Racial Threat, Criminal History, and Employment: Examining the Determinants of Ban the Box Passage

Thesis

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By:

Eric G. LaPlant, M.S., B.A.

Graduate Program in Sociology

The Ohio State University

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Thesis Committee:

Paul E. Bellair, Advisor

Ryan D. King

Mike Vuolo

Abstract

The existence of a criminal record is known to have a deleterious effect on ex-offenders' efforts to obtain employment, disproportionately affecting African Americans. Social movements that advocate for the removal of criminal history inquiries from employment applications, such as the Ban the Box campaign, are increasingly gaining mainstream support and have been voluntarily adopted in 23 states and a multitude of cities and counties. However, research has yet to examine whether and how place-level characteristics influence the decision to support such policies. Using data from the 2000 and 2010 U.S. Census as well as the 2010 American Community Survey, I conduct a multivariate event history analysis of place level data to evaluate hypotheses drawn from several theories including Blalock's racial threat theory, analyzing how various factors impact support for Ban the Box initiatives. Findings from this study largely support racial threat theory. Policy implications are discussed.

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Vita

May 2008……..Charles Wright Academy

June 2012……B.A., Sociology & History, University of Oregon

May 2014.....M.S., Human Resources and Employment Relations,

……Pennsylvania State University

Fields of Study

Major Field: Sociology

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Chapter 1: Introduction

Between 1980 and 2012, the United States saw its prison population more than quintuple, rising from 300,000 to nearly 1.6 million (Carson 2015). Consequently, the proportion of the population that possesses a criminal record has increased drastically during this period. In 2010, it was estimated that 7.7 million Americans carried a felony record, with up to 14% of the adult population possessing felonies in certain states (Shannon et al. 2011).

Individuals with felony records will experience significantly greater difficulty obtaining adequate employment as a result of the stigma associated with a criminal record (Bushway 1998; Holzer, Raphael, and Stoll 2006, 2007; Pager 2003; Ramakers et al. 2014). When given a choice, employers strongly prefer applicants without a criminal record, with over 60% of employers indicating that they "would not" or "definitely would not" hire an ex-offender (Holzer et al. 2006). Due to the prevalence and strength of employers' sentiment against hiring ex-offenders, there is also a significant self-selection effect amongst potential applicants that causes many ex-inmates to refrain from applying to businesses that are known to screen for criminal histories (Stoll and Bushway 2008; Western 2008). As a result of the combination of these sorting processes, ex-inmates are often funneled into the lowest sectors of the job market where they are less likely to

experience hiring discrimination (Heckman 1998; Pager, Bonikowski, and Western 2009).

The mark of a criminal record is especially detrimental to employability not only because of the negative credential that it conveys, but also because of its staying power. In most states there is very little restriction imposed on the accessibility and dissemination of criminal history information and it is frequently made publicly available (Pager 2006). Additionally, there is typically no mechanism in place to remove sensitive information after a specified period of time, prolonging the deleterious impact of a conviction indefinitely.

In the past decade, this system has experienced several reforms. Most notably, the "Ban the Box," or the Fair Chance movement (BTB), has worked to eliminate the portion of employment applications that asks applicants if they have ever been charged with a crime based on the premise that "knowledge of ex-offender status leads directly to a refusal to hire," (Stoll and Bushway 2008, 371)[1]. Instead, employers are typically made aware of ex-offenders' criminal histories at a later stage in the hiring process, thereby limiting initial status-based discrimination and providing an opportunity to obtain employment that is more similar to non-offenders.

While it is not explicitly the mission of the BTB movement to help minority ex-offenders gain employment, because the justice system disproportionately incarcerates minorities, the initiatives, in practice, will help nonwhites at a significantly greater rate. Due to the considerable and pervasive nature of racial discrimination in the world of

[1] Research shows a high degree of variability in the form that this sort of question will appear on employment applications (Vuolo, Lageson, and Uggen forthcoming).

employment and in American society more broadly, it is important to explore how racial composition will affect support for BTB initiatives given its disproportionate aid of minorities. Exploring this question further, this article seeks to identify the most salient predictors of BTB initiatives by proposing several hypotheses derived from racial threat research on topics such as economic competition, political power and ideology, as well as punitive policy.

Chapter 2: The Racial Threat Thesis: Competition for Resources and Power

Group threat theory seeks to explain how intergroup power dynamics produce conflict. According to Blumer (1958), the theory predicts that members of the dominant social group will view perceived increases in minority group size as a threat to their advantageous social position. In order to preserve their relative position of power, the dominant group will engage in discriminatory actions that target the threatening minority group as a method of reducing their power to a non-threatening level (Blalock 1967; Quillian 1995).

While group threat theory does not pertain solely to racial minorities, social cleavages and power imbalances are especially likely to take place along racial lines (Bonacich 1976; Jacobs, Carmichael, and Kent 2005; Myrdal 1962). As a result, the racial threat derivative of group threat theory is especially apt for analyzing domestic instances of intergroup racial conflict (King and Wheelock 2007; Quillian 1996). Blalock (1967) has reasoned that perceived racial threat and the ensuing discriminatory action largely relate to two main subjects – the competition for scarce economic resources as well as political influence and numerical power.

The first of these two themes, economic threat, describes instances when the dominant social group engages in discriminatory action because they perceive a minority group to be in direct competition for the same finite economic resources, typically in the

form of employment. While Blalock (1967) laments that quantifying competition is difficult, he theorizes that it will be greatest amongst perceived equals. Accordingly, he asserts that the larger the perceived status gap that exists between dominant and subordinate groups, the lower the level of perceived competition, alleviating the need for increased levels of discrimination. However, should the perceived gap begin to narrow, the dominant group will increase their discriminatory actions in order to re-establish previous levels of separation.

The second theme mentioned by Blalock (1967) relates to the implications that an increasing minority group population has for the maintenance of dominant group power. As minority populations grow, the dominant group faces the prospect of diminished control or a potential power shift. In order to circumvent this outcome, Blalock reasons that the dominant racial group must mobilize to discriminate at a rate that exceeds the rate of population growth in the minority group. Consequently, the racial threat thesis asserts that there is a positive nonlinear relationship, with an increasing slope, that predicts that once a minority population reaches a threshold of roughly 15 to 20 percent, it triggers increased levels of coordinated discriminatory action.

In relation to BTB utilization, it would appear that both components of racial threat have the potential to have a high degree of salience. During harsh economic times, the amount of ample employment decreases, creating a scarce resource that the dominant group will attempt to monopolize (Frisbie and Neidert 1977; Quillian 1995). Consequently, due to the high number of minorities that have criminal records, it would seemingly benefit the dominant white group to exclude minorities from the job market,

thereby reducing competition. Without BTB initiatives, this process is made easier, as it facilitates institutionalized discrimination.

Furthermore, racial threat also predicts that the dominant social group will engage in increased levels of concerted discriminatory action when minority group population size increases. Therefore, it is reasonable to assert that places with larger black populations will be less likely to support BTB initiatives, as the laws represent the facilitation of minority social reintegration upon release from incarceration. Accordingly, based on the economic and power components of the racial threat thesis, I hypothesize that:

H_1: Places with larger black and Hispanic populations will be less likely to have BTB initiatives.

H_2: Places with lower proportions of economically secure whites will be less likely to have BTB initiatives.

Chapter 3: Conservative Politics and Punitive Policy

The influence of racial threat extends throughout the political landscape and has demonstrated the ability to significantly influence the character of policy decisions. It has been argued that the post-1970s shift to a more punitive ideology, described by Garland (2001) as a "culture of control," was heavily influenced by racial animus (Alexander 2012). For many Republican figures, discussions of being "tough on crime" encompassed deeper, ulterior motives. Espousing the merits of rigorous sanctions was not simply a method of crime control; it was also a complex matter, inextricably linked to perceptions of racial threat. The utilization of rhetoric such as "welfare cheats" and "drug pushers" enabled politicians to tap into whites' racial resentment and proved to be an effective method of garnering support for both campaign efforts as well as more punitive policies (Beckett 1997; Beckett and Western 2001; Giles and Buckner 1993; Murakawa 2008; Provine 2007).

Furthermore, research has shown that negative racial sentiments have the capacity to manifest in a retributive sense, and that when perceived threat levels are high, whites are more likely to be receptive of punitive policy (King and Wheelock 2007). Consequently, it follows that research has found that areas with large or growing minority populations have shown greater support for right-wing political candidates, as they typically favor more punitive measures (Giles and Buckner 1993). The inverse of this relationship has also been documented, with several studies finding evidence that links

Liberal political ideology with lower levels of support for punitive policies (Brillon 1998; Langworthy and Whitehead 1986; Taylor, Scheppele, and Stinchcombe 1979; Van Dijk and Steinmetz 1988)

Based on the evidence that links racial threat with Conservative ideology and punitive policy support, it is reasonable to speculate that both factors likely will serve as salient indicators of support for a policy that aids minority ex-offenders at a disproportionate rate. Therefore, I hypothesize that:

H_3: Places that are politically Conservative will be less likely to have BTB initiatives.

H_4: Places within states that utilize punitive policy, such as post-release ex-offender controls, will be less likely to have BTB initiatives.

Chapter 4: Data and Methods

To properly evaluate how these various predictors influence a place's time until transition (BTB passage), longitudinal data is required. It is important to examine the time until transition, rather than looking at the data cross-sectionally, because doing so generates a more nuanced understanding. Longitudinal data better inform the discussion of the diffusion process of BTB laws because it not only includes years in which the laws were present, but also accounts for the years when they were *not* being passed. Given the potential for changes in place boundaries over time, data were predominately drawn from GeoLytics packages, utilizing the 2000 and 2010 Long Form versions of the decennial census, which impose consistent 2010 geographic boundaries. Due to the decrease in comprehensiveness of the 2010 Census, American Community Survey (ACS) estimates were incorporated in order to populate variables that were no longer measured in the 2010 Census.[2] Data from 2000 and 2010 values were then used as anchor points for linear interpolation, generating values for each year in between. Additionally, data were also linearly extrapolated from 2010 values to 2015 in order to generate a complete 16 year sample of observation.[3] The place level was chosen as the unit of analysis for this

[2] Estimates were derived from 2006-2010. Five-year estimates were chosen in order to increase the likelihood that estimates were representative. Additionally, the five-year estimates were more likely to yield estimates for lesser populated areas in comparison to three- or one-year estimates.

[3] As a result of this extrapolation, some cases had variables with values that exceeded a reasonable threshold and were reduced in order to yield accurate analyses. Although, not ideal, the use of interpolation and extrapolation was necessary given the national scope of this analysis, with only the Census and ACS being capable of providing the level of comprehensiveness required.

research primarily for theoretical reasons. Most often, BTB laws are enacted by cities or places. It is also common to observe multiple MSAs or MSA-like places adopt laws before their state will – acting as a catalyst of sorts; though, this is not to say that this is true of all cases.

By beginning the period of observation in 2000, there was only one instance of BTB passage that was excluded from the analysis.[4] Avoiding this exclusion would have necessitated the inclusion of 1990 Census data, which would have greatly reduced the amount of total variables available for analysis, given the significant changes in measurement from 1990 to 2010. Furthermore, Washington, D.C. and all places within Alaska were not included in the analysis due to a lack of suitable data.[5] Finally, cases with a 2010 population less than 10,000 persons were excluded from the analysis. This cut point was chosen in order to exclude the large number of places that would likely bias the results, as most places below this threshold would not have been large enough to have accurate ACS estimates.

Dependent Variable

The dependent variable in this analysis is the presence of a BTB initiative. All BTB data were taken from the most recent National Employment Law Project's report.[6] Coded dichotomously, a positive response (BTB = 1) represents the first instance in which BTB was implemented in any form as it pertained to either public or private employment. There are two possibilities for triggering a positive response. First, a place

[4] The state of Hawaii passed a comprehensive BTB initiative in 1998.
[5] Alaska's procedures for reporting political voting data made its exclusion necessary. Data was inconsistent and incomplete for Washington, D.C. on a number of key variables, also necessitating its exclusion.
[6] All BTB code is current as of September 2015.

may choose to voluntarily adopt a BTB measure by its own accord. For example, the first appearance of BTB in the state of California occurred in 2005 when the city of San Francisco removed criminal history inquiries from city employment applications. Consequently, San Francisco received a "1" for that year and dropped from the sample. Second, a place may also implement BTB as a result of a state mandate, typically, but not limited to, all public employment within the state. For example, in 2013, California implemented a statewide BTB policy for all public employment, resulting in a positive code for all places remaining in the analysis in that year.

(FIGURE 1 HERE)

While similar "bottom-up" BTB implementation trends are commonly seen in other locations, there are instances where the first BTB legislation in a state was a statewide mandate to implement BTB for all public employment. Nebraska and New Mexico are good examples of this practice – enacting statewide protections that applied to all places in 2010 and 2014, respectively (Shipan and Volden 2006).

Independent Variables

Percent black and percent Hispanic were calculated as the portion of a given place's total population that identified as each respective racial group.[7] The variables were broken into categorical bins to more closely test racial threat hypotheses, specifically the hypothesized "tipping point" of 15-20% (Blalock 1967). Two variables were used to assess the impact of the scarcity of economic resources as they relate to the

[7] These figures likely represent conservative estimates, as an undercount of racial minorities has been previously documented in Census reporting (Williams and Jackson 2000). Furthermore, national Census racial projections follow a linear pattern, minimizing the concern over the use of interpolated data in this analysis.

dominant group: the percentage of a place's white population that was living in poverty and the median household income amongst whites. The latter variable was broken into categories of less than $45,000, $45,000-70,000, $70,000-95,000, and $95,000 and above in order to assess the relative impact of white economic security, based on the reasoning that areas with less financial security are more likely to see increases in minority employment as threatening to their economic well-being.[8]

(TABLE 1 HERE)

The political variables in the analysis draw upon presidential voting data from each of the past four presidential elections.[9] The percent Republican and Democrat measures for each election represent the values for the election year as well as the subsequent three years' time. For example, the percent Republican voting results reported in the 2000 election were also applied to 2001-2003 in the data, with the 2004 election results covering 2004-2007, and so on. In order to achieve the most representative figures for the place level, a list was compiled of every county that each place in the sample was a part of. The total number of major party votes in each of the counties were then summed and divided by the number of counties to which the place belonged, producing a final percentage that encompasses all portions of the place.[10] The measure of governor's

[8] Previous iterations of my models included variables that measured the difference between white and black unemployment rates, white and black poverty rates, white and Hispanic unemployment rates, and white and Hispanic poverty rates. Multicollinearity checks were passed. In several versions, which included all four variables, each was non-significant in every instance.

[9] Voting data was limited to the two major political parties: Republicans and Democrats. Data were drawn from CQ Press' presidential voting data archives.

[10] It may be questioned why presidential voting data was used, rather than data pertaining to local elections (a mayoral election, for example). Due to the variability of the political landscape in the United States, inconsistencies related to the definition of what constitutes a conservative or liberal candidate is likely to vary drastically. Consequently, it is necessary to draw upon the most consistent definition of a conservative or liberal candidate that is available.

political party was coded dichotomously, with a positive response indicating a Republican governor.

A measure of state level felon voting restrictions is used as a proxy for post-release ex-offender control.[11] This variable was coded dichotomously (1 = voting restrictions are in place, 0 = no restrictions are in place). Restrictions were defined as disenfranchisement of an ex-offender while on parole, probation, or any time post-release. Exclusion from voting while in prison was not coded as a voting restriction because it is a common practice, with only two states allowing prisoners to vote while incarcerated. Furthermore, the aim of this variable is to assess punitiveness – by coding it this way it can better assess a state's desire to punish inmates, with punishment extending beyond time served.

Controls for state incarceration rate[12], availability of the death penalty[13], murder rate, violent crime rate, and property crime rate are also included. Total incarceration rate is measured as the total number of inmates in custody in prisons within a state, divided by the state's total population, multiplied by 100,000.[14] Because 2015 data are not yet available for the National Prison Statistics, values were linearly interpolated in order to populate this single year throughout the files. The death penalty variable serves as an

[11] Research has evidenced the link between voting restrictions and punitive motivations, often motivated by racial threat (Behrens, Uggen, and Manza 2003; Uggen and Manza 2002).
[12] Larger minority population size has been linked with elevated levels of incarceration (Greenberg and West 2001; Jacobs and Carmichael 2001).
[13] Previous racial threat analyses have found support for minority population size and the availability of the death penalty (Jacobs and Carmichael 2002, 2004). Other research has also linked the death penalty to racial attitudes (Peffley and Hurwitz 2007; Soss, Langbein, and Metelko 2003).
[14] Due to a lack of complete state-only data, it was necessary to use state incarceration figures that also included federal prisoners. Figures from this dataset were compared with the few states from state-only incarceration data that were available and complete. Differences between the two datasets were marginal at best, with federal prisoners only comprising a small proportion of the total incarcerated populations in most cases.

indicator (1 = present, 0 = absent) of whether a state currently has the ability to sentence an inmate to death. Crime rate data are state-level and represent the numbers of crimes committed per 100,000 citizens.[15]

Methods

The goal of this study is explore the salience of several theoretically-motivated variables as they relate to a place's decision to enact BTB legislation. A longitudinal design, and an event history model in particular, is well-suited for this task, as the data encompass a period of observation (2000-2015) in which all but one BTB measures have been enacted.[16] An event history analysis models an event that can occur at any point over time, specifying a transition from one status to another.[17] In this instance, this transition would signify a place's shift from not possessing BTB legislation to enacting it. At the beginning of the analysis, each place is at risk of transition, as none of the cases possess BTB laws in 2000. The places that do not implement BTB by the end of the period of observation (2015) are right-censored.

After arranging the respective data as a person-period file, I estimate Cox proportional hazard models. As a result of this modeling strategy, I am able to assess the impact of each variable on the probability of place enacting BTB legislation. Tests of proportionality show that some variables in the model did not adhere to the proportionality assumption. Models were run that specified time-variance. The results of these models yielded coefficients on key variables that were nearly identical to the

[15] Standard errors are clustered by state in order to account for state-level variables' violation of the independence assumption.
[16] Hawaii passed BTB legislation in 1998. However, due to significant differences between the 1990 census and its later iterations, this case had to be omitted.
[17] This analysis utilizes the year of passage as the lowest level of description.

original model where time variance was not specified. Therefore, for the sake of yielding more intuitively interpretable results, time-varying covariates were not specified in the final model. A multicollinearity check was also performed, revealing no VIF's above 2.45 – ruling out any concerns of multicollinearity

Chapter 5: Results

Model 1 in Table 2 introduces the first block of variables, assessing the respective effects of categorical measures of black and Hispanic populations on BTB passage. For both racial groups, the reference category is 0-15%. The first substantive category, 15-20%, is derived from Blalock (1967), operationalizing his hypothesized minority population "tipping point" that predicted dominant group discrimination as a response to minority threat. Additional categories of 20-30% and 30% and above were also included to assess passage trends as minority population size increased. The results from Model 1 indicate partial support for racial threat (hypothesis 1), revealing that larger black populations are associated with a significant decrease in the predicted probability of a place adopting a BTB initiative. In each respective category, there is a 51.6, 52.4, and 53.3 percent decrease in the hazard that a place will pass BTB legislation in any given year, compared to a place with a black population in the reference category ($P<.05$).[18] The measures of Hispanic populations were non-significant in the first model.

(TABLE 2 HERE)

In Model 2 in Table 2, a second block of variables measuring the economic aspects of threat theory were introduced. The inclusion of these variables did not notably alter the magnitude of black population coefficients, nor their respective significance

[18] Percent black was also measured continuously in models not shown here. It was significant in bivariate ($P<.01$) and final models ($P<.1$) (equivalent to Model 1 and Model 5 shown here).

levels (P<.05). The results provide preliminary support for hypothesis 2, indicating increasing levels of support for BTB initiatives as a place's white median household income increases. In the $45,000-70,000 and $70,000-90,000 categories there are, respectively, 49 and 87 percent increases in the hazard of a BTB initiative being adopted in a given year, compared to a place with a median household income below $45,000 (P<.05). The variable measuring the percentage of a place's impoverished white population was non-significant.

Model 3 in Table 2 adds variables related to political Conservatism in order to test hypothesis 3, which predicts that areas with Conservative leanings will be less likely to adopt BTB legislation. The results produce support for this hypothesis. The hazard of BTB passage in any given year decreases by 3.1 percent for every one percentage point increase in a place's Republican presidential voting contingent (P<.001). Furthermore, places in states with Republican governors have a 66 percent lower hazard of passing BTB legislation in any given year, compared those that do not (P<.10). The addition of these variables caused a slight reduction in the magnitude of the black categorical measures (P<.05). The most notable influence is the reduction of the white median household measures to non-significance, indicating a fairly strong moderating relationship.

Model 4 in Table 2 introduces the measure of post-release control, felon voting restrictions. Support was found for hypothesis 4 – places within states that impose felon voting restrictions on ex-inmates while on parole, probation, or post-release were found to have a 66.9 percent lower hazard of passing BTB legislation in any given year, compared to places within states without felon voting restrictions. The inclusion of this

measure saw a reduction in the significance of the 30% and above percent black measure, though it remained marginally significant (P<.10). Conversely, two percent Hispanic measures (20-30% and 30% and above) became significant (P<.05). In each category, respectively, there is a 71 percent and 2.37 times *increase* in the hazard of a BTB initiative being adopted in a given year, compared to a place with Hispanic population of 0-14.99% (P<.05).

This finding is somewhat unique given the split in racial threat literature regarding the prospect of Hispanic threat, with many scholars often failing to find support for Hispanic threat hypotheses (Feldmeyer and Ulmer 2011; Jacobs and Carmichael 2001, 2004). These results would appear to fall in line with a behavioral contact theory approach, which hypothesizes that contact between majority and minority groups will foster majority group feelings of good will toward the minority group (Stein, Post, and Rinden 2000). This body of literature has found overwhelming empirical support of this theory when considering relations between whites and Hispanics (Forbes 1997).

Additionally, the elevated ($70,000-95,000) white median household income measure experienced a return to significance (P<.05). This likely indicates that the inclusion of felon voting restrictions moderated the suppressing effects created by the political measures introduced in Model 3. Furthermore, in comparison with Model 2, this coefficient experienced a sizeable reduction in magnitude, now yielding a 41 percent increase in the hazard of a place implementing BTB legislation in any given year, compared to places in the baseline category.

Model 5 in Table 2 adds control variables to the model, including measures of state incarceration rates, the availability of the death penalty, murder rates, violent crime rates, and property crime rates. State level incarceration rates were shown to be significantly related to BTB implementation. Elevated rates of imprisonment in a state were shown to reduce the probability of a place passing BTB legislation, with a one unit increase decreasing the hazard of passage by 0.7 percent in any given year, compared to a place with no increases ($P<.05$). Other controls were non-significant.

The introduction of these controls did not drastically alter previous results, however, several measures experienced modest increases in significance. The 20-30% black measure, as well as the 15-20% Hispanic measure, are now marginally significant ($P<.10$). Ultimately, the final model still yields support for a black threat hypothesis, indicating that places with a black population of 15-20% have a 38.9 percent lower hazard of passing BTB legislation in any given year, compared to a place with a black population in the reference category ($P<.05$). Similarly, there is also a decrease in the odds of BTB passage in places with a black population of 20-30% and 30% and above, with respective 36.8 and 48.6 percent lower hazards of implementation in any given year ($P<.10$).[19]

[19] Racial threat results remain significant and are virtually unchanged when the sample is reduced to include only places where the white population exceeds black and Hispanic populations.

Chapter 6: Discussion

The goal of this study was to evaluate several hypotheses derived from racial threat-based literatures, including research on political influence and punitive policy, in order to better understand the predictors of BTB implementation. For nearly a decade, BTB laws have been discussed in criminology and public policy spheres, but very little research has empirically examined them.[20] Therefore, the current study represents a novel and necessary examination of these laws, identifying several salient factors that influence the likelihood of their passage. For this same reason, this article also extends racial threat literature by successfully applying the theory to a new, burgeoning policy issue that is increasingly gaining national attention.

Prior research has linked larger black populations with a multitude of discriminatory outcomes, including documenting the potential for perceived racial threat to influence criminal justice policies. In this vein, the results of this research support a black racial threat argument, finding evidence that a black population of 15-20% represents a threshold whereby the likelihood of the passage of BTB laws decreases. Furthermore, there is also tentative evidence that places with the increasingly large black populations (20-30% and 30% +) have similarly attenuated prospects of BTB passage.

There is no evidence of Hispanic threat; rather, larger Hispanic populations were significantly associated with increased odds of BTB passage ($P<.01$). While it is perhaps

[20] To the best of my knowledge, only one study has done so (Vuolo, Lageson, and Uggen forthcoming).

unsurprising that evidence of threat was not found, given the split in extant literature regarding the prospect of Hispanic threat – with several studies failing to find support (Feldmeyer and Ulmer 2011; Jacobs and Carmichael 2001, 2004) – the fact that the relationship is positive in this instance necessitates further explanation. This finding is perhaps best explained by a behavioral contact frame, which hypothesizes that when levels of dominant-minority group contact are higher, the dominant group is more likely to form increasingly positive opinions of the minority group in question. Research within this theory has produced a large body of evidence of such instances between whites and Hispanics, concluding that when levels of non-negative contact with Hispanics are higher, whites will often cultivate positive feelings towards Hispanics (Forbes, 1997), which has been shown to manifest as a failure amongst whites to support policies that would restrict Hispanics (Citrin, Reingold, and Green 1990; Frendreis and Tatalovich 1997).[21]

This reasoning is further supported when the extent of the differences between black-white and Hispanic-white relations are considered. Racial threat research has consistently found support for black threat; however, as was mentioned, this is not the case with Hispanics. Other bodies of literature, such as split labor market theory (Bonacich 1975, 1976; Marks 1981) and segmented assimilation theory (Restifo, Roscigno, and Qian 2013; Zhou 1997), have also shown that blacks' social position, influenced by long-standing animosity from whites, brings to bear levels of discrimination that are unmatched by other ethnic groups in the context of the United

[21] Research has also shown that the size of a locality's undocumented Hispanic population to be positively correlated with support of restrictive policy – therefore, it may also be the case that the places that are passing BTB laws have lower levels of undocumented immigrants. Unfortunately, this data is not available on the scale necessary for this analysis.

States. Consequently, it is reasonable to assert that fundamental differences in whites' perceptions of blacks and Hispanics are likely driving results, as Hispanics simply do not present a similar threat to whites. Furthermore, the results of this analysis would ostensibly support a contact approach, considering that a place's hazard of BTB passage increased considerably as the relative size of the Hispanic population also increased, yielding an almost three times higher hazard of passage in any given year in places where the Hispanic population was 30% or more of the total population. It is also important to note that several behavioral contact studies have shown that equal status between dominant and minority individuals is not a necessary condition for the improvement of dominant group attitudes (Amir 1976; Forbes 1997, 121), therefore, it would appear that economic inequality and perceived or actual levels of criminality amongst the Hispanic population would not significantly influence the results.

The results of this study also provide modest support for the presence of a variation of economic threat. While the percentage of impoverished whites was not a significant predictor of passage, there is evidence that dominant group financial security is an important factor nonetheless. Places with elevated ($70,000-95,000) white median household incomes were significantly more likely to implement BTB policies. This finding is likely explained by two considerations: first, when white median household incomes are modest, there is still the possibility that whites will view ex-offenders as potential economic competition; second, at the highest levels of white median household income, it is likely that whites will hold negative or indifferent views of ex-offenders. Conversely, places with elevated white median household incomes may reside somewhere in between – where ex-offenders likely will not pose a credible threat to job

security while also occupying a social position that does not look upon ex-offenders unfavorably.

The results of this analysis also augment prior research on the influence of politics and punitive policy. In keeping with extant threat theory, places with Republican voting allegiance were less likely to pass BTB legislation, an effect that increased as the relative size of the Republican contingent increased. The presence of a Republican governor was also shown to exert substantial influence, revealing a stark contrast with places governed by Democrats or Independents. Finally, state-level post-release ex-offender control, measured by the imposition of felon voting restrictions, was shown to be a salient predictor of BTB passage, indicating a significant and negative association with the hazard of a place passing BTB legislation.

While this sort of macro-level analysis is not capable of identifying specific mechanisms that turn perceived threat into discriminatory action, it better informs the discussion of an important policy that is thought to have significant potential to reduce ex-inmate labor market discrimination and provide ex-offenders with a clearer path to desistance from crime. Future race-based BTB research, and racial threat analyses in general, would benefit from explicit, mechanism-focused examinations of the transmission of perceived threat to discriminatory action, whether it be an advanced, detailed historical analysis (Behrens, Uggen, and Manza 2003; Muller 2012) or a more nuanced qualitative examination of micro-level processes.

Moreover, future re-entry research should explore the efficacy of a variety of policies that could aid ex-offenders in their efforts to obtain employment, including the

BTB initiative. Little is known about employers' attitudes towards BTB measures and whether their perceptions shape the practical administration of these mandates. Consequently, we are unaware of whether or not employers are finding alternative, informal methods of screening for criminal histories in order to circumnavigate BTB policies. Without strict regulatory oversight, employers may simply verbally inquire about criminal history in the early stages of the application process, even though there is no formal question on job applications. Furthermore, a possible deleterious side effect of BTB implementation is the expansion of demographic-based discrimination. Without knowledge as to which applicants possess criminal records, employers may assume that all members of a minority group (i.e. young black males) have criminal records, thereby exacerbating the negative effects of racial prejudices.

Looking forward, the biggest hurdle that BTB policy faces is its lack of influence on the labor market as a whole. Most laws apply exclusively to the public sector, representing only a modest percentage of total employment. If BTB laws are proven effective as a means to reduce discrimination against ex-offenders in the public sector, the most meaningful step will be expanding to the private sector on a greater scale. In these instances, I would predict an even higher degree of salience amongst the factors that are negatively correlated with passage – given private employers' well-documented preference for control over business operations.

As this research shows, racial and economic threat have the potential to present a sizeable impediment to the diffusion of policy that can facilitate re-entry, painting a bleak picture for the prospects of re-entry policy in places that have larger black populations, are Conservative, and have high levels of state punitiveness; however, this is not to say

that passage of a BTB measure, or similar ex-offender protections, is impossible in such a context. The state of Georgia, which can most often be placed squarely in each of these negatively associated categories, passed a BTB law applying to all public employment in 2015, serving as a prime example of how these laws are capable of surmounting expected obstacles. An example such as this, while clearly an outlier, provides hope that, if viewed as meritorious, re-entry protections have the potential to reduce the issue of ex-offender employment.

Perhaps the most troubling implication of this research is the degree to which many of the most salient negative predictors of BTB are entrenched in American society and are therefore resistant to change. It is unrealistic to assert that the most effective way to address the problem of ex-offender re-entry policy adoption is to reduce racial prejudice. Instead, we must focus our efforts on studying the efficacy of this program, as well as those that aim to achieve similar goals, while also examining how to lessen the perceived risk that employers associate with hiring ex-offenders – whether it is increased behind-bars certifications, more comprehensive post-release oversight, or greater employer liability protections.

References

Alexander, Michelle. 2012. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press.

Amir, Yehudah. 1976. "The Role of Intergroup Contact in Change of Prejudice and Race Relations." Pp. 245–80 in *Towards the Elimination of Racism*, edited by Katz. New York: Pergamon.

Ban the Box. 2014. National Employment Law Project. Retrieved November 26, 2014: http://www.nelp.org/page/-/SCLP/Ban-the-Box.Current.pdf?nocdn=1

Beckett, Katherine. 1997. *Making Crime Pay*. Oxford University Press.

Beckett, Katherine and Bruce Western. 2001. "Governing Social Marginality: Welfare, Incarceration, and the Transformation of State Policy." *Punishment & Society* 3(1):43–59.

Behrens, Angela, Christopher Uggen, and Jeff Manza. 2003. "Ballot Manipulation and the 'Menace of Negro Domination': Racial Threat and Felon Disenfranchisement in the United States, 1850–2002." *American Journal of Sociology* 109(3):559–605.

Blalock, Hubert. 1967. *Toward a Theory of Minority-Group Relations*. New York: Wiley.

Blumer, Herbert. 1958. "Race Prejudice as a Sense of Group Position." *The Pacific Sociological Review* 1(1):3–7.

Bonacich, Edna. 1975. "Abolition, the Extension of Slavery, and the Position of Free Blacks: A Study of Split Labor Markets in the United States, 1830-1863." *American Journal of Sociology* 81(3):601–28.

Bonacich, Edna. 1976. "Advanced Capitalism and Black/White Race Relations in the United States: A Split Labor Market Interpretation." *American Sociological Review* 41(1):34–51.

Brillon, Yves. 1998. "Punitiveness, Status, and Ideology in Three Canadian Provinces." Pp. 84–110 in, edited by N. Walker and M. Hough.

Bushway, Shawn D. 1998. "The Impact of an Arrest on the Job Stability of Young White American Men." *Journal of Research in Crime and Delinquency* 35(4):454–79.

Carson, E. Ann. 2015. *Prisoners in 2014*. Bureau of Justice Statistics.

Citrin, Jack, Beth Reingold, and Donald P. Green. 1990. "American Identity and the Politics of Ethnic Change." *The Journal of Politics* 52(04):1124–54.

Feldmeyer, Ben and Jeffery T. Ulmer. 2011. "Racial/Ethnic Threat and Federal Sentencing." *Journal of Research in Crime and Delinquency* 0022427810391538.

Forbes, H. D. 1997. *Ethnic Conflict: Commerce, Culture, and the Contact Hypothesis*. New Haven and London: Yale University Press.

Frendreis, John and Raymond Tatalovich. 1997. "Who Supports English-Only Language Laws? Evidence from the 1992 National Election Study." *Social Science Quarterly* 78(2):354–68.

Frisbie, W. Parker and Lisa Neidert. 1977. "Inequality and the Relative Size of Minority Populations: A Comparative Analysis." *American Journal of Sociology* 82(5):1007–30.

Garland, David. 2001. *The Culture of Control: Crime and Social Order in Contemporary Society*. University of California Press.

Giles, Michael W. and Melanie A. Buckner. 1993. "David Duke and Black Threat: An Old Hypothesis Revisited." *The Journal of Politics* 55(3):702–13.

Greenberg, David F. and Valerie West. 2001. "State Prison Populations and Their Growth, 1971–1991*." *Criminology* 39(3):615–54.

Heckman, James J. 1998. "Detecting Discrimination." *The Journal of Economic Perspectives* 12(2):101–16.

Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2006. "Perceived Criminality, Criminal Background Checks, and the Racial Hiring Practices of Employers." *The Journal of Law & Economics* 49(2):451–80.

Holzer, Harry J., Steven Raphael, and Michael A. Stoll. 2007. "The Effect of an Applicant's Criminal History on Employer Hiring Decisions and Screening Practices: Evidence From Los Angeles." in *In Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*, edited by D. Weiman, M. A. Stoll, and S. D. Bushway. Russell Sage Foundation.

Jacobs, David and Jason T. Carmichael. 2001. "The Politics of Punishment across Time and Space: A Pooled Time-Series Analysis of Imprisonment Rates." *Social Forces* 80(1):61–89.

Jacobs, David and Jason T. Carmichael. 2002. “Subordination and Violence against State Control Agents: Testing Political Explanations for Lethal Assaults against the Police.” *Social Forces* 80(4):1223–51.

Jacobs, David and Jason T. Carmichael. 2004. “Ideology, Social Threat, and the Death Sentence: Capital Sentences across Time and Space.” *Social Forces* 83(1):249–78.

Jacobs, David, Jason T. Carmichael, and Stephanie L. Kent. 2005. “Vigilantism, Current Racial Threat, and Death Sentences.” *American Sociological Review* 70(4):656–77.

King, Ryan D. and Darren Wheelock. 2007. “Group Threat and Social Control: Race, Perceptions of Minorities and the Desire to Punish.” *Social Forces* 85(3):1–26.

Langworthy, Robert H. and John T. Whitehead. 1986. “Liberalism and Fear as Explanations of Punitiveness.” *Criminology* 24(3):575–91.

Marks, Carole. 1981. “Split Labor Markets and Black-White Relations, 1865-1920.” *Phylon (1960-)* 42(4):293–308.

Muller, Christopher. 2012. “Northward Migration and the Rise of Racial Disparity in American Incarceration, 1880–1950.” *American Journal of Sociology* 118(2):281–326.

Murakawa, Naomi. 2008. “The Origins of the Carceral Crisis: Racial Order as ‘Law and Order’ in Postwar American Politics.” Pp. 234–55 in, edited by J. E. Lowndes, J. Novkov, and D. T. Warren. Taylor and Francis.

Myrdal, Gunnar. 1962. *An American Dilemma: The Negro Problem and Modern Democracy*. New York: Harper & Row.

Pager, Devah. 2003. “The Mark of a Criminal Record.” *American Journal of Sociology* 108(5):937–75.

Pager, Devah. 2006. “Evidence-Based Policy for Successful Prisoner Reentry.” *Criminology & Public Policy* 5(3):505–14.

Pager, Devah, Bart Bonikowski, and Bruce Western. 2009. “Discrimination in a Low-Wage Labor Market: A Field Experiment.” *American Sociological Review* 74(5):777–99.

Peffley, Mark and Jon Hurwitz. 2007. “Persuasion and Resistance: Race and the Death Penalty in America.” *American Journal of Political Science* 51(4):996–1012.

Provine, Doris M. 2007. *Unequal Under Law: Race and the War on Drugs*. Chicago: University of Chicago Press.

Quillian, Lincoln. 1995. "Prejudice as a Response to Perceived Group Threat: Population Composition and Anti-Immigrant and Racial Prejudice in Europe." *American Sociological Review* 60(4):586–611.

Quillian, Lincoln. 1996. "Group Threat and Regional Change in Attitudes Toward African-Americans." *American Journal of Sociology* 102(3):816–60.

Ramakers, Anke, Robert Apel, Paul Nieuwbeerta, Anja Dirkzwager, and Johan Van Wilsem. 2014. "Imprisonment Length and Post-Prison Employment Prospects." *Criminology* 52(3):399–427.

Restifo, Salvatore J., Vincent J. Roscigno, and Zhenchao Qian. 2013. "Segmented Assimilation, Split Labor Markets, and Racial/Ethnic Inequality The Case of Early-Twentieth-Century New York." *American Sociological Review* 78(5):897–924.

Shannon, Sarah, Christopher Uggen, Melissa Thompson, Jason Schnittker, and Michael Massolgia. 2011. "Growth in the US Ex-Felon And Ex-Prisoner Population, 1948 to 2010."

Shipan, Charles R. and Craig Volden. 2006. "Bottom-up Federalism: The Diffusion of Antismoking Policies from US Cities to States." *American journal of political science* 50(4):825–43.

Soss, Joe, Laura Langbein, and Alan R. Metelko. 2003. "Why Do White Americans Support the Death Penalty?" *The Journal of Politics* 65(2):397–421.

Stein, Robert M., Stephanie Shirley Post, and Allison L. Rinden. 2000. "Reconciling Context and Contact Effects on Racial Attitudes." *Political Research Quarterly* 53(2):285–303.

Stoll, Michael A. and Shawn D. Bushway. 2008. "The Effect of Criminal Background Checks on Hiring Ex-Offenders*." *Criminology & Public Policy* 7(3):371–404.

Taylor, D. Garth, Kim Lane Scheppele, and Arthur L. Stinchcombe. 1979. "Salience of Crime and Support for Harsher Criminal Sanctions." *Social Problems* 26(4):413–24.

Uggen, Christopher. 2008. "The Effect of Criminal Background Checks on Hiring Ex-Offenders*." *Criminology & Public Policy* 7(3):367–70.

Uggen, Christopher and Jeff Manza. 2002. “Democratic Contraction? Political Consequences of Felon Disenfranchisement in the United States.” *American Sociological Review* 67(6):777–803.

Van Dijk, Jan J. M. and Carl H. D. Steinmetz. 1988. “Pragmatism, Ideology, and Crime Control.” Pp. 149–59 in *Public Attitudes to Sentencing*, edited by N. Walker and M. Hough.

Vuolo, Mike, Sarah Lageson, and Christopher Uggen. Forthcoming. “Criminal Record Questions in the Era of ‘Ban the Box’.”

Western, Bruce. 2008. “Criminal Background Checks and Employment Among Workers with Criminal Records*.” *Criminology & Public Policy* 7(3):413–17.

Williams, D. R. and J. S. Jackson. 2000. “Race/ethnicity and the 2000 Census: Recommendations for African American and Other Black Populations in the United States.” *American Journal of Public Health* 90(11):1728–30.

Zhou, Min. 1997. “Segmented Assimilation: Issues, Controversies, and Recent Research on the New Second Generation.” Retrieved April 12, 2015 (http://www.jstor.org/stable/2547421).

Appendix: Figures and Tables

Figure 1: Cumulative National Ban the Box Passage at the Place level

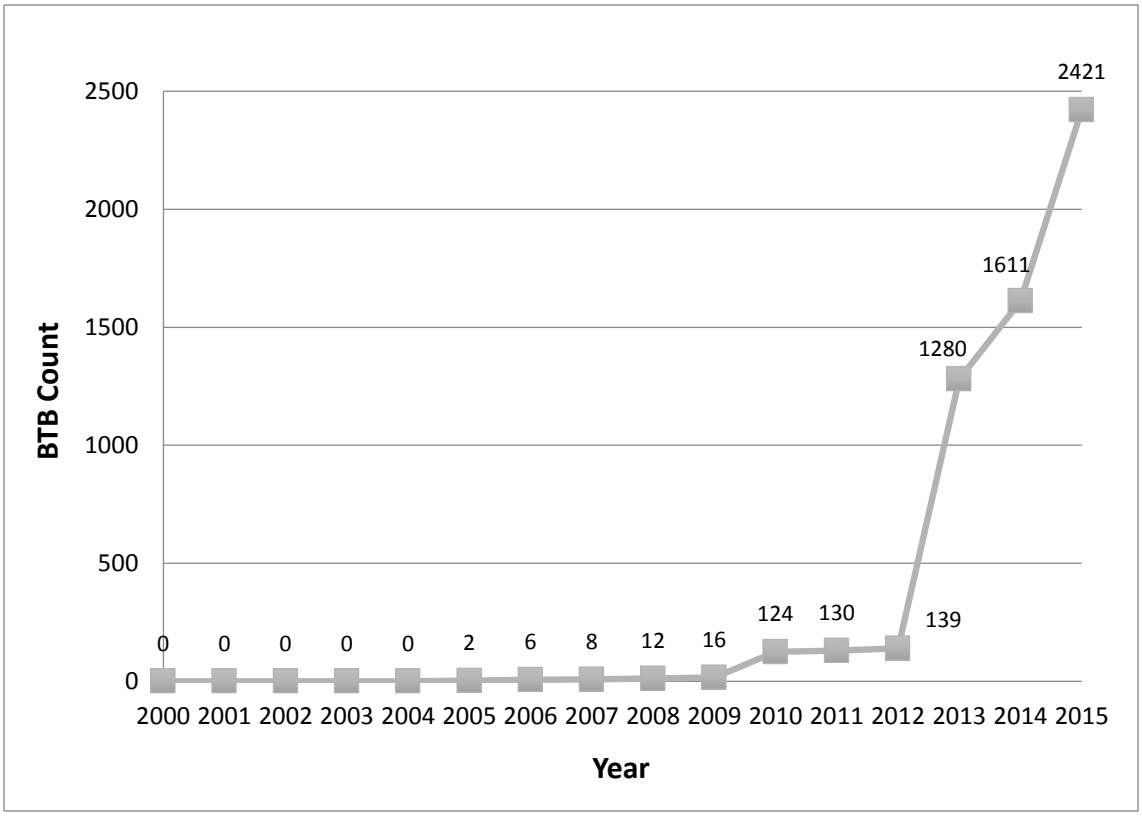

Table 1: Descriptive Statistics

	Percentage or Mean (Std. Dev.)	N
Percent black		
0-14.99%	78.57%	94,930
15-20%	4.81%	94,930
20-30%	5.88%	94,930
30%+	10.74%	94,930
Percent Hispanic		
0-14.99%	74.66%	94,930
15-20%	5.87%	94,930
20-30%	7%	94,930
30%+	12.47%	94,930
Percent white below poverty	10.65 (7.77)	94,884
White median household income		
$0-44,999	37.81%	94,884
$45,000-70,000	40.25%	94,884
$70,000-95,000	14.44%	94,884
$95,000+	7.51%	94,884
Percent Republican	51.09 (13.34)	94,915
Republican governor	55.76%	94,930
State-level felon voting restrictions	75.19%	94,930
State total incarceration rate	390.38 (112.39)	94,930
Availability of death penalty	69.01%	94,930
Murder rate	5.23 (1.96)	94,930
Violent crime rate	439.35 (146.02)	94,930
Property crime rate	3225.60 (767.12)	94,930

Table 2: Cox Proportional Hazard Models

Variables	Model 1		Model 2		Model 3	
	Coeff. (Robust SE)	HR	Coeff. (Robust SE)	HR	Coeff. (Robust SE)	HR
Racial Threat						
Percent black						
15-20%	-.726** (.218)	0.484	-.712** (.218)	0.491	-.589* (.231)	0.554
20-30%	-.743** (.249)	0.476	-.703** (.254)	0.495	-.594* (.270)	0.552
30%+	-.763* (.308)	0.467	-.669* (.468)	0.512	-.877* (.382)	0.416
Percent Hispanic						
15-20%	.370 (.304)	0.440	.340 (.290)	1.40	.209 (.253)	1.23
20-30%	.453 (.393)	0.618	.457 (.395)	1.58	.328 (.305)	1.39
30%+	.712 (.484)	0.986	.786# (.468)	2.20	.513 (.370)	1.67
Economic Threat						
Percentage of the white population in poverty			.003 (.010)	1.00	-.001 (.008)	0.999
White median household income						
Modest: $45,000-70,000			.397* (.193)	1.49	.091 (.152)	1.10
Elevated: $70,000-95,000			.627* (.313)	1.87	.063 (.428)	1.06
Highest: $95,000+			.688 (.476)	1.99	-.093 (.428)	0.910
Conservatism						
Percent Republican					-.032*** (.009)	0.969

Continued

Table 2: Continued

Republican governor					-1.08[#] (.632)	0.340
Post-Release Control						
State-level felon voting Restrictions						
Controls						
State total incarceration rate						
Availability of death penalty						
Murder rate						
Violent crime rate						
Burglary rate						
Log-pseudo likelihood	-17057.35	-	-17006.86	-	-16508.83	-

\# $p<.1$
* $p<.05$
** $p<.01$
*** $p<.001$

Continued

Table 2: Continued

Model 4		Model 5	
Coeff. (Robust SE)	HR	Coeff. (Robust SE)	HR
-.499* (.230)	0.607	-.493* (.200)	0.611
-.460 (.298)	0.631	-.458# (.274)	0.632
-.635# (.380)	0.530	-.665# (.367)	0.514
.339 (.233)	1.40	.462# (.238)	1.59
.537* (.270)	1.71	.688** (.253)	1.99
.862** (.298)	2.37	1.05*** (.288)	2.86
.003 (.009)	1.00	.007 (.005)	1.00
.165 (.125)	1.18	.153 (.131)	1.16
.342* (.152)	1.41	.317* (.152)	1.37
.342 (.276)	1.41	.361 (.258)	1.44
-.027** (.008)	0.973	-.027** (.009)	0.974
-1.18* (.573)	0.307	-1.05* (.522)	0.350
-1.11** (.508)	0.331	-1.23** (.463)	0.291

Continued

Table 2: Continued

		-.007* (.003)	0.993
		-.012 (.743)	0.988
		.216 (.166)	1.24
		.000 (.002)	1.00
		-.000 (.000)	1.00
-16279.42	-	-16055.89	-