The Unintended Consequences of “Ban the Box”

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Job searching is a standard but stressful procedure that individuals have to consider once they’re ready to join the workforce. Many people have the opportunity to go to college and prepare for employment, but there is important research being done into those that don’t pursue higher education and the challenges that they may face. For many incarcerated individuals, the opportunity to be released and re-enter society is one of the harshest obstacles to overcome. Ex-convicts may have difficulty finding work opportunities even if they are suitable for the specific job’s task, as many job applicants are forced to disclose the existence of a criminal history in their initial application. A consequence of this hurdle to employment is that ex-convicts unable to find work may be much more likely to re-offend, and as a result face re-incarceration. To tackle these issues, many states have passed “Ban the Box” (BTB) policies which aim to help ex-offenders get further in the job application, by delaying criminal record questions until later in the hiring process. In doing so, policymakers hope that a relationship can be established between hirers and applicants, and that when criminal history becomes a question, it will be harder for employers to deny these applicants. While the policy aims to positively impact the lives of ex-convicts, there are concerns that the lack of information can lead employers to make assumptions based on stereotypes and characteristics, statistically discriminating against individuals holding these certain characteristics: in particular, Black and Hispanic people who may not have a criminal record. Jose Larrain, an undergraduate Economics major at UW-Madison, researched the impacts of BTB with his paper “The Unintended Consequences of ‘Ban the Box’” attempting to understand the effects of BTB and the net effects of such policies.

The paper notes research done by previous scholars on the topic of statistical discrimination and employment: Agan and Starr’s 2016 studies BTB effects on minorities. Their study involved creating 15,000 fake job applicants, where they randomized the criminal records and sent them out in pairs (one Black and one White) to employers. There was a notable difference in the callback gap between Black and White men, with a 7% difference between Whites and Blacks before BTB. After BTB, we see this gap grow to a whopping 45%.[[1]](#footnote-1) Doleac and Hansen similarly looked at the variation in BTB between states and cities to find its effects on minority employment, and their results showed that BTB decreased the probability of being employed by 2.9% for Hispanics and 5.1% for Blacks.[[2]](#footnote-2) These effects are hard to ignore, and with that, Larrain provides strong motivation for his case to consider the role of statistical discrimination.

The data used in Larrain’s study comes from the monthly current population survey (CPS) conducted by the US Census Bureau. CPS is a monthly survey consisting of 60,000 U.S. households, but there are restrictions on who is eligible to take the survey, excluding incarcerated individuals, many of whom may be repeat offenders, facing BTB policies between infractions. If BTB does decrease employment chances, individuals negatively affected who re-offend might not be in the data, making the policy seem more positive and creating potential for upward bias. Larrain also uses data from the national employment law project to look at certain effects of BTB policies before and after the implementation. The individuals in Larrain’s sample are between the ages of 16-35 and are comprised of White, Hispanic and Black individuals who are not in school. Three levels of education are looked at: No high school, high school, and college. The study also looks at those who are employed as well as discouraged workers.

An important aspect of this analysis to take note of is that BTB policies are more likely to be in urban areas. Larger minority populations exist in these urban areas as opposed to suburban, and both income and employment are higher. Larrain runs two models in his study: the first is the general model including variables such as the race of the individual, their metropolitan statistical area, and an x variable that considers unknown characteristics that might affect the regression. The second model takes into consideration the impact of having a GED in addition to race.

The general model regresses the employment of the whole sample. In areas where BTB is implemented, there is 10.12% decrease in employment for black males, implying that statistical discrimination is likely contributing to a decrease in employment. It also increases White employment by 1.02%, supporting the hypothesis that discrimination may be an outcome of BTB. What comes as a surprise, however, is that BTB policies increase Hispanic employment by 2.36%, and running different regression models yields similar results. There are several possibilities for this, including the selection bias previously mentioned..

For the GED model we see that the total effect of BTB on individuals with a GED is a 1.4 percentage point increase for Whites, no change for Blacks, and 0.5 percentage point decrease for Hispanics. GED is considered as an indicator that one might have been convicted of a crime since some convicts obtain their GED while in prison. Looking at the overall effect, the results show that Blacks and Hispanics GED recipients are not helped by BTB policies while White males with GEDs seem to be helped. This points to race as a deciding factor in the employment of these individuals, a result that runs consistent with past studies into the effects of race on unemployment.

Larrain concludes that the regressions yield a result that supports the argument that black men are hurt by BTB policies. However, the effect that it has on the probability of employment for Hispanics differs from the study that provided the basis for Larrain’s work, conducted by Doleac and Hansen, and Larrain acknowledges that further research is required to understand the true effect on Hispanic men. Many policies meant to be beneficial to society can sometimes have unpredictable effects, harming groups of individuals that the policy was designed to help, while assisting those who may not need it.

The paper provided substantial evidence for the correlation between BTB and the employment of individuals based on the characteristic of race. While the results do coincide with other studies such as the ones mentioned above, the data used in the regression had conditions that likely effected the results. The idea that Hispanics aren’t harmed by BTB has several explanations. The result could in fact hold, and it could be that Hispanic individuals are no worse off under BTB than before, a result contradicting that of Doleac and Hansen. If Larrain’s results are incorrect, this is most likely a product of bias in the sample population, or an omitted variable. The argument of selection bias as the root of this result doesn’t seem like a strong argument. The specificity of the group that have been removed from the regression and their relativity to the population, makes it difficult to see the group’s impact on the results. The dataset excludes individuals that have been incarcerated, in turn omitting reoffenders. So, the data excludes criminals who have recommitted, and those are a specific group of individuals. We are interested in those who have recommitted a crime because BTB policies have caused them to lose job opportunities, and because of the specificity of the group, it doesn’t seem like it would have a huge impact on the results found in the regression. As a result, we could be look at some sort of omitted variable bias that might we might not be taking into consideration. An example would be how employers view Hispanics in the population where our sample was derived from. We assumed that employers might statistically discriminate similarly against Hispanics and Black if we implement BTB. That might not be the case if the employer prefers Hispanics over Blacks. We might be forgetting employer’s preconceived view of each race as a variable that might affect our regression.

The paper presents thought-provoking results regarding the unexpected effects of policy changes like BTB. For example, Larrain presents results showing the changes in the way employers look at GED holders in the hiring process. This research, and similar studies supporting it, suggest that if the true intention of policymakers is to make the hiring process fairer, that BTB requires either serious alteration or reconsideration. Based on the amount of discrimination that seems to be rooted in BTB, repealing BTB and implementing a different policy that looks to curb other institutions that statistically discriminate against minorities and ex-convicts as an appropriate alternative. Such policies could tackle unemployment in minority communities, although just as with BTB, as is inherent in the unpredictability of policy, these new policies could release a string of unintended effects worsening the equity in the hiring process for ex-convicts.

Doleac, J. L., & Hansen, B. “Does ‘Ban the Box’ Help or Hurt Lowskilled Workers? Statistical Discrimination and Employment Outcomes When Criminal Histories Are Hidden,” 2016.

Agan, A., & Starr, S. “Ban the Box, Criminal Records, and Racial Discrimination: A Field Experiment [Editorial]” The Quarterly Journal of Economic, 133(1), 2018

1. Agan and Starr, “Ban the Box Field Experiment” [↑](#footnote-ref-1)
2. Doleac and Hansen, “Ban the Box Lowskilled Workers” [↑](#footnote-ref-2)