

The impact criminal history has on the employability of African American and Latino populations with disabilities receiving state vocational rehabilitation services: Implications for adding a criminal history variable to the RSA-911 data

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Abstract.

BACKGROUND: Vocational Rehabilitation (VR) provides counseling, training, job placement, assistive technology and other support services to people with disabilities. VR counselors work to find employment consistent with their client's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. In order for VR counselors to be successful and effective in providing these services, it is important to know the client's full history. A great number of VR clients have criminal histories or have been adjudicated for crimes committed. According to the RSA-911 Technical Report, however criminal history is not a part of the VR national scope.

OBJECTIVE: The following article discusses how the omission of criminal history has and will continue to have a significant impact on those clients in securing employment; and indirectly, affecting the success rate of VR.

CONCLUSIONS: Suggestions for how to include criminal history are also included.

Keywords: Vocational rehabilitation, criminal history, African American, Latino, disability

1. Introduction

Employment, as the most desirable social achievement, is considered the priority of services for vocational rehabilitation consumers. Participation in employment is highly correlated with increased financial independence, quality of life, and job-

related social status (Ditchman et al., 2013). For ex-offender populations with disabilities, the challenge of obtaining employment is insurmountable. Moreover, attitudinal perceptions of employers, stigma associated with a criminal record, stereotypes about disability, and acts of racism and discrimination toward African American and Latino ex-offenders with disabilities (physical, mental, and co-occurring) further disadvantage them as vulnerable groups of individuals in possible need of additional investigation (Harley, 2014). In addition, the convergence of race, disability, and ex-offender status has implica-

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tions for the rate of recidivism (Feist-Price, Lavergne, & Davis, 2014). The lack of employability due to criminal history significantly influences recidivism, thus creating low education attainment, limited job skills, and gaps in employment. Despite being eligible to receive vocational rehabilitation (VR) services, there is a strong possibility that these groups are under identified and, subsequently underserved by state VR service providers. Regardless of criminal history status, African Americans and Latinos have been found to obtain fewer jobs opportunities than their White counterparts *with* criminal histories (Varghese, 2010).

Given the situation described above, there is strong reason to believe current vocational rehabilitation practices do not fully meet employability needs of African American and Latino ex-offenders receiving VR services (Maschi, 2014). State VR service providers inconsistently take into account criminal history therefore, ineffectively meeting the needs of ex-offenders with disabilities during the rehabilitation and employment process. Gaps are inherent in both VR's service inconsistencies and the lack of RSA-911 data to include criminal history, making a review and interpretation of the impact of criminal history on employment outcomes longitudinally challenging. Similarly, developing methods for improving employability, service delivery, and policy reform are hampered by such data omission.

The Rehabilitation Services Administration (RSA) is the principal agency responsible for carrying out the vocational rehabilitation services, client professional development, employment opportunities/training, and independent living sections of the Rehabilitation Act of 1973. As such the RSA case service report dataset (RSA-911) is based on administrative annual data collected by VR offices in each state on clients with closed cases. These data are intended to provide a description of accomplishments and progress made under the Rehabilitation Act of 1973. RSA-911 data includes information regarding demographic characteristics, type of disability, interventions or services provided, reason for case closure, employment status, and sources of financial support. Some limited work-related information (e.g. income, hours worked per week, etc.) is reported at both applications for services and at closure. The focus on employment outcomes and the increasing rate of ex-offenders with disabilities raises the question as to why RSA-911 data do not include offender status. Moreover, the attention of researchers in investigating data captured in the RSA-911 system for a

number of years to examine employment characteristics of individuals with disabilities call for additional inquiry into the status of ex-offender populations with disabilities as relevant among these data (Ditchman, et al., 2013).

Given persons with disabilities are among those who are incarcerated and, upon release they may be eligible to apply for rehabilitation services (Whitfield, 2009), the coding of the Rehabilitation Services Administration (RSA) data to identify offender status may better assist counselors in working with offender populations. Such identification becomes increasingly important for employment strategies. RSA produces an annual data record outlining confidential, individual records of persons with closed state vocational rehabilitation (VR) cases. The compilation of this data is referred to as RSA-911. RSA-911 is an important record in the rehabilitation field as it includes extensive information collected at application, during services, and at closure regarding demographics, disability, employment, public assistance, health insurance, living condition and VR services and equipment provided (Bruyere & Houtenville, 2006). RSA-911 data is often used as a research mechanism to inform service delivery and coordination, program evaluation and policy reform.

This article seeks to set forth a justification of the benefit of systemic approaches to tracking criminal history data and for capturing criminal history in RSA-911 data. First, a systematic and streamlined approach to the identification, classification and strategic utilization of interventions can be employed. By standardizing the way in which criminal history is captured in the vocational rehabilitation process, ex-offenders with disabilities have greater potential of receiving specialized services needed to increase employability regardless of the state in which they reside. Second, there is limited research available on the employment outcomes of ex-offenders with disabilities. Adding a criminal history variable to RSA-911 data and increasing rehabilitation counseling research on employment outcomes for ex-offenders with disabilities has the potential to better inform policy and practice. Finally, improving policy and practice can ultimately improve employability of ex-offenders. Specifically, employment outcomes for African American and Latino ex-offenders with disabilities, who comprise a disproportionate percentage of (ex)-offenders and lower percentage of persons receiving vocational rehabilitation services (Feist-Price, Lavergne, & Davis, 2014), these approaches will hopefully assist state voca-

tional rehabilitation systems in the identification and monitoring of service trends for ex-offenders.

To contextualize the impact of criminal history on employability of African American and Latino populations receiving VR services, this article opens with a brief overview of disability and criminal history, and the status of these two groups in the criminal justice system. Next, is a discussion on the high rates of incarceration of these two ethnic groups. Then a discussion on the employment status of African American and Latino men and women is presented. The article continues with justification for the addition of a criminal history variable to the RSA-911 database. In addition, a proposed model for the inclusion of the variable is provided. The article concludes with implications and recommendations for future research. The terms African American and Latino are used to be inclusive of persons of African descent and Hispanic subgroups; however, specific ethnicities will be identified where appropriate.

2. Overview of disability and criminal history

The literature has shown that many offenders may possess a mental illness and/or co-occurring disorder (e.g., Haysom et al., 2014; Houser & Belenko, 2015; Petersilia, 1997). One disorder that has been thoroughly studied in relation to criminal history is intellectual disabilities. According to Haysom et al. (2014), there are a large number of persons who are incarcerated that have an intellectual disability. The authors further reported that persons with intellectual disabilities, particularly youths with this disorder, may experience difficulty as they are going through the criminal justice process (e.g., sentencing, behavior while in custody, and the types of offense charged) due to the attributes of this disorder. While incarcerated, these individuals may be vulnerable due to the cognitive functioning (Raina et al., 2013). Their cognitive functioning may also impact their ability to possess moral reasoning (Langdon et al., 2011; Petersilia, 1997). Because of this, many caregivers are often reluctant to contact the police, but will do so should they feel unsafe (Raina et al., 2013). Additionally, these individuals may also experience sexual abuse (Lindsay, Steptoe, & Haut, 2012; van der Put et al., 2014) and then become perpetrators of abuse (van der Put et al., 2014). It is not uncommon for individuals who have an intellectual disorder to also possess a mental health disorder as well (Burke et al., 2012). These individuals may have difficulty with accessing

services and maintaining employment prior to being incarcerated (Burke et al., 2012). While incarcerated, they may receive mental health services, but upon being released, they often do not have the support or services needed; therefore, the recidivism is high for this population (Burk et al., 2012). Similar findings have been reported for people with autism spectrum disorders who have criminal histories. According to King and Murphy (2014), persons who are diagnosed with autism spectrum disorder may be naïve and can be easily manipulated by others. The researchers also reported that persons with autism spectrum disorders are often unable to identify social cues and have difficulty expressing empathy. This section has provided a brief overview as it relates to disability and mental illness. The subsequent sections will take a more in-depth look at persons of color with disabilities with criminal histories, followed by the incarceration rates by gender ending with employment barriers for persons of color with regard to the criminal history.

2.1. African American and Latino populations with disabilities in the criminal justice system

In the past decade, the number of people incarcerated in the United States has increased (Maur & King, 2007). According to the Bureau of Justice, in 2008, there were 1.5 million people incarcerated in prison, and 0.8 million people incarcerated in jail. In that same year, there were between 12.3 and 13.9 million people who were ex-offenders. Additionally, there were approximately 33% Caucasian offenders in prison during this time period, but there were 39% African American and 21% Latino offenders serving prison sentences (Schmitt & Warner, 2010). Even though the rates of incarceration of Latinos are lower compared to African Americans, there has been a 12.3% increase each year in the incarceration rate for this population (Morin, 2008). Mauer (2013) reported that between the years of 2000–2009, the incarceration rate for African American males and females has declined, but the rates of Caucasian men and women rose. The author further noted that during this time, the incarceration rate for Hispanic men fell, but increased for Hispanic women (Mauer, 2013). In general, the length of time that one serves while incarcerated is incumbent on the severity of the crime and the criminal history of the offender (Johnson, 2014).

In 2009, the types of convictions ranged from criminal property crimes, drug offenses, disorderly conduct, and other forms of crimes, such as pros-

titution, and loitering (Solomon, 2012). In addition, the demographics of offenders varied; including those with a substance use disorder (Hunt, Peters, & Kremling, 2015; Justice & Health Connect, 2013; Primm, Osher, & Gomez, 2006; Solomon, 2012), in general possessing a high school diploma (Solomon, 2012; Western & Wildeman, 2009), being unemployed prior to incarceration (Solomon, 2012), having a mental health disorder (Hunt et al., 2015; Justice & Health Connect, 2013; Primm et al., 2006; Solomon, 2012), having a chronic or sexually transmitted disease (Justice & Health Connect, 2013), and being homeless (Primm et al., 2006; Solomon, 2012). Many of these individuals have also committed violent offenses as well as being under the influence of some type of substance during their arrests (Primm et al., 2006). Furthermore, Primm et al. (2006) found that persons with mental illnesses often serve longer sentences than those offenders that do not have a mental health disorder.

Those offenders serving sentences that have a mental health and/or substance use disorder often have limited availability of and access to mental health services and substance abuse treatment (Hunt et al., 2015). For those who are afforded the opportunity to receive any treatment, they may not be provided adequate services (Hunt et al., 2015). For those receiving services prior to their convictions also differ by race. For example, Caucasians may have received any number of services compared to African Americans (Hunt et al., 2015). According to Hunt et al. (2015), Caucasian offenders tend to have more co-occurring disorders, such as substance abuse and mental health symptoms, than African Americans and Hispanics, but when accessing treatment options, Caucasians typically will seek mental health services, while African Americans will seek substance abuse treatment.

2.2. *Rates of incarceration for African American and Latino men*

The rates of incarceration of African American and Latino men are greater than their Caucasian counterparts (Feldmeyer & Ulmer, 2010; Holzer, Raphael, & Stoll, 2006; Johnson, 2014; Primm et al., 2006; Solomon, 2012; Western & Pettit, 2005; Western & Wildeman, 2009). In fact, Blacks (which includes African Americans) and Hispanics are approximately 40% more likely to be sentenced to jail or prison (Johnson, 2014). More specifically, African American males are eight times more likely to be

incarcerated than Caucasian males (Western & Wildman, 2009), though there is an increase in the number of Hispanic males who are entering into the prison system (Maur & King, 2007; Primm et al., 2006). The incarceration rates are higher for males in their 20 s, with majority being African American with less than a high school diploma (Western & Wildeman, 2009). These young men are typically from disadvantaged backgrounds and are from economically poor neighborhoods with high crime rates that include murder and violent crimes (Wester & Wildeman, 2009). By the time that an African American male reaches his early 30 s, he is more to likely have a criminal record than a Caucasian male and would have served longer prison sentences (Feldmeyer & Ulmer, 2010).

Data for Hispanic males when compared to Caucasian males are the same as African American males when compared to Caucasian males (Feldmeyer & Ulmer, 2010), though African American males tend to have higher felony convictions (Wakefield & Uggen, 2010). These same findings were found in Johnson's 2014 study of the criminal justice system in the state of Pennsylvania. The author found that African American and Latino male offenders who are going to trial and have more serious offenses tend to have longer criminal histories than Caucasian males. The author also found that Hispanic offenders were twice as likely to be convicted through a criminal trial as African American offenders (2014). The rise in the incarceration rates for Latino males is due to lack of education, poverty, unemployment, and the perceptions of criminality for Hispanics by others (Franklin & Fern, 2015). Additional research suggest that Hispanics and African Americans have similar problems, such as poverty, unemployment, living in high crime rates, and obtaining an education in low performing schools (McGovern, Demuth, & Jacoby, 2009). Morin (2008) concurred that Latinos have shared the same barriers as African Americans. The author noted that the media's reporting of negative images and promotion of stereotypes for both populations have influenced the rise in incarceration rates for both populations. Although African Americans face similar challenges when dealing with the criminal system, Latinos face unique challenges. One issue that is different for Latinos who are ex-offenders is they often have difficulty speaking/understanding the English language as many have migrated or immigrated to the United States (McGovern et al., 2009). Because of their inability to understand the English language at times, Latinos may not understand their rights when encountering police officials or the criminal courts.

A second issue that Latinos may face is their immigration status upon entering in the United States. Morin (2008) indicated that, “legislation focused on reigning in immigrants entering in the country has spurred anti-immigrant sentiments” (p.26). These sentiments can evoke fear of Latinos by the public due to reported misconceptions. Too often, misconceptions lead to severe scrutiny by police officials and the courts, resulting in disproportionate arrests and sentencing, thereby creating a vicious cycle of discrimination.

2.3. Rates of incarceration for African American and Latino women

There is limited literature addressing the incarceration rates of women, particularly women of color (Mauer & King, 2007; Schmitt & Warner, 2010; Wakefield and Uggen, 2010). Published literature indicates that the number of women who are incarcerated has increased (Mauer, 2013; Mauer & King, 2007; Morin, 2008; Schmitt & Warner, 2010; Wakefield and Uggen, 2010). More specifically, there has been a 646% increase in the number of incarcerated women since 1980 (Phillips, 2012). For example, in 2008, 8.5% of the prison population was females versus 92% of males (Schmitt & Warner, 2010). Mauer (2013) also reported that from 2000–2009 there was a 21.6% increase in the number of incarcerated women versus 15.6% in men. Mauer and King (2007) further indicated that African American and Latino women are more likely to be incarcerated than White women. Black women were three times more likely than White women to be incarcerated; while Hispanic women were at a rate of 1.6 (Phillips, 2012). Even though the number of women incarcerated in general has increased from 2000–2009 (with White women accounting for a substantial portion), the rates for Hispanic women have increased while the rates for Black women have decreased (Mauer, 2013). Mauer (2013) posited that the reason for the decline is that African American women are becoming less likely to be engaged in criminal activity. One explanation for the rise in Hispanic women’s incarceration rates is due to how they are categorized when they are arrested. Mauer (2013) indicated that when Hispanics are arrested, they are typically categorized as being Caucasian. In general, women are incarcerated for drug and property offenses, while the offenses for men are due to violent crimes (Phillips, 2012). A recent report suggests that there has been a decrease in the number of drug offenses for women (Mauer, 2013).

Duwe (2015) indicated that there is a high incidence of mental illness among those persons who are incarcerated. According to the author, “prisoners are 2 to 4 times more likely to have psychotic and major depressive disorders” (p. 19). Those persons who are incarcerated and have a mental illness are often young, White, and female who have a past history of homelessness, substance abuse, and other forms of physical and/or sexual abuse (James & Glaze, 2006). In comparison to men, women are more likely to enter their prison sentences with a mental health problem (Justice & Health Connect, 2013; Phillips, 2012), have more medical issues, such as asthma, cancer, hepatitis, and hypertension (Justice & Health Connect, 2013; Phillips, 2012), and while serving their prison sentences, have a higher chance of being sexually assaulted by prison staff who are men (Phillips, 2012) as well as have a history of post-traumatic stress disorder (Justice & Health Connect, 2013). Oftentimes, women who are diagnosed with having a mental illness may not have access or receive treatment prior to being incarcerated. For example, Blitz, Wolff, and Paap (2006) found that 62% of women in their study of 908 women, had received treatment prior to incarceration, and 56% of the women had indicated that they needed treatment, but not receive any treatment prior to their incarceration. The women in the study did receive mental health services while incarcerated and reported that they had more access to services while incarcerated versus when they were living in their communities, leaving the authors to conclude that had these women received mental health services prior to being incarcerated, it is likely that these women would have avoided prison. Additionally, according to Houser and Belenko (2015), female prisoners often possess a mental health disorder, such as posttraumatic stress disorder, substance use disorder, and co-occurring disorders prior to being incarcerated, often times not being diagnosed. While serving their prison sentences, female inmates may experience higher prison misconduct than those persons serving prison sentences without a mental health disorder.

3. Employment barriers of African and Latino populations

Ex-offenders face several barriers to employment. On the one hand, it is well documented that employers are often reluctant to hire someone with a criminal history (Ethridge, Boston, Dunlap, & Staten, 2014;

Henry & Jacobs, 2007; Holzer et al., 2006; McGovern et al., 2009; Rodriguez & Emsellem, 2011; Schmitt & Warner, 2010; Solomon, 2012; Wakefield & Uggen, 2010). On the other hand, specific restrictions on hiring ex-offender with certain types of offenses further hamper employment efforts. Because of rates of convictions are disproportionate for African Americans and Latinos, employers' reluctance and discrimination for magnified for these groups. Additionally, research has shown that African Americans are unemployed and underemployed at higher rates than Caucasians (Bellair & Kowalski, 2011; Henry & Jacobs, 2007; Western & Wildeman, 2009). For example, Western and Wildeman (2009) in their 10-year longitudinal study revealed that employment rates for African American men fell below 30% among high school dropouts. Individuals with disabilities with criminal histories face significant social decline due to unemployment. These challenges include but are not limited to barriers such difficulties re-entering the labor force after incarceration and employment rejection due to a record of criminal offense, especially a felony. In recent years, employers are requiring individuals seeking employment to participate in background checks; in 1996 51% of employers were requiring background checks as compared to 96% of employers in 2003 (Tschopp et al., 2011). Ex-offenders with disabilities report negative counselor-client relationship at the VR (RTC Rural, 2010). This negative experience leads to premature exit from the VR system and prolonged unemployment (RTC Rural, 2010). Within the VR system, limited education and training account for additional barriers experienced by individuals with disabilities with criminal histories.

Barriers to employment are particularly impactful for African American and Latino populations with disabilities, particularly for those with criminal histories. These populations are vulnerable and at an increased risk of facing employment discrimination due to their disability, race/ethnicity and criminal history. For persons with mental illness seeking employment, it is well documented in the literature that employers are often reluctant to hire someone with a psychiatric disability (Barrenger & Draine, 2013). Persons with a mental illness often have higher unemployment rates than any other disability (Barrenger & Draine, 2013). Fear, ignorance and prejudicial attitudes lead to discrimination in the workplace, limited job opportunities and career advancements (Duran, Potter, & Rosen, 2013; Noble, Jr., Honberg, Hall & Flynn, 1999). These barriers fur-

ther perpetuate poverty in minority neighborhoods, increased criminality and recidivism, and breakdown of family systems (McGovern et al., 2009).

Holzer et al. (2006) found that employers are willing to employ African Americans, though the preference is to hire African American men than women. Despite this finding, Henry and Jacobs (2007) found that African Americans who seek jobs are still not employable compared to white job seekers with a criminal background. It can be said that African Americans face double discrimination on the basis of being a person of color and having a criminal record. Ironically, even when they do not possess a criminal background (Solomon, 2012) the chance of this happening greatly increases for African American applicants in comparison to their Caucasian counterparts (Solomon, 2012). In all, an African American is less likely to obtain an interview on the basis of his criminal history (Rodriguez & Emsellem, 2011; Wakefield & Uggen, 2010).

When considering employment, a job seeker may look at the potential wages to be earned. In looking at the data, the weekly wages for African American males has decreased, while imprisonment has increased (Western & Wildeman; 2009). In fact, Western and Pettit (2005) found that White men's hourly wages exceeded Black men by 30% between the years of 1985–1999. If a person incarcerated possesses a high school diploma or less and has a limited work history, this will impact the employability and wage earning potential for that person. In the past, prisons have provided vocational and educational training programs, however, in recent years, these programs have been reduced, which inhibits offenders' ability to enhance their vocational skills and increase their educational knowledge (Wakefield & Uggen, 2010). Because of these barriers, upon being released, it may be challenging for ex-offenders to not only obtain jobs due to their criminal background, but impact their ability to negotiate their wages as well (Wakefield & Uggen, 2010).

In summation, ex-offenders with disabilities who have a criminal background often have difficulty with obtaining employment, especially those who are African American and Latino (Harley, Cabe, Woolums, & Turner-Whittaker, 2014). Oftentimes, these individuals will seek vocational rehabilitation services to assist with their employment search after serving their prison sentences. These individuals have barriers that could be stigmatizing when seeking employment, such as limited job seeking skills (Duran et al., 2013) and low educational attainment

(Franklin & Fern, 2015; McGovern et al., 2009). According to Maschi et al. (2013) employers are reluctant to hire someone with a mental illness, rather than someone with a physical disability. This is one barrier that individuals may encounter when seeking employment. Having a criminal background in addition to having disability further complicates the job search and employment opportunities for ex-offenders with disabilities (Maschi et al., 2013). This barrier (criminal background) may not be recorded or reported as individuals receive vocational rehabilitation services and can also impact their employability.

In an effort to deter some challenges facing ex-offenders, former US Attorney General Eric Holder wrote a letter to every state Attorney General, with a copy of his letter to every Governor. Attorney General Holder requested that the states assess their collateral consequences – extra punishments imposed on individuals as a direct result of their criminal convictions. States were also encouraged to determine if any collateral consequences could be eliminated so people who have paid their debt to society could one day be able to live and work productively. Regardless of the legal restrictions or gentle encouragers by the Attorney General, the majority of employers indicated they would “probably” or “definitely” not be willing to hire an applicant with a criminal record (Holzer et al., 2006). In fact, a report by the National Employment Law Project found frequent use of blanket “no-hire” policies among major corporations, as evidence by their online job ads (Rodriquez & Emsellem, 2011). Employers do not wish to hire individuals who might commit future crimes and who may put at risk other employees’ and customers’ safety. The assumption being made is that a prior record signals higher odds that the individual will commit more crimes in the future. The VR counselor could design plans for addressing such concerns, but it is crucial for counselors to know this type of information.

A more recent development in the employment sector is causing employers to engage in discussions with legislative bodies about expunging of certain type of offenses because of a shortage of qualified workers to fill jobs. Still in the exploratory stages, it is unclear if such changes will occur and if so, to what extent ex-offenders, including those with disabilities, will benefit. In addition, blanket policies against hiring felony offenders is being challenged by the Equal Opportunity Commission (EEOC), in which states may find themselves caught between the EEOC guidelines that employers provide “an opportunity for an individualized assessment” that takes into account

“at least the nature of the crime, the time elapsed and the nature of the job” or complying with state law, ignore the guidance, and risk EEOC enforcement action. Nevertheless, the inclusion of criminal history in RSA-911 data can be seen as a proactive, rather than reactive, step in support of ex-offenders with disabilities for employment.

4. Justification for criminal history coding in RSA-911

Currently, RSA-911 does not report criminal history data. A close observation of the variables tracked and reported revealed that the living condition variable includes code 06- adult correctional facility as the only data related to (ex)-offender status. This code and corresponding variables provide only initial information about an applicant’s living condition at application. According to the Human Services Research Institute (2014), 2.2% of individuals living in a state supported institution at application obtained employment in a community setting (this is the lowest employment rate among living arrangement groups). While this data is vital to improving the employment outcomes of individuals based on living arrangement, it does not report, track or address the perpetual barriers experienced by disabled ex-offenders seeking employment. Additionally, there is no data or research indicating that this information is used to support an applicant during the employment process. It can be argued, however, that RSA-911 is limited in its data collection and reporting of state VR data on a critical variable that may impact employment outcomes for ex-offenders with disabilities. For example, despite the significant disadvantages ex-offenders with disabilities face when attempting to obtain employment, there are no consistent systems in place to track (state VR agencies) and report (RSA-911) criminal history data.

Expanding RSA-911 data to include data and coding on criminal record or (ex)-offender status for persons with disabilities can potentially complement the Obama administration’s work to promote rehabilitation and reintegration of some of America’s most vulnerable populations. The Workforce Innovation and Opportunity Act (WIOA) and new rules under the section 503 of the Rehabilitation Act outline efforts to ensure equal and equity employment opportunities for persons with disabilities (<http://www.whitehouse.gov>). These federal legislations mandate affirmation action

Table 1
Federal rehabilitation and reintegration initiatives

Program/Initiative	Program/Initiative Details
Ban the Box program	Encouraging legislation that bans criminal history questions on employment applications.
Adult Reentry Grants	The Department of Education will award up to \$8 million (over 3 years) to 9 communities to support adult reentry programs.
Arrest Guidance for Public and HUD-Assisted Housing	The Department of Housing and Urban Development (HUD) will release guidance to public housing authorities on using arrests information in determining housing. HUD will work with public housing authorities to develop best practices to potentially reconsider one strike rules in housing termination.
Expanding tech training and jobs for ex-offenders.	The Department of Justice awarded \$3 million to provide technology-based career training for incarcerated adults and juveniles. Large urban areas like Newark, NJ, Washington, DC, New Haven, CT have agreed to intentionally expand tech opportunities by proving programs and training.
Training to Work	Linking Employment Opportunities Pre-Release (LEAP) is a federal program where \$10 million in pilot grants will be awarded to programs to One Stop Career Centers/American Job Centers in local jails.

Note. Source. <https://www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation> released November 2, 2015.

to recruit, hire, promote and retain individuals with disabilities, and increase data collection and record keeping to improve employer accountability (<http://www.whitehouse.gov>). Additionally, the Obama administration has established task forces and federal cabinets tasked with developing legislation and programs that promote rehabilitation and reintegration for formerly incarcerated individuals. These efforts, to date, have resulted in several initiatives (see Table 1).

Careful consideration should be placed on the impact criminal history has on African American and Latinos ex-offenders with disabilities and the overall efforts being made to improve rehabilitation and reintegration of vulnerable populations into communities throughout the United States. A next step might be improving vocational rehabilitation program coordination and service delivery by a) advocating for policy reform and b) advocating for tracking, collecting and reporting criminal history data to promote employment by the VR and RSA. These efforts have the potential to improve employment opportunities for these populations.

The integration of a new RSA variable and corresponding code would be of significant importance to the field of rehabilitation. Adding a criminal history variable and code would provide data on individuals who enter the VR system with a criminal history. Tracking the number of individuals entering the VR system with a criminal history could assist in the development of programs targeting this unique yet specific population. Additionally, for example, tracking the number of individuals in this sub-group who

obtain employment, type of employment obtained, successful employment with and without targeted programming, extensive training, and with interagency collaboration offer potential to further inform service delivery in the field, improve family earnings and stabilize the family system, reduce criminal activity and reduce recidivism, reduce poverty and increase tax revenue thus improving communities, and positively impact policy reform efforts. To begin envisioning how such a process might look, the following program model is proposed.

5. Program model: Starting the conversation

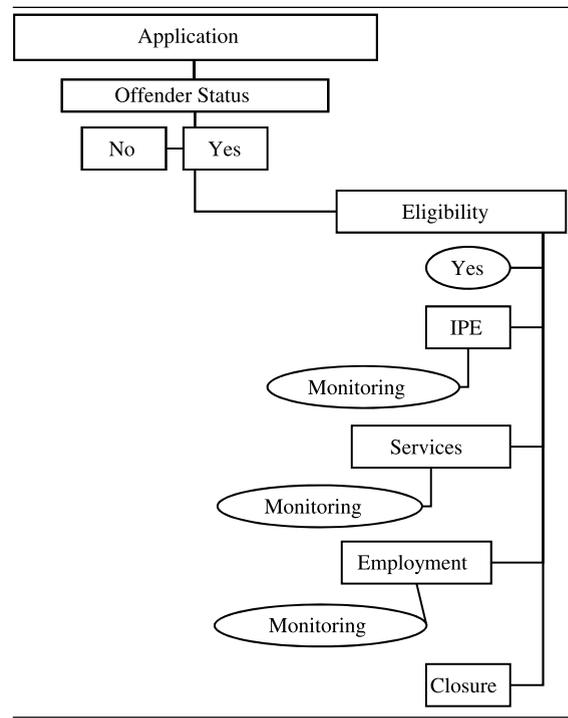
The purpose of this model is to track the criminal history of state vocational rehabilitation clients who are incarcerated at application and/or have a previous criminal record. The model proposes a new variable entitled, *Criminal History*. Data collected and reported for this variable will begin during eligibility for state vocational rehabilitation services and will be tracked continuously throughout the vocational rehabilitation (VR) process. Presently, the RSA-911 variable, *living arrangement at application*, to some degree captures the criminal history of state VR clients; however, it does not capture the clients' living arrangement throughout the VR process. The variable also does not specifically address whether a client seeking vocational rehabilitation services possesses a criminal background. The specific response options for living arrangement include private residence, community residential/group home,

rehabilitation facility, mental health facility, nursing home, adult correctional facility, halfway house, substance abuse, treatment center, homeless/shelter, and other. Of these 11 options, only adult correctional facility response captures the criminal history of clients entering into the VR system. RSA-911 data collected in 2012 revealed that there were 3861 clients (0.7%) that were living in an adult correctional facility at application. The data did not specifically speak to the types of crimes committed by clients, which can impact their employability during the job-seeking phase of the VR process.

Under this proposed model, clients seeking state vocational rehabilitation services will be asked, not only at application about their criminal background, but each time they meet with their vocational rehabilitation counselors. Knowing this vital information throughout the VR process will support rehabilitation counselors, along with any employment supports (e.g. job coaches, supported employment, etc.) in providing employability services to clients who are ex-offenders. Potential questions that could be asked of clients include, "Have you ever been convicted of a felony, since your 18th birthday? If you answered yes, please complete the following: nature of the defense, name and location of court, and the date of conviction, or have you ever been convicted of violating any law (except traffic violation). If yes, please provide the date, place, and details. As discussed previously, employers are often reluctant to hire someone with a criminal background, which will impact clients' abilities to secure employment. By being informed of clients' criminal backgrounds, rehabilitation counselors can implement strategies, such as interviewing techniques, resume development, and customized employment so that clients are equipped to secure employment. See Table 2.

As stated previously, clients will be asked about their criminal backgrounds until their cases are closed, whether successfully (26) or unsuccessfully (28). If closed unsuccessfully, the reason for closure will be captured. Currently, the reasons that are captured for an unsuccessful case closure include: achieved employment outcome before plan status, unable to locate or contact, disability too significant to benefit from VR services, refused services or further services, death, individual in institution, transferred to another agency, failure to cooperate, no disabling condition, no impediment to employment, transportation not feasible or available, does not require VR services, extended services, all other reasons, and extended employment. To determine if

Table 2
Steps toward new criminal history data collection and reporting



the client did not have successful employment experience due to an imprisonment, the item *individual at institution* will be used. This item is used in the RSA-911 to code a client who is unable to participate in VR services because the individual has entered into an institution. Examples of institutions provided by the RSA include prison or jail, nursing home, and treatment center. The data that could be collected under this proposed model could assist rehabilitation counselors in providing better service delivery to clients who are ex-offenders seeking employment.

6. Implications

Criminal history significantly impacts employability (Harley et al., 2014). Moreover, the lack of employability due to criminal history significantly influences recidivism, creating low education attainment, limited job skills, and gaps in employment. Over the years, incarceration has consistently reduced employment and earning opportunities for minority populations; further perpetuating poverty, leaving women as head of the household, creating a pathology of criminalization, and increasing mental illness and addiction in minority communities across the United

States (Harley et al., 2014). Ex-offenders with disabilities experience substantial criminal justice and reintegration issues related to their disability. Those who receive vocational rehabilitation services experience significant internal and external barriers to employment (Harley et al., 2014).

Criminal history barriers such as recidivism, criminality, victimization and vulnerability, poverty and community erosion have become so impactful on the employability, reintegration and ultimately rehabilitation of ex-offenders and ex-offenders with disabilities alike that the Obama administration has taken crisis-like reform efforts. However, continued federal efforts are needed. RSA might consider the above model as an approach to adding and implementing a criminal history variable to RSA-911 data.

By adding a criminal history variable to the existing RSA-911 codebook, rehabilitation stakeholders have the potential to improve the lives of millions of ex-offenders with disabilities. A criminal history code would allow improved data collection, service delivery, and training. Meeting the VR system's ultimate goal, improving employment outcomes for populations with disabilities.

The counseling profession is ever evolving in the effort to stay current with the issues and emerging trends in service delivery and best practices. The inclusion of criminal history has implications for training future counselors working in vocational rehabilitation. There may need to be curriculum to include an introduction into criminal justice. VR counselors in training could benefit from understanding the employment implications for various types of criminal charges and convictions, the terms of incarceration and stages of the re-entry process. In addition to this introductory experience, VR students may also need experiential courses (practicum/internship) where they are developing and applying these skills.

7. Future research

The consideration and implementation of coding criminal history as part of RSA-911 data is a sociopolitical issue that requires service providers, policy makers, and researcher to envision a different way of thinking about, planning, and analyzing client outcome. Several recommendations for future research can be made in anticipation of the theoretical, categorical, and methodological constructs for criminal history as a category for inclusion. First,

with the inclusion of a criminal history variable to RSA-911 data, future inquiries could monitor the affects on employment outcomes for ex-offenders with disabilities. Rehabilitation researchers and VR administrators would want to know if including criminal history has the potential to better inform policy and practice. Second, a comparative study should be completed between state VR agencies that do and do not account for criminal history. The intent of this inquiry would be to determine the differences in overall case closure frequency and evaluating counselor involvement. The question to be answered is, does knowing the criminal history of your clients make a significant difference in the amount of time needed to successfully close cases? Differently stated, do clients who have a criminal history require more effort from their VR counselor? Third, within the larger question of determining if criminal history knowledge makes a difference in case closer status, it might be helpful to know if certain crimes present more barriers to employment than others? It seems logical that nonviolent crimes would require a well thought out explanation versus the strategy for dealing with a client with violent crime history. Perhaps strategies could be analyzed so VR counselors would have specific methods for clients with greater criminal histories? Conversely, does knowing the criminal history allow VR to determine how much time and energy is to be spent on a client? In other words, could VR counselors know the possible limits of their work based on the criminal profile? Fourth, by providing specific services to clients based on their comprehensive background, is there a measureable difference being made in ex-offenders fulfilling their citizenship roles? Clients could possibly become more aware of their obligations to society and may seek to be as self-sufficient as possible. Finally, there are some who believe incarceration and poverty are related and passed on from generation to generation (Payne, 2009).

Regarding the next steps for research, grantors should issue a call to the rehabilitation profession to consider focusing on ex-offenders with disabilities as populations deserving of attention. Furthermore, there is a need for an analysis of models that are applicable to community reintegration and inclusion. An initial strategy is replication of models as applied to African American and Latino populations with culturally sensitive indicators. Research on "Ban the Box" rules may prove fruitful for understanding the impact on African American and Latino ex-offenders with disabilities.

8. Conclusion

The primary objective of vocational rehabilitation is to assist individuals with disabilities to find employment that is consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. In order for VR to be competent in providing these services, it is important to know the full history of the clients they are serving. The clients of color who utilize the services offered by VR are possibly being underserved. A great number of these clients have criminal histories or have been adjudicated for crimes committed. According to the RSA-911 Technical Report, criminal history is not a part of the VR national scope. The small omission of criminal history has and will continue to have a significant effect on those clients in securing employment; and indirectly, affecting the success rate of VR.

The profession of counseling is one that is continuously evolving in the effort to stay current, relevant, and innovative. It appears that the needs of today's VR client demand a renewed type of VR service. The revamping of VR counseling practice to include criminal history is necessary in keeping with providing the best possible treatment or care (Barlow, Levitt, & Bufka, 1999; McHugh & Barlow, 2010).

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Conflict of interest

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