

WORKERS WITH CRIMINAL RECORDS

A Survey by the Society for Human Resource Management and the Charles Koch Institute

Three Things You Should Know About the SHRM/CKI Survey:

1. About 2/3 of HR professionals surveyed say their company has experience hiring individuals with criminal records.
2. Most managers and HR professionals report that the “quality of hire” for workers with criminal records is as good or better than that of those without records.
3. A majority of workers in all roles report that they are open to working with those who have a criminal record.

The number of Americans with a criminal history is on the rise, and nearly one-third of the adult working-age population has a record.¹ A new nationwide study commissioned by the Society for Human Resource Management (SHRM) and the Charles Koch Institute (CKI) finds that, while these Americans do face additional scrutiny during the hiring process, many employees, managers, and Human Resources (HR) professionals, are open to working with and hiring people with criminal histories.

At a time when unemployment nears a record low,² many employers are finding that they need to consider new sources of workers. For many organizations, individuals with criminal records can be a good source of untapped talent. SHRM and CKI have begun investigating the attitudes and opinions of managers, non-managers, and HR professionals towards this policy. Although most HR professionals say that their company has hired individuals with criminal records, this study finds that fewer non-HR employees are aware if their employer has done so. However, most managers, non-managers and HR professionals are open to working with those with criminal records.

1. Fields, Gary and John R. Emshwiller. “As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime.” Wall Street Journal, August 18, 2014. <https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402>

2. Bureau of Labor Statistics. “Labor Force Statistics from the Current Population Survey.” April 2018. <https://data.bls.gov/timeseries/LNS14000000>

Just 14% of HR professionals say they would be unwilling to hire those with criminal records, while nearly half do not feel strongly that criminal history is a deciding factor in hiring. Concerns about doing so center around legal liability, customer and employee reactions, and regulations, and less on whether these individuals can perform well on the job. Factors that would increase willingness to hire from this group include confirmation of an applicant's consistent work history and the completion of additional education or training after conviction.

To understand the reach of this topic, SHRM/CKI took a holistic approach by gathering the perspectives of business leaders, their employees, and HR professionals. Data for the nationally representative poll of managers and non-managers was collected by NORC at the University of Chicago using the AmeriSpeak® Panel and included a total of 1,052 full-time employees, consisting of 540 managers (including C-Suite executives)³ and 512 non-managers. The poll of HR professionals was conducted by SHRM and included a total of 1,228 members. Findings from the polls, summarized below, yield important insights into employees' knowledge and attitudes about hiring individuals with criminal records:

- 82% of managers and 67% of HR professionals feel that the “quality of hire” for workers with criminal records is as high as or higher than that for workers without records. 74% of both managers and HR believe the cost of hiring individuals with criminal records is the same as or lower than that of hiring individuals without criminal records.
- Top reasons for hiring workers with criminal records include a desire to hire the best candidate for the job regardless of criminal history, making the community a better place, and giving individuals a second chance.
- Large proportions of employees are willing to work with individuals with criminal records. Among managers, 55% are willing, 15% are unwilling, and 29% fall in between. Among non-managers, 51% are willing, 13% are unwilling, and 36% say they are neither willing nor unwilling. Among HR professionals, 47% are willing, 8% are unwilling, and 41% select neither.
- 46% of HR professionals report that their company's initial employment application includes an item about criminal history, and 73% say their company conducts criminal background checks on applicants.

3. C-Suite executives include Presidents, Vice Presidents, and other C-Level Executives who work at companies of 50 or more employees. Managers include Presidents, Vice Presidents, and other C-Level Executives who work at companies with less than 50 employees, or mid- or entry-level managers. For the sake of the analyses described in this report, C-Suite executives and managers were combined into a single group, which is simply referred to as managers.

- While more than two-thirds (68%) of HR professionals are familiar with the “ban-the-box” campaign, only 14% of managers and 9% of non-managers say the same.
- Although 93% of HR professionals are sure of their companies’ position hiring workers with criminal records, 32% report that their organization chooses not to have a policy. 27% of managers and 51% of non-managers are unsure whether their company has a formal or informal policy regarding the hiring of workers with a criminal record. In some organizations, the hiring of workers with criminal records may be a part of the culture which does not require specific policies.
- Many employees, including 51% of HR professionals, are unsure whether a current employee at their company would be terminated if convicted of a felony.

WILLINGNESS TO WORK WITH AND HIRE INDIVIDUALS WITH CRIMINAL RECORDS IS FAIRLY HIGH.

Most employees are willing to work with people with criminal records: 55% of managers are willing, 51% of non-managers, and 47% of HR professionals. Many report themselves neither willing nor unwilling (29% of managers, 36% of non-managers, and 41% of HR professionals) (Figure 1).

All three groups, however, believe their coworkers are less willing than they are themselves: only 36% of managers, 29% of non-managers, and 26% of HR professionals speculate that their coworkers would be willing to work with people who have criminal records.

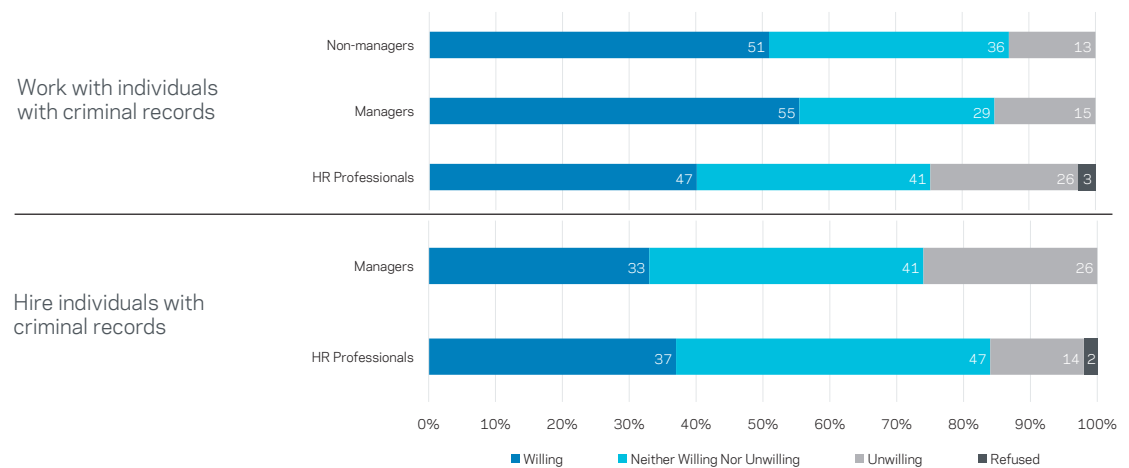
When it comes to hiring workers with criminal records, there is likely variation by industry, but the overall findings reveal that a minority are personally unwilling to hire individuals with criminal records and many are ambivalent. Among managers, 26% are unwilling to hire and 33% are willing to, but 41% are neither willing nor unwilling. Similarly, just 14% of HR professionals are unwilling, 37% are willing, and 47% are neither willing nor unwilling (Figure 1).

Older managers are more willing than younger managers to work with individuals with criminal records, although they are not substantially different from their younger counterparts when it comes to hiring. Among HR professionals, willingness does not vary with age.

Overall, while willingness to hire is fairly high, few say their company actively

recruits individuals with criminal records. Just 5% of managers and 3% of HR professionals report this type of recruitment. This is relatively consistent across organizations of different types and sizes.

Figure 1.
Few are unwilling
to work with or hire
individuals with
criminal records.



Questions: How willing or unwilling are you to work with individuals who have a criminal record? Personally, how willing or unwilling are you to hire individuals with a criminal record?
Note: Responses may not equal 100% due to rounding.

BARRIERS TO HIRING WORKERS WITH CRIMINAL RECORDS RELATE TO PERCEPTIONS, NOT QUALITY OF WORK.

Within companies that have hired workers with criminal records, employees rate the quality of their work as comparable to those without a record. Eighty-two percent (82%) of managers and 67% of HR professionals feel that the “quality of hire” for workers with criminal records is about the same or higher than that of workers without records. Seventy-four percent (74%) of both managers and HR believe the cost of hiring individuals with criminal records is the same or lower than that of hiring individuals without criminal records.⁴

While quality and costs are perceived to be similar for applicants with and without criminal records, other considerations play an important role in hiring decisions. Among both managers and HR professionals, the top reasons for extending job offers to workers with criminal records are hiring the best candidate, giving individuals a second chance, and wanting to make the community a better place, though the weight placed on these factors differs somewhat between the two groups of respondents (Figure 2).

⁴ These figures include managers and HR professionals who say the quality is about the same, better or much better and the cost is about the same, less or much less.

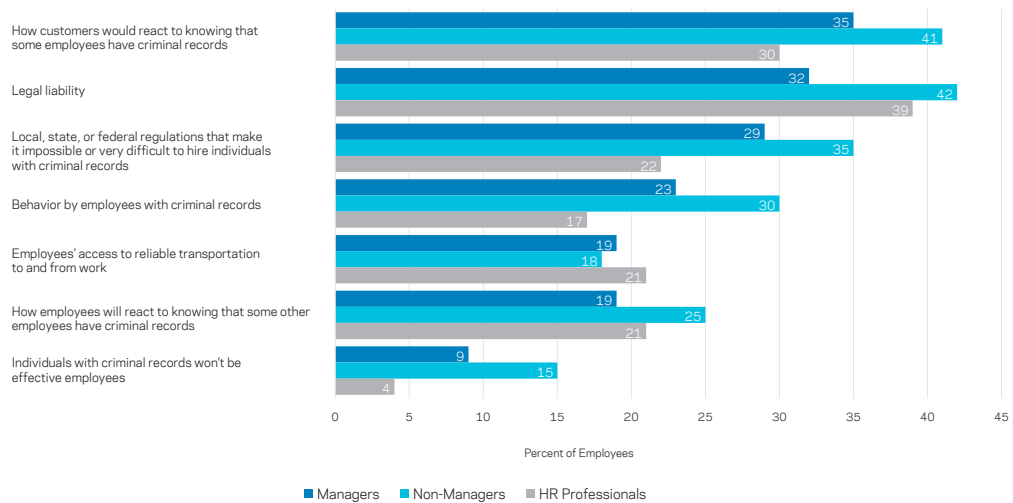
Figure 2.
Hiring the best candidate is the top reason for hiring an individual with a criminal record.



Question: How much are each of the following a factor in your company or organization's decision to hire individuals with criminal records?

Although concerns about hiring workers with criminal records may vary by industry and specific job type, overall findings suggest that external factors are among the top considerations. When asked to think about concerns that other companies in the area have about hiring workers with criminal records, employees most commonly cite factors including customer reactions, legal liability, and regulations.

Figure 3.
Concerns about customer reactions, legal liability, and regulations are most common overall when it comes to hiring individuals with criminal records.



Question: Think about other companies or organizations in your area. How much do you believe that the following are concerns to companies or organizations regarding hiring individuals with criminal records?

Few managers, non-managers, and HR professionals are concerned that they will be ineffective employees (Figure 3).

CRIMINAL HISTORY AND OTHER BACKGROUND CHECKS ARE COMMONPLACE.

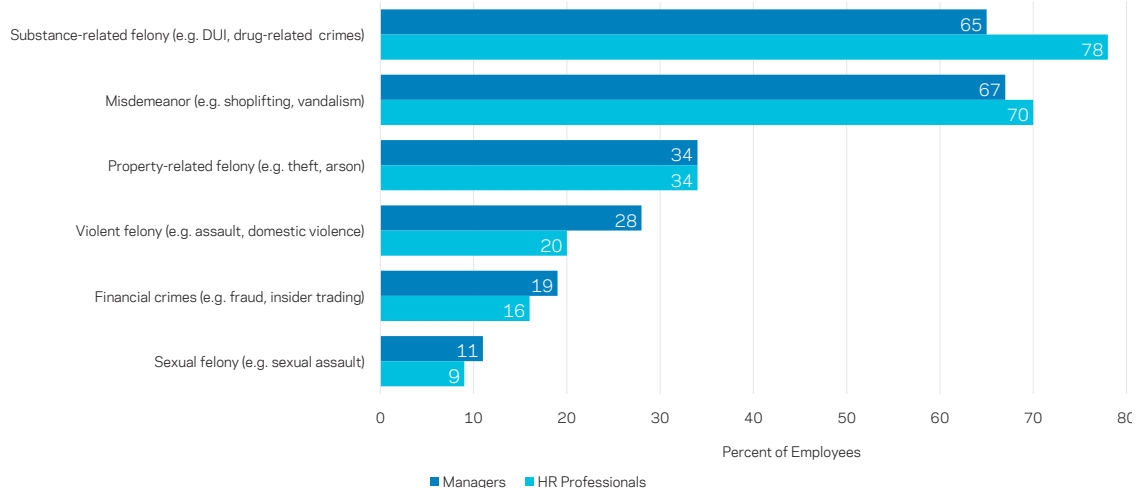
Nearly all workers report that their company conducts some sort of pre-hire screening, with nearly half asking applicants about their criminal history, and majorities conducting other types of pre-hire screening.

“Ban-the-box” is a campaign to encourage companies to eliminate the prior criminal history section on initial employment applications and to consider a candidate’s qualifications without the potential bias of a conviction or arrest record. In this survey, 46% of HR professionals and 68% of managers reported that their organization requires job applicants to disclose criminal history on initial employment applications. This gap probably reflects a greater familiarity with the application process among HR professionals. While more than two-thirds (68%) of HR professionals are familiar with the ban-the-box campaign, only 14% of managers and 9% of non-managers say the same. Somewhat more HR professionals whose employers require applicants to indicate their criminal histories on the initial application (84%) are aware of the term “ban-the-box” than those whose employers do not require it (66%); familiar HR professionals may work in localities or sectors which have already implemented ban-the-box regulations.

HR professionals were asked which forms of pre-hire screening their organizations conducted. (Pre-hire screens are those done at any point in the hiring process, from initial application to final offer. Depending on regulations, policies and practices, organizations may choose not to screen applicants or may conduct different screens at different points in the hiring process). According to HR professionals, criminal history checks are the most common form of pre-hire screening. Seventy-three percent (73%) say their company conducts criminal history checks for applicants, while 50% report drug tests and 46% report educational verifications. Fewer report online searches through search engines or social media (25%), credit checks (22%), or integrity tests (7%). Fewer employees of organizations with under 100 employees report that their employer conducts criminal history checks (70%) than do those at companies with 100-499 or 500 or more employees (84% each).

When applicants fail various pre-hire screenings, regardless of when screening occurs, HR professionals report that their company may take one or more of several steps, including confirming the accuracy of the results (79%), verifying the policy about the test (76%), allowing the applicant to provide an explanation for the results (74%), or removing the individual from the applicant pool (54%). Survey respondents note that actions taken when an applicant fails a pre-hire screening may vary based on the type and timing of the screen, as well as the information collected during screening.

Figure 4. Substance-related felonies and misdemeanors are the most commonly reported types of crimes among employees with knowledge of company hiring of workers with criminal records.

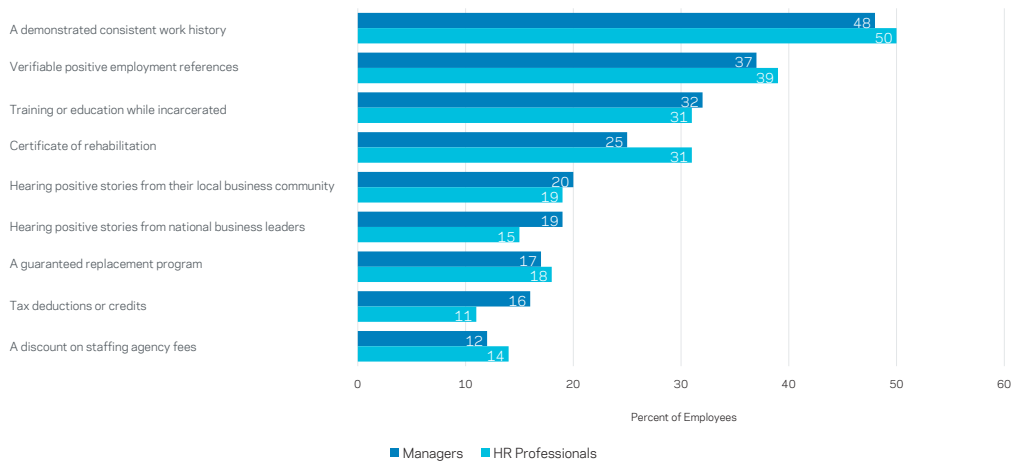


Question: Has your company or organization hired individuals with any of the following backgrounds?

Employees report varying levels of experience with hiring of individuals with different types of criminal histories. Two-thirds of managers and three-quarters of HR professionals report previous hires with misdemeanors or substance-related felonies like a DUI or drug-related crime. Fewer say their company has experience hiring workers with criminal records whose histories include violent felonies, financial crimes, or sexual felonies. Managers and HR professionals report similar levels of experience with most of these types of offenses (Figure 4).

THE TRACK RECORDS OF INDIVIDUAL WORKERS WITH CRIMINAL RECORDS ENCOURAGE HIRING MORE THAN EXTERNAL RECOMMENDATIONS OR INCENTIVES.

Figure 5. A demonstrated work history is the most important factor in increasing willingness to hire workers with criminal records.



Question: Please indicate the extent to which each of the following would increase your willingness to hire individuals with a criminal record.

Managers and HR professionals report that the factors most likely to increase their willingness to hire individuals with criminal records include a demonstrated consistent work history, employment references, job training, a certificate of rehabilitation. Slightly lower proportions are influenced by positive stories from other business leaders, replacement programs, or monetary incentives like tax deductions or discounts on staffing fees (Figure 5). These views do not differ significantly by the type of organization. On average, 10% of managers and 10% HR professionals report that each of these factors is not relevant to their business.

HIRING INDIVIDUALS WITH CRIMINAL RECORDS IS AN ISSUE ORGANIZATIONS SHOULD BE TALKING ABOUT.

While organizations may choose to have no policies, informal policies, or formal policies regarding hiring workers with criminal records, if they choose not to have the conversation, they may find that they are overlooking a potentially fruitful source of labor. HR professionals have an opportunity to encourage and lead these discussions among decision-makers in their organizations.

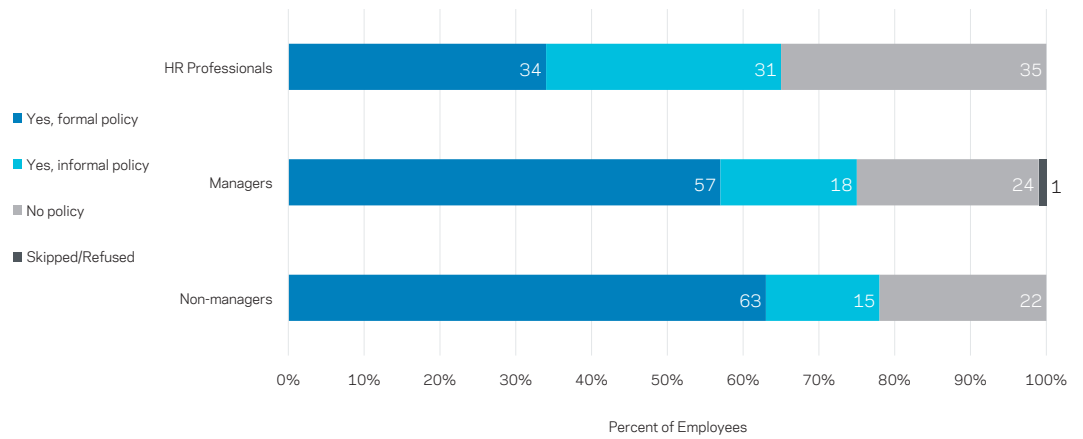
Absent widespread discussion of the topic in organizations, many managers, non-managers, and even some HR professionals say their company's point-of-view on and practices for hiring individuals with criminal records is unclear to them. A majority of HR professionals (54%) and non-managers (61%) say their organization's communication to employees about its policy, approach, or perspective on these practices is unclear, and 46% of managers say the same. Just 30% of managers say that company perspectives have been communicated to employees by senior leadership, and 36% say they have been communicated by the HR department. Even fewer non-managers report that policies have been communicated to them (22% by senior leadership, 24% by the HR department). Even among HR professionals, only 33% have received such guidance from senior leadership and 43% from HR leaders.

When companies fail to communicate their policies or approaches, employees may be confused about their employers' positions. More than half of non-managers and more than a quarter of managers say they are not sure whether their company has a formal policy, informal policy, or no policy at all about hiring individuals with criminal records. In contrast, 93% of HR professionals are clear on their employers' policies.

Based on reports of HR professionals, many employers do not have formal policies on the hiring of workers with criminal records. Only a third of HR professionals say their company has a formal policy. However, the majority of managers and non-managers believe that their company has a formal policy in place. Some non-HR workers may assume a formal policy exists when it does not (Figure 6).

Figure 6.

Managers and non-managers are more likely than HR professionals to report their company has a formal policy on hiring individuals with criminal records.



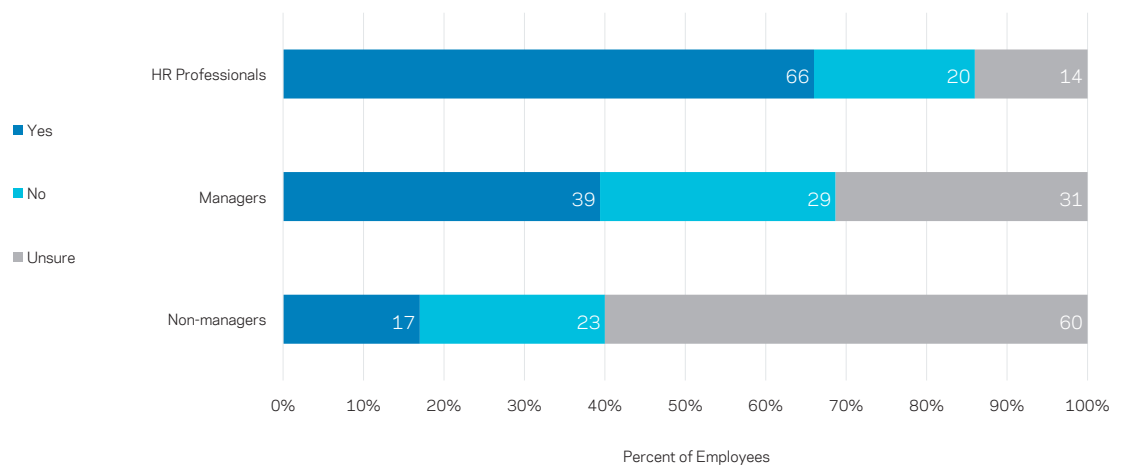
Question: Does your company or organization have a policy regarding hiring individuals with a criminal record?

Note: These figures exclude responses of "Not sure." Responses may not equal 100% due to rounding.

A number of differences emerge between organizations regarding formal policies in this area. Excluding the small proportion of HR professionals who were unsure of their company's hiring policy, those employed by smaller companies report fewer formal policies. Just 19% of HR professionals at companies with fewer than 100 employees say their company has a formal policy, compared with 36% at companies with 100-499 employees and 50% at companies with 500 or more employees. Fewer HR professionals at privately owned for-profit organizations report that they

Figure 7.

Two-thirds of HR professionals say their company has hired individuals with criminal records, while there is more uncertainty among managers and non-managers.



Question: Has the company or organization where you work hired individuals with a criminal record? Note: Responses may not equal 100% due to rounding.

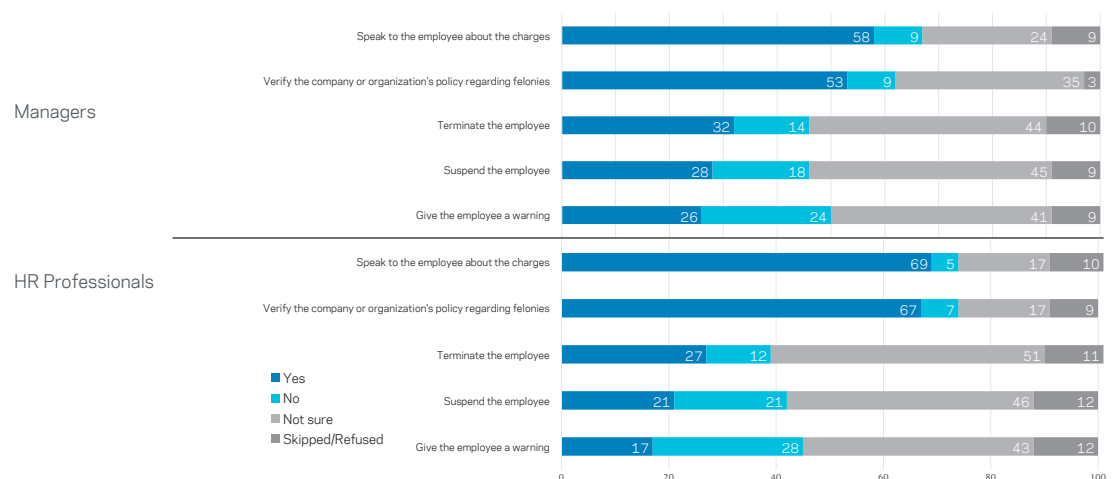
have a formal policy (23%) than do those in government agencies (53%), nonprofits (51%), or publicly owned for-profits (44%).

Unsurprisingly, most HR professionals report that their employer has hired people with criminal records, but many managers and a majority of non-managers are unsure or unaware of this. Legitimate concerns about privacy and fairness mean that absent formal policies, this information is infrequently communicated. Thirty-one percent (31%) of managers say they are not sure if their company has hired workers with criminal records, and nearly twice as many non-managers (60%) say the same. Even among HR professionals, 14% are not sure (Figure 7).

Excluding those who are uncertain about previous hiring practices, fewer managers and non-managers report that their company has hired individuals with criminal histories than do HR professionals; 57% of managers and 43% of non-managers say their company has hired workers with criminal records, compared with 77% of HR professionals who say the same.

HR professionals employed by different types of organizations report fairly consistent rates of hiring individuals with criminal records. While there are likely some differences by industry, 83% at government agencies, 78% at publicly owned for-profits, 76% at privately owned for-profits, and 75% at nonprofits say their company has hired workers with a criminal record. There is some variation by location, with 82% in rural areas reporting their company has hired workers with criminal records, compared with 75% in urban areas. HR employees of larger companies report hiring workers with criminal records at higher rates than do those at smaller organizations, possibly because they have more positions available overall and wider ranges of employee roles to fill.

Figure 8.
There is uncertainty about how organizations handle an employee who has been convicted of a felony.



Question: When a current employee is convicted of a felony, what actions are taken?

Note: Responses may not equal 100% due to rounding.

POLICIES FOR MANAGING CURRENT EMPLOYEES CONVICTED OF A FELONY ARE LESS CLEAR TO MANY.

Many workers are unclear about what actions are taken when a current employee at their company is convicted of a felony. A majority say that their organization verifies the policy regarding felonies and speaks to the employee about the charges, but more than 40% of managers and HR professionals responded that they were unsure whether an employee would be warned, suspended, or terminated. This no doubt reflects that felony convictions among current employees are handled on a case-by-case basis (Figure 8).

When non-managers are asked what their company should do when an employee is convicted of a felony, 83% say the company should verify its policy regarding felonies and 72% say it should speak to the employee about the charges. Fewer say the company should give a warning (36%), suspend the employee (32%), or fire them (24%).

AMONG ITS MEMBERS, SHRM IS SEEN AS A KEY RESOURCE TO LEARN MORE ABOUT HIRING INDIVIDUALS WITH CRIMINAL RECORDS.

Among HR professionals, SHRM is the most cited resource for where to go to learn more about hiring individuals with criminal records. Sixty-nine percent (69%) of HR professionals say they would seek information from SHRM, while more than half also say they would go to a federal agency such as the Equal Employment Opportunity Commission, Office of Federal Contract Compliance Programs, U.S. Department of Labor, or U.S. Department of Justice, or to an attorney. About 3 in 10 say they would go to another HR association like Association for Talent Development, a legal company, or use an internet search.

Managers are less sure about where to go. They cite fewer resources overall—an average of less than two sources compared to an average of nearly three for HR professionals. But their most common sources are a federal agency (37%) and internet search (29%).

MOST ORGANIZATIONS DO NOT PROVIDE TRAINING OR GUIDANCE ON EMPLOYMENT OF WORKERS WITH CRIMINAL RECORDS.

When asked if their company should provide training, guidance, or mentoring regarding individuals with criminal records, HR professionals are less likely than others to agree. Thirty-nine percent (39%) of managers, 48% of non-managers, and 29% of HR professionals feel that their company should provide training, guidance

or mentoring to employees on how to work effectively with individuals who have criminal record. Similarly, 38% of managers, 50% of non-managers, and 24% of HR professionals feel their company should offer guidance to employees with criminal records to facilitate their transition back to work. HR may be less likely to feel this type of training or guidance is appropriate due to concerns about protecting privacy and treating employees equally regardless of criminal history.

Based on responses from managers, non-managers, and HR professionals, few companies provide programs on working effectively with individuals with criminal records. Just 14% of managers, 7% of non-managers, and 4% of HR professionals say their company provides these programs. Nearly a quarter of managers and non-managers are unsure whether their company has these types of offerings or not.

WHAT DOES THIS MEAN TO MY ORGANIZATION?

As the nation reaches nearly full employment, many employers are considering previously overlooked populations as a source for workers. Workers with criminal records may be a viable source of employees for many organizations. While a great deal of uncertainty about the hiring of workers with criminal records exists in organizations today, employees in all roles are generally open to their employers hiring workers with criminal records. Employers who choose to pursue this talent source need to understand how to manage both real and perceived risks of this hiring practice and must communicate their policies and practices to their employees. In the coming months, SHRM will be releasing a toolkit to help organizations better understand the hiring of workers with criminal records and develop fair and consistent policies and procedures which support this hiring practice.

STUDY METHODOLOGY

This survey of managers and non-managers was conducted by NORC at the University of Chicago for the Society for Human Resource Management (SHRM) and the Charles Koch Institute (CKI). Data were collected using the AmeriSpeak® Panel, NORC's probability-based panel designed to be representative of the U.S. household population. During the initial recruitment phase of the panel, randomly selected U.S. households were sampled with a known, non-zero probability of selection from the NORC National Sample Frame and then contacted by U.S. mail, email, telephone, and field interviewers (face-to-face). The panel provides sample coverage of approximately 97% of the U.S. household population. Those excluded from the sample include people with P.O. Box only addresses, some addresses not listed in the USPS Delivery Sequence File, and some newly constructed dwellings.

Interviews for this survey were conducted between March 23 and April 2, 2018, with adults age 18 and over who are employed full-time but are not self-employed and do not work in human resources, representing the 50 states and the District of Columbia. Panel members were randomly drawn from AmeriSpeak, and 1,052 completed the survey on the web—including 540 managers and 512 non-managers. Interviews were conducted in English. The screener completion rate is 22.4%, the final stage completion rate is 98.2%, the weighted household panel response rate is 33.7%, and the weighted household panel retention rate is 88.1%, for a cumulative response rate of 6.5%. The overall margin of sampling error is +/- 4.8 percentage points at the 95% confidence level, including the design effect. The margin of sampling error may be higher for subgroups.

Once the sample has been selected and fielded, and all the study data have been collected and made final, a poststratification process is used to adjust for any survey nonresponse as well as any noncoverage or under- and oversampling resulting from the study-specific sample design. Poststratification variables included age, gender, census division, race/ethnicity, and education. Weighting variables were obtained from the 2017 Current Population Survey. The weighted data, which reflect the U.S. population of adults age 18 and over who are employed full-time, excluding those who are HR professionals or self-employed, were used for all analysis.

The survey of Human Resource Professionals was conducted by SHRM. 15,000 SHRM members were invited to complete the survey and interviews were conducted between March 19 and 29, 2018. Interviews were conducted in English on the web, and 1,228 HR professionals completed the survey. The survey completion rate was 8.2%. The data were not weighted.

All analyses were conducted using STATA (version 14), which allows for adjustment of standard errors for complex sample designs. When differences between subgroups within categories of managers, non-managers, and HR professionals are noted in the report, this is based on bivariate differences, and it is possible that other factors could be correlated with the factors described. Differences noted in the report are statistically significant at the 95% level, meaning that there is only a 5% (or lower) probability that the observed differences could be attributed to chance variation in sampling.

For more information, email Kate Kennedy, Media and Public Affairs Director at Kate.Kennedy@shrm.org.

About the Society for Human Resource Management

The Society for Human Resource Management (SHRM) is the world's largest HR professional society, representing 285,000 members in more than 165 countries. For nearly seven decades, the Society has been the leading provider of resources serving the needs of HR professionals and advancing the practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates. Visit us at shrm.org and follow us on Twitter and Instagram @SHRMPress.

About the Charles Koch Institute

For more than five decades, Charles Koch's philanthropy has inspired bold new ideas to improve American lives. Inspired by a recognition that free people are capable of extraordinary things, the Charles Koch Institute supports education and dialogue to advance these principles and challenge convention. We work to remove barriers to opportunity for all Americans, helping individuals transform their lives. To learn more visit charleskochinstitute.org.