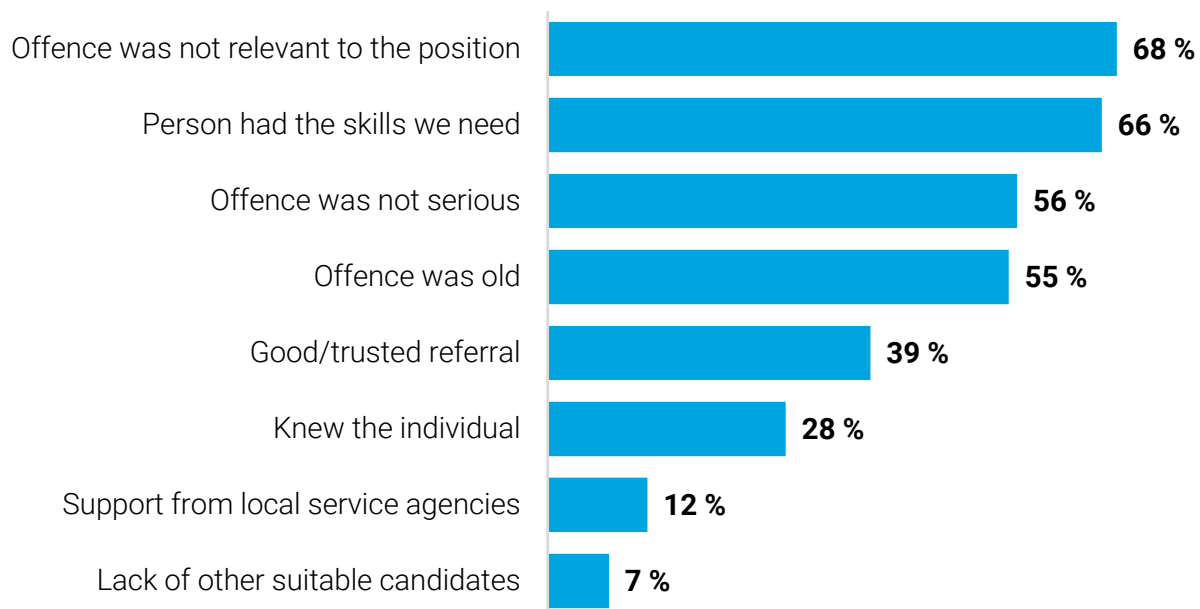


Interestingly, although criminal record checks are seemingly important to the hiring process, **62%** of the respondents shared that their organization does not take part in periodic background checks. This means that they only check records when hiring and not afterwards. For those respondents that conduct periodic criminal record checks on their current employees subsequent to the hiring stage, where these checks yield a criminal record, almost half (**47%**) said that their response would be dependent on the person and only **12%** said that they would fire the individual. This finding highlights that the outcome of periodic checks, if positive, would hinge on the individual's situation, demonstrating a willingness to be flexible when informed about the person's situation.

KEY FINDING 5: Hiring managers had a range of suggestions for improving employment outcomes for individuals with criminal records.

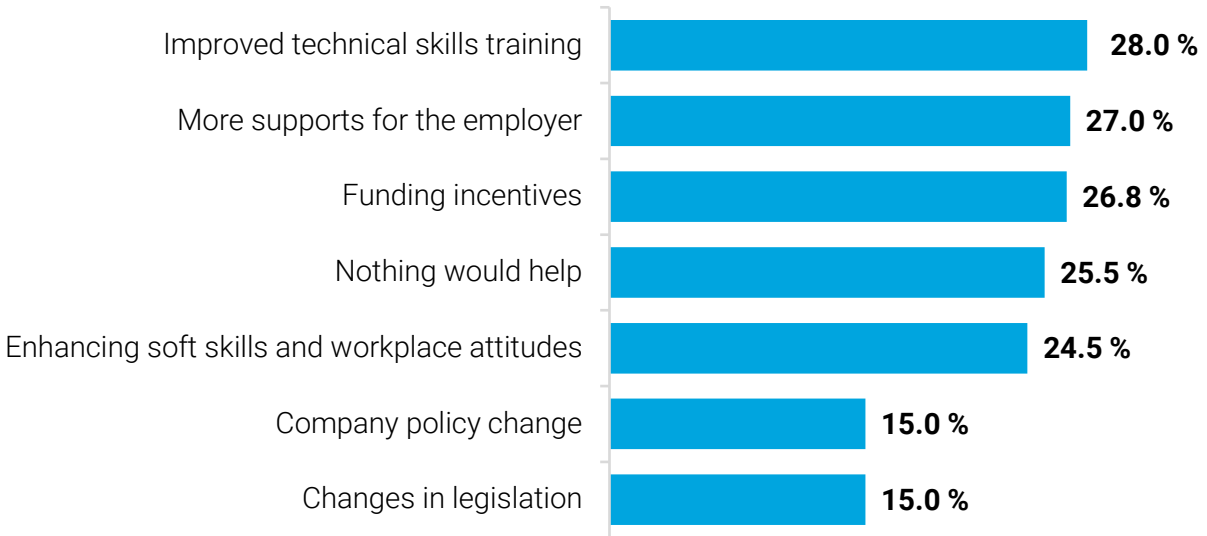
When employers decided to hire those with criminal records, their reasons varied. Most commonly, it was because the person’s past offence was not relevant to the position (68%), the candidate had the right skillset (66%), the offence was not serious (56%), the offence was old (55%), and/or they had a good/trusted referral (39%). Individuals very rarely suggested that their reason for hiring individuals with criminal records was because no other suitable candidates were available (7%).

What influenced your decision to hire the individual with a criminal record? (n=109)



To increase employers’ willingness to hire individuals with criminal records, some suggested that improved **technical skills (28%)**, more **support for the employer (27%)**, offering **funding incentives (26.8%)**, and **enhancing soft skills and workplace attitudes (24.5%)** might encourage employers and organizations to employ individuals with criminal records. Some respondents also thought that changes in **company policy (15%)** might be useful. However, **25.5%** of respondents felt that **nothing would help**.

Is there anything that might encourage your organization to employ young people with criminal records? (N=400)



When asked about increasing employment opportunities for people with criminal records, most respondents thought it **depended on the individual**, while some considered **changes in legislation** as a potential solution. In terms of how recent discussions on racial justice and systemic discrimination have influenced organizational policies, only **20%** of respondents said they noticed an impact. This suggests that there is room for more conversations with employers about implementing policy changes in response to these critical issues.

Comparison of Previous and Current Research

As mentioned, JHSO's earlier research was confined to specific regions and due to limited sample sizes, did not provide a representative perspective on employers' attitudes toward hiring individuals with criminal records. The current study aimed to fill this gap, offering a broader, more representative perspective on the topic. Across the surveys conducted by JHSO, there were various points of convergence and divergence throughout the data. These areas are outlined below.

Employer Attitudes: Some respondents in the current study expressed negative opinions toward job candidates with criminal records, with 55% believing that such individuals posed a heightened risk and possessed lower qualifications compared to those without records. These percentages are marginally higher than what was found in previous studies but remain consistent. Additionally, some respondents from the current study regarded individuals with criminal records to be challenging employees (38%) and viewed them as dishonest (36%).

Criminal Record Checks: The latest survey revealed that 54% of employers require criminal record checks for some or all of their new hires, with 60% believing this should be done for all job candidates. These results align with previous JHSO research, showing a continued reliance on conducting criminal record checks, particularly among larger organizations and those working in healthcare/social assistance, finance, and government sectors. However, in comparison, the recent survey of **HRPA members** showed that significantly more individuals (80%) required criminal record checks for employees or job candidates, with the majority requiring Criminal Record Checks (68%) and Vulnerable Sector Checks (50%).

Willingness to Hire: Although there has been a considerable decline in the percentage of employers who reported willingly hiring individuals with criminal records compared to previous studies, the factors influencing hiring decisions have remained consistent as employers indicated that the type of offence and the age of the offence that the individual committed plays a major role in employers' hiring decisions. Additionally, some employers from the current survey reported that the relevance of the offence to the position applied for, and the seriousness of the offence also factored into their hiring decisions. When surveying HRPA members, 19% said that they require a "clean" record.

Although employers state that they are willing to hire people with criminal records, when compared to their actual hiring practices, these words are not often translating into action. Across all of the previous surveys, respondents reported that they were open to hiring an individual with a criminal record. However, JHSO's previous research indicated that over half of the employers surveyed had not hired an individual with a criminal record. This trend was reaffirmed in the current survey, as only 27% of employers had reported that they had knowingly hired an individual with a criminal record and among those who had knowingly hired individuals with such backgrounds, they tended to hold more positive views toward those with a history of justice involvement.

Policies: According to the current survey, 72% of employers indicated having formal written policies regarding criminal record checks, while in previous years this percentage was higher (95% in 2018). However, 45% of employers expressed uncertainty regarding their organizations' policies, approaches, or perspectives on hiring individuals with criminal records. In the survey of HRPAs members, three quarters (75%) of members indicated that record checking is a standard requirement for most/all positions when hiring at their organization.

The most common reason given by employers in the current research for requiring criminal record checks was liability and risk management followed by legal requirements for the Vulnerable Sector Check (VSC), which is consistent with the results from the 2018 data.

Employment Outcomes: Consistent with earlier findings, the current study suggests that employers are more likely to adopt inclusive hiring practices when candidates demonstrate the relevant technical skills, if they are provided with funding incentives, or if policy changes are implemented at their workplace. When surveying HRPAs members, 61% of HRPAs members shared that if there were free training/resources available on the advantages and best practices for hiring people with criminal records, they would be interested in learning more. Unique to the current study, more support for the employer, and improved soft skills and workplace attitudes, were also identified as methods to increase employers' willingness to hire individuals with criminal records.

The current survey also highlighted those employers who had previously hired individuals with a criminal record reported overall positive experiences. This aligns with findings from the previous surveys which acknowledges and reinforces the notion that individuals with a criminal record were equally as qualified for their positions as those without a record.

Opinions of Canadians

In 2020, JHSO conducted a representative poll of **1,500 Canadians** to understand public attitudes toward hiring individuals with criminal records. The results showed that the general public was much more receptive to the idea compared to hiring managers.

Canadians believed interviews, resumes, cover letters and reference checks were the most important routine employment screening requirements. Among the Canadians that were surveyed, only **41%** believed criminal record checks should always be required when applying for a job. They cited safety, transparency, character assessment, and necessity as the primary reasons for this stance. However, most Canadians (**80%**) believed that employers should assess each job position individually to determine relevant screening requirements rather than routinely conducting record checks. There was also an emphasis placed on employers carefully considering the details of a candidate's criminal record before automatically rejecting them.

A substantial majority of Canadians (**76%**) expressed a belief that both employees with and without criminal records can perform their jobs equally well, with only a small percent (**12%**) anticipating workplace issues arising when these individuals were hired.

Canadians also demonstrated strong support for inclusive hiring practices, with approximately **84%** of respondents agreeing that employers should prioritize equal opportunities in their hiring processes. A slightly smaller proportion (**55%**) supported fair hiring practices specifically tailored for individuals with prior criminal records.

For more information about see the national polling results in [Fair Chance Hiring: A Canadian Perspective](#).

PART 3: Discussion and Policy Recommendations

As demonstrated in the current study, criminal record checks are a common screening tool, and a positive check often results in the employer being unwilling to hire that individual. The stigma and misconceptions surrounding justice involvement contribute to exclusionary hiring practices, particularly among hiring managers or employers who have never actually hired and therefore worked with someone with a criminal record. As a result, the 3.8 million Canadians with a criminal record are often denied the chance to build a productive life for themselves and their families on the basis of ingrained assumptions and fears of liability exposure.

Opening opportunities for people with criminal records is critical for the rebuilding of their lives and for preventing further justice system involvement. However, the benefits of fair chance hiring extend well beyond the individual. Reducing barriers to employment also unlocks a pool of talent for employers made of individuals proven to have deeper loyalty and commitment.³⁸

The current study brought to light key challenges faced by individuals with criminal records seeking employment:

1. While employers expressed support for reintegration, they still held negative perceptions of these individuals.
2. Employers relied heavily on criminal record checks during the hiring process.
3. While some employers were open to hiring candidates with criminal records, approximately half of the respondents were not.
4. The use of criminal record checks served multiple purposes, yet many organizations lacked clear policies and communication on this matter.
5. Notwithstanding these challenges, hiring managers identified opportunities for improving employment prospects for individuals with criminal records.

For Black and Indigenous populations who already face institutionalized barriers when it comes to employment, these barriers are amplified when compounded with a criminal record.

Destigmatizing criminal records and de-emphasizing their significance in the recruitment process is critical to addressing the discriminatory practices that are highly prevalent among companies in Canada, and that ultimately perpetuate and deepen the injustices and systemic racism inflicted by the criminal justice system. Similarly, people experiencing additional barriers including but not limited to mental health, substance use, and homelessness are also adversely affected by criminal records, and subsequently, employment processes.³⁹

To create meaningful change in hiring practices amongst Canadian employers and to help the 3.8 million Canadians with criminal records build productive futures for themselves and their families, we believe it is time for Ontario (and Canada) to make fair chance hiring a public policy goal. We believe clear direction, legislation, and support for fair chance hiring, embedded in both workforce development/labour reform and justice strategies, will allow more Ontarians fair labour market access. It will also act as a means to counter the vicious cycle of justice involvement and lack of opportunity after exiting corrections.

The following critical policy changes are recommended to promote inclusive employment opportunities for people with criminal records.

1 A

Improved education and awareness on criminal record checks

The current study shows that criminal record checks remain a core component of assessing candidates, as per Key Finding 2. Despite being supportive of the abstract concept of reintegration, Key Finding 1, this study highlights prevailing negative views amongst employers of people with criminal records, and Key Finding 3 shows that many employers in the study were unwilling to hire a candidate with a criminal record. The social science evidence is clear that criminal record checks have little predictive value in determining future risk,⁴⁰ yet negative beliefs about people with criminal records seem to be guiding record check practices and holding employers back from giving people with past criminal justice involvement a fair shot at employment. The PRCRA in Ontario standardized the type of information disclosed on a record check, creating three different levels of check, yet confusion remains about when to use each level of check and how record checks should fit into recruitment and talent assessment, leading to discrimination and exclusion of people with criminal records.

A province-wide, government-led or endorsed education campaign for Ontarians would be beneficial in helping to clarify when to use criminal record checks, which level of check is appropriate and what role record checks can play in screening processes. Increased education and awareness of criminal records will contribute to a cultural shift toward more inclusive hiring models and reduced stigma for people with criminal records and increased clarity for employers around when to use the different types of criminal record checks. For example, the provincial government released a guide with resources on how businesses and organizations can remove barriers for people with disabilities and comply with the *Accessibility for Ontarians with Disabilities Act (AODA)*.⁴¹ Government-led or endorsed resources provide clarity for Ontarians leading to better compliance with the law and ushering in changes in practice to reduce barriers.

Over the past decade, JHSO has provided evidence-based education and resources for employers around best practices for employment opportunities for people with criminal records. The resources include information on how to interview/ask about criminal records, how to contextualize someone's justice system involvement, how to assess the relevance of a record to a specific position and demystify misconceptions and stigma around people with criminal records. JHSO also recently spearheaded the founding of Canada's first [Fair Chances Coalition](#), a group of cross-sector employers and organizations committed to fairly assessing job candidates with criminal records. The Fair Chances Coalition website has a wealth of resources for employers on criminal record checks, how to determine if record checks are necessary, what record check to choose, legal analysis, and importantly, information to destigmatize criminal records.

The introduction of government-led guidance on fair chance hiring would equip employers with the tools and knowledge to introduce fair chance hiring policies within their company/organization.

Some things that employers can consider in order to implement fair chance hiring policies within their company/organization include:

1. Understand that record checks provide little insight about an individual and should not be the default for all employment and volunteer positions, unless required by law. Job candidates should be assessed based on skills and experiences, not solely on degrees and credentials, and broad prohibitions based on past criminal justice system involvement should be eliminated.
2. It should be determined ahead of time which roles require a criminal record check, why, what type of check is required and how much information is needed. If it is determined that a record check is required, the least intrusive level possible should be selected.
3. If your organizational policy does not automatically exclude people with records from employment or volunteer positions, state this in the position advertisement.
4. A plan or process within an organization or company should be developed which sets out what happens when an applicant returns a positive check. Individual assessments are critical and the relevance of a record in relation to a particular position should be examined.
5. The results of a criminal record check can disclose personal information and should be treated as confidential. Record check results should only be disclosed to those in the organization who need to know for approved employment purposes.

For more information about Fair Chance Hiring practices see information sheet on the next page or visit: <https://www.fairchances.ca/why-fair-chances>

1

Call to Action: Canadian Employers - Commit to Fair Chance Hiring today!

4 million Canadians have a criminal record. They deserve a chance at a future. It's time for Fair Chance Hiring in Canada.

The [Fair Chances Coalition](#) is a group of cross-sector Canadian employers, HR professionals, recruitment-related businesses and nonprofits who are committed to advancing workplace equity and opportunity for **all** Canadians, including those with criminal records.

B Employment transforms lives and uplifts communities. But because of the widespread stigma of a criminal record and the growing use of background checks, millions of Canadians are denied the chance to build a productive future for themselves and their families.

Fair Chance Hiring doesn't mean preferential treatment, and it doesn't mean lowering the bar. Instead, it's about creating a level playing field by giving employers the knowledge and awareness they need to individually assess applicants who may have criminal records. Different industries have different considerations and obligations when it comes to Fair Chance Hiring practices. The good news is there's an entry point for everyone. Even in roles or sectors that require criminal record checks, small changes to hiring practices can lead to more equitable and effective recruitment.

And getting started is simple. The Fair Chances Coalition is ready to help provide guidance on easy steps your company can take to get started. It begins with understanding the benefits of Fair Chance Hiring for your business and the Canadian economy described in the [Fair Chances Pledge](#). Taking the pledge is the first step on your journey to becoming a Fair Chance employer.



Why is Fair Chance Hiring urgent and essential?

Fair Chance Hiring is good for business:

- It helps employers respond to a time of severe labour shortages by expanding their talent pool.
- It's supported by years of research showing that employees with criminal records have lower turnover, equal or higher performance, equal or lower recruitment cost, and no increased risk of misconduct.
- It aligns with consumer values – our representative survey of 1,500 Canadians in 2020 showed that more than 80% of Canadians across demographics strongly support employers giving people with criminal records a fair chance. 58% of Canadians surveyed said they would be more likely to buy products or services from a company that provides employment opportunities to people with a criminal record.

Fair Chance Hiring is an effective way to advance social equity and inclusion, and it's already widespread in the U.S.:

- Joining the Fair Chances Coalition is a unique and timely opportunity for your organization to take leadership in advancing workplace equity in Canada. It's important to consider the disproportionate impacts criminal records have on racialized and Indigenous individuals in Canada, due to their overrepresentation in the criminal justice system.
- In the U.S., more than 40 states and 150 cities have adopted the Fair Chance Hiring policies since they were first championed by the White House in 2009.

2

Introduce tax incentives for hiring individuals with past criminal justice system involvement.

As outlined in Key Finding 5, one of the suggestions for increasing employers' willingness to hire individuals with criminal records is funding incentives. In addition to education around the utility of criminal records, financial motivations have the potential to shift employer practices. In the United States, where federal and local governments have led a number of initiatives to promote fair chance hiring, tax credits have proven to be effective in incentivizing the hiring of people with criminal records as well as other target groups that face disproportionate unemployment. Programs like the Work Opportunity Tax Credit (WOTC), provide businesses with a federal tax credit for hiring people from target groups who have consistently faced barriers to employment. One of the target groups is individuals recently released from prison or convicted of a felony.

The WOTC in the United States has been shown to produce positive outcomes for individuals and is touted as one of the most effective labour market strategies for addressing unemployment among disadvantaged groups.⁴² It has also been shown to benefit taxpayers as it produces social service savings.⁴³

It is recommended that the provincial and federal governments explore a tax credit incentive that could provide some much-needed motivation for employers to hire people with criminal records. Research on tax incentives in the United States have found that a tax credit helps get more individuals through the door, which as the current research demonstrates, is often an insurmountable barrier for job seekers with criminal records. Tax incentives may provide the catalyst to shift cultural practices and perspectives.

3

Expand protections against discrimination based on criminal records

The prevailing negative views and misconceptions around people with criminal records, as described in Key Finding 1, contribute to discrimination in employment that is not protected against in the *Ontario Human Rights Code*. The Code prohibits actions that discriminate against people based on protected grounds, as outlined in section 5(1):

*5(1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.*⁴⁴

As outlined above, although “Record of Offences” is included in the protected grounds, it only applies to convictions for which a record suspension (formerly known as a pardon) has been granted, or convictions for provincial offences, such as under the *Highway Traffic Act*. Individuals with convictions that have not received a record suspension are not included in this definition. This means that employers can legally discriminate against an individual based on their criminal record where they have not received a record suspension.

A comparison of human rights legislation across the country shows that other provinces have more robust protections against discrimination based on criminal records in the employment sphere. For example, British Columbia protects against discrimination in employment based on a “criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.”⁴⁵ Prince Edward Island, Quebec, Newfoundland and Labrador and the Yukon Territories all have similar protections against discrimination based on criminal convictions that are not relevant to the position or type of employment.

It is recommended that the provincial government in Ontario amend the *Ontario Human Rights Code* to expand the definition of record of offences to protect against discrimination based on criminal convictions that are not relevant to the position. The proposed change would not mean that employers would be prohibited from considering criminal records when hiring. Rather, the change would mean that employers would have to carefully consider whether a positive record check is relevant to the position and protect against practices that exclude all candidates with a criminal record.

For more information on [Criminal Records in Ontario](https://policerecordhub.ca/en/), please visit:
<https://policerecordhub.ca/en/>

4

The *Employment Standards Act* should be amended to include guidance on criminal record checks.

The *Employment Standards Act* (ESA) sets out the minimum legal requirements that an employer must follow. Areas such as minimum wage, statutory holidays, termination processes and severance pay are all outlined in the Act to standardize employer practices across the province. Currently, the ESA does not create standards for criminal record checks.

Many employers in the current study indicated that their organization had not engaged in internal discussions regarding record check procedures in relation to hiring and screening processes, as articulated in Key Finding 4. Creating legal requirements for record check practices in the ESA would help mandate fair chance hiring policies to prevent exclusionary practices.

It is recommended that a section on Criminal Record Checks be added to the ESA with the following provisions:

- If a record check is required for a particular job position, it must be stated in the job posting.
- If a criminal record check will be requested, candidates are to be informed ahead of time on the type of record check that will be requested, what information will be considered relevant for the position, who at the organization will be reviewing the results of the check and how this information will be kept and stored to protect privacy.
- Criminal record checks should be conducted at the end of a recruitment process only after a conditional offer has been made.

Enshrining standards for criminal record check processes into the legislation will force employers to create record check policies and communicate their practices with staff. This will contribute to greater awareness around record checks and create the opportunity for more rights-respecting fair chance policies.

5

Improve access to record suspensions to allow people to move on from their past criminal justice involvement.

As highlighted in Key Finding 3 of the current study, the presence of a positive result on a criminal record check can often mean exclusion of the candidate, without any due consideration of the skills or relevant experience they bring to a position. What was also revealed is that when factors regarding the offence are considered, old records were one factor that tipped the scales in favour of hiring the candidate.

Record suspensions are meant to promote rehabilitation by allowing individuals to move on from their past criminal justice involvement. Yet currently, the record suspension system is inaccessible for many Canadians due to high application fees, eligibility restrictions, long wait periods, and a complex bureaucratic process. Many vulnerable populations struggle with the application for a record suspension due to literacy issues, health, and mental health challenges, and having to relive traumatizing experiences.

To allow more Canadians to move on from their criminal records after remaining crime-free for a set period of time, we recommend that Canada reform the *Criminal Records Act* to institute a “spent” regime model. Under a spent regime model, an individual’s record would be automatically sealed (i.e., ‘spent’) after they have completed their sentence, and then spent a specific amount of time without further convictions. Canada already has a spent regime for youth records under the *Youth Criminal Justice Act* (YCJA) that prevent the release of conviction information after a particular access period.⁴⁶ A spent regime for adult convictions would adopt a similar model.

Through amendments to the Act, a spent regime model will help lower barriers to stable employment. This, in turn, can prevent recidivism, and support safe and healthy communities by ensuring that the stigma associated with a criminal record does not get in the way of individuals rebuilding their lives and providing for themselves and their families.

For more information on the [spent regime model](https://freshstartcoalition.ca/the-solution-a-spent-regime/), please see:
<https://freshstartcoalition.ca/the-solution-a-spent-regime/>

6

Increased **training opportunities and support** for people with past criminal justice system involvement

When asked what would increase employers' willingness to hire individuals with criminal records, employers in the study stated that improved technical and soft skills would assist a candidate with a criminal record in the recruitment process for their organization, as per Key Finding 5.

Creating pathways to credentialing and training for people with criminal records would help job seekers with education or experience gaps remain competitive in the labour market. In addition to credentialing, successful employment programs should also provide soft skills and wraparound supports to job seekers with criminal records, addressing complex needs to support the attainment and retention of employment. For example, funding to support individuals with micro-credentialing and short duration training programs, coupled with health and social supports, would set more individuals up for success in the labour market.

The [Skills Development Fund](#) provides one avenue for funding such initiatives. The provincial government should continue to prioritize investment into initiatives that provide targeted training and support and improve pathways to credentials for individuals with criminal records in order to reduce barriers to employment and fill labour market shortages in the province.

Conclusion

The employment landscape for individuals with criminal records in Canada is challenging. A total of 3.8 million Canadians and 1 million Ontarians hold criminal records. Despite recent initiatives aimed at fostering inclusivity at both federal and provincial levels, securing employment continues to be a challenge due to the associated stigma and stereotypes.

The findings from the current study shed light on various aspects of employer attitudes and practices. Negative perceptions persist, with a significant percentage of respondents expressing concerns about the perceived risks and qualifications of individuals with criminal records. Criminal record checks remain prevalent, with many employers advocating for their use, especially in larger organizations and healthcare/social assistance, finance, and government sectors.

While employers may indicate a willingness to hire individuals with criminal records, there is a noticeable disparity between their stated intentions and actual hiring practices. The nature and age of the offence consistently influence their hiring decisions. However, employers often justify the use of a criminal record check because of concerns related to liability, risk management, and compliance with legal requirements.

Among the few employers who have hired individuals with criminal records, they typically maintain a more positive attitude compared to those who have not made such hires. This discrepancy highlights the possibility that many negative perceptions are rooted in stereotypes and biases rather than being informed by personal experiences.

Formal written policies regarding criminal record checks have become less prevalent in comparison to our previous research studies, raising questions about organizational approaches and perspectives. However, employers who had previously hired individuals with criminal records reported positive experiences, emphasizing the importance of relevant technical skills, funding incentives, and supportive workplace attitudes in fostering inclusive hiring practices.

Moving forward, the findings suggest that addressing misconceptions, providing training resources, and emphasizing the positive experiences of employers who have hired individuals with criminal records could contribute to a more inclusive employment environment. As the data indicates, there is a gap between expressed willingness and actual hiring practices, highlighting the need for policy reform and continued educational efforts to bridge this divide and create a more equitable and supportive job market for individuals with criminal records across Canada.

- ¹ Chaudoir, S.R. and Fisher, J.D. (2010), "The disclosure processes model: understanding disclosure decision making and post disclosure outcomes among people living with a concealable stigmatized identity", *Psychological Bulletin*, Vol. 136 No. 2, pp. 236-256.
- ² Ricciardelli, R. and Mooney, T. (2018), "The decision to disclose: employment after prison", *Journal of Offender Rehabilitation*, Vol. 57 No. 6, pp. 343-366.
- ³ Petersilia, J. (2003). *When prisoners come home: Parole and prisoner re-entry*. Oxford University Press.
- ⁴ Canadian Bar Association. (2017). *Collateral Consequences of Criminal Convictions: Consideration for Lawyers*. Retrieved from: <https://www.cba.org/Sections/Criminal-Justice/Resources/Resources/Collateral-Consequences-of-Criminal-Convictions>
- ⁵ Scott, T. L. (2010). Offender perceptions on the value of employment. *Journal of Correctional Education*, 61(1), 46-67.
- ⁶ Blessett, B. and Pryor, M. (2013), "The invisible job seeker: the absence of ex-offenders in discussions of diversity management", *Public Administration Quarterly*, Vol. 37 No. 3, pp. 433-455
- ⁷ Pager, D., Western, B. and Sugie, N. (2009), "Sequencing disadvantage: barriers to employment facing young black and white men with criminal records", *The Annals of the American Academy of Political and Social Science*, Vol. 623 No. 1, pp. 195-213.
- ⁸ Babchishin, K. M., Keown, L. A., & Mularczyk, K. P. (2021). *Economic Outcomes of Canadian Federal Offenders*. Public Safety Canada= Sécurité publique Canada.
- ⁹ Anazodo, K. S., Ricciardelli, R., & Chan, C. (2019). Employment after incarceration: managing a socially stigmatized identity. *Equality, Diversity and Inclusion: An International Journal*.
- ¹⁰ Ibid.
- ¹¹ Ibid.
- ¹² No data was collected on gender diverse populations.
- ¹³ Ibid.
- ¹⁴ Santos, M. R., Jaynes, C. M., & Thomas, D. M. (2023). How to overcome the cost of a criminal record for getting hired. *Criminology*.
- ¹⁵ Greene, C., Ramsperger, E., & Williams, N. (2019). *Toward a Working Future: Understanding the Impact of Criminalization on Employment*. Calgary: Elizabeth Fry Society. <https://elizabethfrycalgary.ca/wp-content/uploads/2019/07/Toward-a-Working-Future-2019.pdf>.
- ¹⁶ SHRM & CKI. (2021). *Getting Talent Back to Work: A Workplace Survey on Hiring and Working with People with Criminal Records*. Retrieved from: <https://www.gettingtalentbacktowork.org/>
- ¹⁷ Harris, P. M., & Keller, K. S. (2005). Ex-offenders need not apply: The criminal background check in hiring decisions. *Journal of Contemporary Criminal Justice*, 21(1), 6-30.
- ¹⁸ Francis, B., Soothill, K., & Humphreys, L. (2013). Middle-class Offenders as Employees—Assessing the Risk. *Journal of Offender Rehabilitation*, 52(6), 407-20.
- ¹⁹ Kurlychek, M. C., Brame, R., & Bushway, S. D. (2006). Scarlet letters and recidivism: Does an old criminal record predict future offending?. *Criminology & Public Policy*, 5(3), 483-504.
- ²⁰ Canadian Bar Association. (2017). *Collateral Consequences of Criminal Convictions: Consideration for Lawyers*. Retrieved from: <https://www.cba.org/Sections/Criminal-Justice/Resources/Resources/Collateral-Consequences-of-Criminal-Convictions>
- ²¹ Public Safety Canada. (2019). *Criminal Records*. Retrieved from: <https://www.publicsafety.gc.ca/cnt/trnsprnc/bfng-mtrls/trnstn-bndrs/20191120/017/index-en.aspx>
- ²² Government of Canada, S. C. (2022). *Labour Force Survey, February 2022*. The Daily quotidien. Retrieved from <https://www150.statcan.gc.ca/n1/daily-quotidien/220311/dq220311a-eng.htm>
- ²³ CTV News Toronto. (2023). Ontario adds \$160M to skills training funding. Retrieved from: <https://toronto.ctvnews.ca/ontario-adds-160m-to-skills-training-funding-1.6534530#:~:text=McNaughton%20says%20one%20million%20people,15%20years%20after%20being%20released>
- ²⁴ Government of Canada. (2022). *Overrepresentation of Black People in the Canadian Criminal Justice System*. Retrieved from: <https://www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnsjpc/index.html>
- ²⁵ Statistics Canada. (2023). *Over-representation of Indigenous persons in adult provincial custody, 2019/2020 and 2020/2021*. Retrieved from: <https://www150.statcan.gc.ca/n1/pub/85-002-x/2023001/article/00004-eng.htm>
- ²⁶ Nally, J., Lockwood, S., Knutson, K., & Taiping, Ho. (2013). The marginally employed offender: A unique phenomenon among released offenders. *The Journal of Correctional Education*, 64(1), 50-68.
- ²⁷ Pager, D., Western, B., & Sugie, N. (2009). Sequencing disadvantage: Barriers to employment facing young black and white men with criminal records. *The annals of the American academy of political and social science*, 623(1), 195-213.
- ²⁸ OHRC. (2008). *Record of offences*. Record of offences | Ontario Human Rights Commission. Retrieved from https://www.ohrc.on.ca/en/code_grounds/record_of_offences
- ²⁹ Police Record Checks Reform Act. (2015). S.O. 2015, c. 30 - Bill 113.

-
- ³⁰ Public Safety Canada. (2020). Cannabis Pardons. Retrieved from: <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20201201/001/index-en.aspx>
- ³¹ Government of Canada. (2022). Record Suspension Program 2021-2022 Report to Parliament. Retrieved from: <https://www.canada.ca/en/parole-board/corporate/transparency/reporting-to-canadians/record-suspension-report-to-parliament-2021-2022.html>
- ³² Dutton, J. (2021). *The law of background checks in Ontario*. Dutton Employment Law. Retrieved from <https://duttonlaw.ca/the-law-of-background-checks-in-ontario/>
- ³³ City News. (2022). Ontario's labour minister on tour as province faces 'historic' shortage. Retrieved from: <https://kitchener.citynews.ca/2022/07/12/ontarios-labour-minister-on-tour-as-province-faces-historic-shortage-5574412/>
- ³⁴ Ministry of Training, Colleges and Universities. (2021). Skills development fund. Retrieved from <https://www.tcu.gov.on.ca/eng/eopg/programs/sdf.html>
- ³⁵ Ministry of Training, Colleges and Universities. (2021). Skills development fund. Retrieved from <https://www.tcu.gov.on.ca/eng/eopg/programs/sdf.html>
- ³⁶ City News. (2022). Ontario investing additional \$90M into Skills Development Fund. Retrieved from: <https://ottawa.citynews.ca/2022/09/26/ontario-investing-additional-90m-into-skills-development-fund-5870672/>
- ³⁷ This project was completed in collaboration with a group of eight academic experts with published works pertaining to the reintegration of individuals with a criminal record into employment. The project is entitled, *The Stigma Shadow: Employment Reintegration Post-Incarceration* and funded through the Social Sciences and Humanities Research Council (SSHRC) Insight Development Grant in collaboration with Dr. Kemi Anazodo (Principal Investigator, Odette School of Business, University of Windsor), Dr. Chris Chan (York University), Dr. Brent Lyons (Schulich School of Business, York University), Dr. Rosemary Ricciardelli (Memorial University of Newfoundland), Dr. Jakari Griffith (Bridgewater State University), Dr. Nicole C. J. Young (Franklin & Marshall College), Dr. Abdifatah Ali (Carlson School of Management, University of Minnesota), Dr. Candalyn Rade (Meredith College).
- ³⁸ Second Chance Business Coalition. (2021) The Business Case for Second Chance Employment. Retrieved from: https://brt-second-chance-production.s3.amazonaws.com/SCBC_BusinessCase_Final.pdf.
- ³⁹ John Howard Society of Ontario. (2022). No Fixed Address: The Intersections of Justice Involvement and Homelessness. John Howard Society of Ontario. Retrieved from <https://johnhoward.on.ca/wp-content/uploads/2022/05/No-Fixed-Address-Final-Report.pdf>
- ⁴⁰ Patricia Harris and Kimberly Keller, "Ex-offenders need not apply: the criminal background check in hiring decisions," *Journal of Contemporary Criminal Justice* 21, no. 1 (2005): 6; Keith Soothill, Les Humphreys and Brian Francis, "Middle-class offenders as employees – Assessing the risk: A 35- year follow-up," *Journal of Offender Rehabilitation*, 52, no. 6 (2013): 407.
- ⁴¹ Government of Ontario. (2023) Accessibility in Ontario: information for businesses. Retrieved from: <https://www.ontario.ca/page/accessibility-ontario-information-businesses>
- ⁴² Fry, J. (2021) Dual Value of the Work Opportunity Tax Credit: Reduce turnover while increasing income. White Paper. Retrieved from https://assets.equifax.com/wfs/workforce/assets/wfs_Dual_Value_Of_The_WOTC.pdf
- ⁴³ Ibid.
- ⁴⁴ Human Rights Code, RSO 1990, c H.19, s 5(1) [Code].
- ⁴⁵ Human Rights Code, [RSBC 1996], chapter 210, s13.
- ⁴⁶ Fresh Start Coalition (2021). The solution – a spent regime. Fresh Start Coalition. Retrieved from <https://freshstartcoalition.ca/the-solution-a-spent-regime/>

