ABSTRACT

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Formal restrictions on a person following arrest or conviction are referred to as "collateral consequence laws" and exist in all states in the US. In recent years, scholars, policy makers and advocacy groups have expressed concern that many of these laws hinder reintegration, increasing the likelihood of future crime. In addition, these laws may interfere with the ability of former offenders to meet conditions of release following incarceration, such as maintaining stable employment and housing or paying child support.

In this dissertation I examine the effect of states' collateral consequence laws in the categories of voting, access to public records, employment, public housing, public assistance, and driver's licenses. I examine the impact of these laws on state rates of returns to prison, as measured by percent of prison admissions that were people on conditional release when they entered prison, the percent of exits from

parole that were considered unsuccessful due returning to incarceration; the percent of exits from parole that were returned to incarceration for a new sentence, and the percent of exits from parole that were returned to incarceration for a technical violation. I also run an additional fixed effects analysis on the effect of restrictions on Temporary Assistance for Needy Children (TANF) over a seven year period.

Ultimately, limitations in the data restrict the conclusions that can be drawn regarding the impact of these laws. Results from the analysis are mixed, indicating that these laws may not have a uniform impact. Surprisingly, these analyses give some indication that collateral consequences may be related to lower rates of returns to prison for technical violations, however future research is needed to confirm this relationship. Possible explanations for these relationships are discussed, as are future research possibilities that would address limitations in the data. Data from the fixed-effects analysis does indicate preliminary support that states that imposed harsh restrictions on TANF saw an increase in state rates of returns to prison, however the analysis will need to be expanded to include state-level controls in order to draw any firm conclusions.

THE EFFECT OF COLLATERAL CONSEQUENCE LAWS ON STATE RATES
OF RETURNS TO PRISON

By

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Table of Contents

List of Tables

Chapter 1: Introduction

In recent years the number of persons released from prisons in the United States each year has swelled to its current unprecedented number of approximately 700,000 (West et al, 2010). This fact, combined with the fact that roughly two thirds of released state prisoners are rearrested within three years of release (Langan and Levin, 2002) has made the reentry of prisoners a matter of national concern and scholarly interest (Lynch and Sabol, 2001; Petersilia, 2003; Travis, 2005). Returns to prison make up a sizeable portion of the prison population. The Bureau of Justice Statistics reports that roughly a third of prison admissions in the US in 2009 were parole violators. As this excludes the number of offenders returning to prison that were not on, or had successfully completed, supervised release, the percent of prison admissions that are people returning to prison after previous periods of incarceration is expected to be significantly higher (West et al, 2010).

Released prisoners face a multitude of barriers to reentry upon release. Despite having paid for their criminal infractions via completed prison terms, released offenders face additional hardships including deportation, sex offender registration, civil commitment of sex offenders, and public access to criminal records as well as restrictions on gun ownership rights, access to social services, student loans, adoption and foster care eligibility, employment, voting, driver's licenses, and public housing. The extent of these restrictions, known loosely as collateral consequence laws, varies by the state in which the person resides. The goal of these laws varies, in some cases the law serves as an additional punishment (e.g. welfare restrictions), in others the law is concerned with

public safety (e.g. gun restrictions) while for others the goal is mixed, unclear or debated (e.g. voting restrictions, employment restrictions). The effects of these laws on crime and recidivism are undetermined; while one effect could be to deter potential offenders, many researchers and service providers have expressed concern that a potential unintended consequence of some of these laws is that they can prevent convicted felons from effectively reintegrating into society, making it *more* likely that they will return to criminal activities (Manza and Uggen, 2006; Petersilia, 2003; Thompson, 2008; Travis, 2005). Specifically, laws affecting employment, access to criminal records, public housing, public assistance, driver's licenses and voting have come under criticism for their potential role in serving as a barrier to successful reintegration. These laws may also interfere with an offender's ability to meet conditions of release, such as maintaining stable employment and housing, or paying child support, thus resulting in higher rates of technical violations of parole. Ultimately, these laws act as a second punishment and may further embed released offenders in a criminal lifestyle.

Returns to prison, whether for new crimes or for technical violations, are a high cost to society; for taxpayers who pay to re-imprison offenders, for communities who lose revenue when potentially contributing members are incarcerated, and to individuals, families and communities due to the heavy toll of human and social capital. The hardship these laws place on returning offenders has been well-documented (Petersilia, 2003; Thompson, 2008; Travis, 2005). Recently, collateral consequence restrictions have come under increased scrutiny in the government sector. The Smart on Crime Coalition (2011) recommended "expanding and improving legal mechanisms for individuals to obtain relief from collateral consequences" as part of their recommendations to the 112th

Congress; and in June 2010, Marc Mauer of The Sentencing Project provided testimony to the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security regarding the need to provide relief in the area of collateral consequences (2010).

While many scholars have suggested that collateral consequences act as a barrier to effective reintegration, there is also the chance that collateral consequences could have a deterrent, or a preventive effect. These consequences could serve as a deterrent to would be first-time offenders by increasing the costs of criminal activity. Some laws could also reduce recidivism. For instance, restricting drug offenders from public housing could reduce their access to the criminal networks in those areas giving them less opportunity to offend. Access to criminal records may allow employers to avoid hiring persons that might use their job to commit further crimes. While scholars and policy makers have speculated that certain collateral consequence laws make it more difficult for former offenders to successfully reintegrate, the empirical evidence is limited. This research will be the first to address this gap in the knowledge base by a state-by-state comparison of the effects of these laws on returns to prison. Specifically, I will use two sources of data regarding rates of return to prison by state to determine whether states that have harsher collateral consequence laws also experience higher rates of returns to prison controlling for a myriad of state-level controls. This analysis will also allow me to look at the impact of particular laws on rates of returns to prison, as these laws may have varying effects.

Reentry and the Era of Mass Incarceration

A look at the numbers

The story as to why reentry currently holds a place of prominence in scholarly literature is entwined with the relatively recent movement towards mass incarceration. There are currently about 2.3 million individuals incarcerated at the local, state or federal level (Glaze 2011), and it is expected that more than 95% of these people will be released at some point (Hughes and Wilson, 2010). The US has surprisingly high rates of incarceration, both when compared to incarceration rates in the US historically as well as when compared to other industrialized nations. Incarceration rates in the US were relatively stable at approximately 100 per 100,000 until the mid-1970's when incarceration rates started to climb dramatically (Blumstein and Cohen, 1973). Currently there are 500 inmates under custody of federal or state prisons for every 100,000 persons in the US (Guerino et al 2012) although when local jails are included the number rises even higher to 732 (Glaze 2011). This represents a tremendous increase over levels of incarceration seen prior to the 1970's and appears to be largely due to changes in sentencing policy (Blumstein and Beck, 1999).

The 1980's witnessed a period of the "tough on crime" movement, including increased use of determinate sentencing, removal of discretionary parole (16 states abolished discretionary parole), increased sentence length and increases in time served. During this time, all states passed some form of mandatory sentences, roughly half instituted some form of habitual offender or "three strikes" laws, and many passed truth-in-sentencing laws (motivated in part by the restriction of certain federal funds to states in which prisoners served a minimum of 85% of their sentence) (Tonry 1996). The

corresponding War on Drugs also saw an increase in the number and harshness of laws and punishments targeting drug offenses (Mauer, 2006; Tonry, 1995; Tonry ,1996).

These policies had a strong impact on incarceration. Blumstein and Beck (1999) argue that almost the entire increase in state incarceration up until 1996 can be attributed to changes in criminal justice processing. They document that 33% of the increase is due to drug cases, and point out that the incarceration rate for drug offenders in 1995 was close to the same level as the incarceration rate for *all* offenders prior to 1973. Currently, roughly half of federal prisoners are drug offenders and approximately twenty percent of state prisoners are drug offenders (West et al, 2010). Blumstein and Beck further argue that of the increase in incarceration that is not attributable to drug crime, 58% of the increase is due to increased sentence length and 42% is due to increased commitments (Blumstein and Beck, 1999).

Incarceration is not the only place in which supervision of offenders has increased. Probation and parole have also seen large increases in numbers with 800,000 people currently on parole and an additional 4 million individuals on probation (Glaze 2011). This has culminated in a situation in which 1 in 33 Americans is currently under some form of correctional supervision (Glaze 2011).[1] It is no wonder then, that reentry has become such an important issue. Ninety five percent of people currently serving prison sentences will eventually be released, and 80 percent will be released to parole supervision (Hughes and Wilson, 2010). Unfortunately a large proportion of people leaving prison will eventually return. In their study of recidivism, Langan and Levin (2002) found that 30% of released prisoners were re-arrested within one year, and two-

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[1] This number includes state and federal prisons, local jails, probation and parole.

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thirds were re-arrested within three years. Furthermore, one-quarter of all released prisoners were returned to prison within three years (Langan and Levin, 2002). While parole violations accounted for 17 % of state prison admissions in 1980 (Travis and Lawrence, 2002), they now account for 35% of state prison admissions (Guerino et al 2011). Put another way, while in 1980 state prisons admitted approximately 27,000 parole violators (Travis and Lawrence, 2002), in 2010 they admitted over 200,000, more than a seven-fold increase (Guerino et al 2011), and roughly the same number of *total* prison admissions in 1980 (Travis and Lawrence, 2002).

Mass Incarceration and Collateral Consequences

A clear implication of this period of mass incarceration is that a greater number of people are subject to collateral consequence laws than ever before. In 2001, over 5.6 million people had been incarcerated in state or federal prison (Bonczar, 2003). Based on these numbers, the Bureau of Justice Statistics (BJS) estimates that 1 in 9 men, and 1 in 56 women, will serve time in federal or state prison in their lifetime (Bonczar, 2003). However we can anticipate that far more people than this are likely to be affected by collateral consequence laws. Many collateral consequences do not require that a person serve time in prison or jail, but can be activated for an arrest (such as restrictions on public housing) or by a felony conviction that resulted in a probation only sentence (such as many voting restrictions). Uggen et al (2012) estimate that over 5.85 million people (1 out of 40 adults) were disenfranchised from voting as of 2010.[2] Employment restrictions

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[2] This number takes into account the laws of specific states in regards to voting disenfranchisement. Thus, this number is much lower than the number of people with a felony conviction as some states allow people to vote once they have completed all supervision, and others allow voting at various stages of supervision. These laws will be discussed in greater depth in the next chapter.

can also rely on arrests without a conviction and several states provide arrest records in their criminal background records. BJS estimates that roughly 98 million subjects have records in state criminal history files, and that over 90% of these are accessible through automated file searches (BJS, 2011). While this is an overestimate of the number of individuals with criminal records publically accessible as some of these represent duplicates of people that have records in more than one state, and not all of these records are available to the public, it gives some indication of the potential reach of these laws. Furthermore, it indicates the large increase in availability of records compared to 1993 when there were less than 48 million records available, of which less than 80% were automated.

Not only are more people subject to collateral consequence laws due to higher rates of involvement with the criminal justice system, but the number of collateral consequence laws that people are subject to have also increased in the last several decades. For instance, a slew of federal legislation in the 1990's restricted federal funding to states that did not either enact, or formerly opt out of, particular collateral consequence restrictions. Specifically, a 1992 law reduced certain highway funds to states that did not restrict driver's licenses of individuals convicted of drug offenses, a 1996 law passed a lifetime ban on food stamps or cash assistance for anyone convicted of a drug-related felony, a 1997 law barred people with certain convictions from adopting or fostering children, and a 1998 law made students with drug convictions ineligible for grants, loans or work assistance. Finally, a series of laws formed the basis of the "one strike and you're out" public housing policy in which drug-related criminal activity can be a basis for eviction from public housing for the offender along with anyone with

whom s/he resides. Thus, as a result of the passing of these laws, along with the aforementioned period during which more people than ever before have come under the purview of the criminal justice system, we have an unprecedented number of people re-entering society under the yoke of a high number of restrictions relating to their reentry.

Concentrated Effects of Collateral Consequence Laws

The burden of mass incarceration and subsequent collateral consequence laws has not been shared equally among all groups of people. Instead, certain groups have been more vulnerable to being impacted by incarceration policies and by collateral consequence laws. Specifically, these policies have affected core communities in which offenders disproportionately live and return, and have also disproportionately affected members of minority groups. The laws may also have a more pronounced effect on certain populations. For instance, these laws may have a differential effect on groups such as women who are more likely to have custody of minor children.

While BJS estimates that 1 in 9 men in the US will serve time under custody in state or federal prisons, the number is 1 in 3 for black males and only 1 in 17 for white males (Bonczar, 2003). Similarly, while 1 in 56 women are expected to serve time under custody in state or federal prison, the number is 1 in 18 for black women, and is only 1 in 117 for white women. In fact, a black male is more likely to have been incarcerated in prison by age 35 than to have obtained a bachelor's degree (Pettit and Western, 2004). This has a significant impact on families as nearly seven percent of black minor children have a parent in prison compared to barely one percent for white minor children (Glaze and Maruschak 2008).

Increasingly, returning prisoners are concentrated in core counties, that is, counties that contain the central city of a metropolitan area. While in 1984 roughly half of returning prisoners were concentrated in core counties, by 1996 it had risen to roughly two-thirds of returning prisoners (Lynch and Sabol, 2001). In addition, the number of returning prisoners increased from 220,000 to 500,000 during this time (Lynch and Sabol, 2001). Furthermore, within these counties returning prisoners largely return to a limited number of communities, and not surprisingly these are communities of concentrated disadvantage (La Vigne et al 2003a, La Vigne et al 2003b, La Vigne et al 2003c). This concentration of incarcerated individuals and reentering offenders has wide reaching effects on the families and marriages, voting and political participation, economic viability, community stigma, perceived legitimacy of the criminal justice system, social controls, and subsequently, crime of those communities (Travis, 2005). Recent research indicates that the concentrated return of offenders to core communities is a disadvantage to both the community that experiences higher rates of subsequent crime (Hipp and Yates, 2009, Clear et al 2003) as well as to the returning individual, as neighborhood context, such as socioeconomic status, residential stability, and the numbers of voluntary organizations have an effect on recidivism and crime rates (Kubrin and Stewart 2006, Hipp and Yates 2009, Morenoff and Harding 2011). Neighborhoods with a concentration of returning offenders are neighborhoods that suffer from *negative* social capital further reducing the chances of returning offenders being able to successfully abstain from criminal activity (Wacquant 2000, Hagan and Coleman 2001).

Rose and Clear (1998) have argued that the coercive mobility of removing individuals from the community through incarceration results in further destabilizing the

community. Clear et al (2003) find support that as prison admissions increase, they reach a "tipping point" after which incarceration becomes associated with increases in crime. Similarly, Fagan et al (2003) find that high incarceration rates beget further higher incarceration rates using data on New York neighborhood rates of incarceration over a 12 year period. They argue that high incarceration becomes "an enduring internal feature of the neighborhood fabric."

Furthermore, minorities and women may be disproportionately impacted by collateral consequence laws due to their disproportionate imprisonment for drug crimes. Federal legislation in the 1990's encouraged states to enact restrictions against drug offenders, blocking access to public housing, Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), as well as revoking driver's licenses following the conviction of a felony drug offense. Of inmates serving a year or more under state jurisdiction in 2009, 26% of females were serving time for a drug offense, versus 17% of men (Guerino et al 2012). Similarly, 21% of blacks and 20% of Hispanics were serving time for a drug offense, compared to 14% of whites (Guerino et al 2012). Thus women and minorities have a higher likelihood of being affected by collateral consequence laws targeted specifically at drug offenders.

Although women have lower rates of involvement with the criminal justice system than men, arguably the impact of incarceration and subsequent collateral consequences may be greater. Women are more likely than men to live in poverty, with poverty rates the highest among minority women, and as such women are more likely to depend on government assistance programs such as TANF, SNAP and public housing. Women who are incarcerated are more likely to have children than incarcerated men

(62% versus 51% respectively) (Glaze and Maruschak 2008). Incarcerated women are also more likely to have been living with their children prior to incarceration, and to have been the primary caregiver for their child (Glaze and Maruschak 2008). Incarcerated mothers are also more likely than incarcerated fathers to report having received government assistance, such as welfare, prior to incarceration. Collateral consequences may have a more serious impact on women because many of the laws, such as restrictions on the ability to live in public housing, or to be eligible for TANF, restrictions on employment or on driver's licenses, may impair a woman's ability to reunite with or take care of her children. Ineligibility for public housing may make it more difficult for a woman to regain custody of her children if she cannot find other housing accommodations. While restrictions on TANF and SNAP are only applied to the person with a felony drug conviction, clearly they will affect the whole family as the family's benefits will not include the mother. The inability of women to reunite with their children may have repercussions not only for the mother and children, but at the community level as well as the community sees a decline in the number of intact families.

Goals and Realities of Collateral Consequence Laws

Goals of Collateral Consequence Laws

The goals of collateral consequences laws vary based upon the different laws, and are at times unclear. For instance, restrictions on public housing for drug offenders appears to have been motivated as an attempt to combat the rampant drug markets found in public housing, and these laws could serve a preventive function by disrupting drug networks in public housing. Restrictions on TANF assistance appear to have been

motivated primarily to serve a retributive function of further punishing offenders and of denouncing them as undeserving of public assistance. The legislator introducing the amendment to restrict drug offenders from receiving TANF said "if we are serious about our drug laws, we ought not to give people welfare benefits who are violating the nation's drug laws" (Rubinstein and Mukamal, 2002). Restrictions on voting have been justified as serving a denunciatory role while also preserving the "purity" of the ballot box. Restrictions on employment could serve to prevent people from being hired for positions in which they could misuse their position to commit further crimes, and could also serve as a deterrent to someone considering committing a criminal act. Potentially, these laws could also increase the cost of crime to potential offenders as they pose an additional punishment to criminal behavior. However, the ability of these laws to fulfill these goals remains unsubstantiated. Given that collateral consequences are not broadly publicized, and are not even explicitly stated as a part of one's sentence in court, it is unlikely that they serve a denunciatory effect (Demleitner, 199; Pinard, 2006). The low visibility of collateral consequences laws also makes it unlikely that they will serve as an effective deterrent (Demleitner 1999). Furthermore, the indiscriminate imposition of these restrictions, specifically that many collateral consequence restrictions are imposed on broad categories of offending (e.g. employment restrictions on all felons) potentially reduces any preventive role they might achieve, compared to if they were tailored for the particular offender (Demleitner, 1999; Pinard, 2010).

Not only is there uncertainty surrounding the effectiveness of collateral consequences in achieving penal goals, or even of what the goals of these laws are, but there is also a rising concern that collateral consequences may have an unintended effect

of jeopardizing public safety by making it more difficult for former offenders to "go straight".

Explanations for the relationship between collateral consequences and recidivism

There are a number of mechanisms by which we would expect collateral consequence laws to be related to higher rates of recidivism. Chief among the explanations by previous scholars are the effects of collateral consequence laws on the ability of offenders to support themselves financially, the barriers these laws place in the ability of offenders to form or rekindle pro-social bonds, and finally the effect these laws may have in fostering feelings of exclusion.

First, given that collateral consequences make it more difficult for offenders to find steady employment, directly in restricting access to certain occupations and occupational licenses and informally through stigmatization of the criminal record and difficulty in accessing transportation due to restrictions on driver's licenses, ex-offenders have less to lose if they engage in criminal activity and risk returning to prison. Given that parolees are documented to cluster in core counties, this can negatively impact local labor markets in those counties. Collateral consequence laws that restrict employment, increase access to records, or restrict driver's licenses which parolees may need in order to find or maintain employment, may negatively impact the ability of parolees to reenter the labor market leading to economic impacts for the community in which they live. This further reduces the employment networks available within the community.

Collateral consequences also appear to hinder relationships between returning ex-offenders and their family members. Restrictions on access to public housing for many offenders mean that families may risk losing access to housing if they allow an ex-

offender to live with them in public housing. Yet living away from family members removes ex-offenders from families and loved ones that could provide a network of informal social control, as well as of social support for refraining from criminal or drug-related activities (Berg and Huebner, 2011).[3] There is evidence that men who maintain strong family ties during imprisonment, and those who assume husband or parenting roles post-release, are more likely to have positive outcomes post-release (Mears et al 2011, Shapiro 2001). Restrictions to employment can also create strains on family relationships when the returning offender is unable to provide income to the family, or meet child support obligations. Without access to public housing, TANF, or SNAP, and with increased barriers to securing employment, returning parolees may be unable to secure, or retain, custody of minor children. By preventing parolees from reuniting with family, or straining relationships with family members, collateral consequence laws may negatively impact communities' ability to monitor their members. These laws may make social reintegration into the community through family ties more difficulty, thus undermining social cohesion and trust within those communities.

Finally, collateral consequences serve as a formal reminder that having served one's time is not enough for full reentry into society, and that having a criminal record will permanently mark the ex-offender as an outsider. This could cause ex-offenders to question the legitimacy of a process that hinders them from successfully reintegrating. Manza and Uggen interviewed ex-offenders regarding their feelings about not being able

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[3] It could be argued that removing ex-offenders from public housing may also remove them from their previous networks, particularly the criminal or drug networks, thus making it more likely that the ex-offender refrains from re-entering criminal behavior. Unfortunately, given the bleak housing prospects these ex-offenders face, many of them will end up in living circumstances with ample drug and crime networks.

to vote, and noted the extent to which ex-offenders spoke about how the inability to vote contributed to feelings of rejection by the community and resulting feelings that they don't "owe" the community anything (including conformity to the law) since they are not part of the community. They write that "like other citizens, many felons expressed both a desire for the rights of citizenship and a willingness to involve themselves in civic life. They clearly felt the sting of disenfranchisement and other collateral consequences of their convictions, which marked them outsiders" (Manza and Uggen, 2006: p 163). Manza and Uggen posit that access to voting can serve to foster a sense of civic duty and membership. They argue that people involved in voting have a sense of membership that results in a sense of responsibility toward the community.   Referencing the works of Alexis de Tocqueville and John Stuart Mill and pulling from theories of expressive voting, they argue that civic engagement, such as voting, can actually assist in a person's identity transformation and that in this way "democracy fosters citizenship" (p 128). They argue that "to the extent that felons begin to vote and participate as citizens in their communities, there is some evidence that they will bring their behavior into line with their expectations of the citizen role, avoiding further contact with the criminal justice system" (p 163).

Manza and Uggen are not the first to note the potential for US laws disenfranchising to hinder the reintegration of former offenders. The President's Commission on Law Enforcement and the Administration of Justice wrote in their 1967 Task Force Report, "(T)o be deprived of the right to representation in a democratic society is an important symbol. Moreover, rehabilitation might be furthered by encouraging convicted persons to participate in society by exercising the vote." A special

project report of the Vanderbilt Law Review echoed this sentiment in 1970 by noting that "the offender's inability to vote, serve as a juror, or hold public office prevents him from appreciating the society to which he returns…This feeling of rejection both reinforces the pessimistic view of societal authority that convicts often form in prison and heightens their lack of faith in society. This sense of rejection may produce feelings of estrangement from the institutions that foster the development of law-abiding conduct." (Grant et al 1970).   A 1973 report by the National Advisory Commission on Criminal Justice Standards and Goals echoed this sentiment when they stated that "Loss of citizenship rights—(including) the right to vote . . .inhibits reformative efforts. If correction is to reintegrate an offender into free society, the offender must retain all attributes of citizenship. In addition, his respect for law and the legal system may well depend, in some measure, on his ability to participate in that system." (National Advisory Commission on Criminal Justice Standards and Goals 1973, 593). These feelings of estrangement from the justice system by the use of laws which continue to punish former offenders long after their sentence has been served, can affect the attitudes of entire communities toward the justice system. Neighborhoods with high numbers of former offenders that face collateral consequences may be more likely to view the criminal justice system with distrust.

Not only do collateral consequences lower the economic and social disincentives to crime, and increase feelings of social exclusion, but these consequences likely have an ongoing effect. Problems gaining employment due to a criminal record contributes to ongoing problems gaining steady employment as it weakens a person's employment record, making them less attractive to future employers. Difficulties fostering a

relationship with family members post-release contribute to strained relationships that continue into the future. And feelings of exclusion can fester when background checks, and ongoing restrictions on employment and voting, serve as a recurring reminder of this exclusion.

Current Study

My dissertation will be the first empirical analysis of the effect of the harshness of a state's collateral consequence laws on rates of returns to prison, and will address three hypotheses. First, that states that have a greater number of, and stricter, collateral consequence laws will have higher rates of returns to prison due to new crimes. Second, that states that have a greater number of, and stricter, collateral consequence laws will have higher rates of returns to prison due to technical violations of parole. Third, that the types of collateral consequence laws will vary in the effects that they have on rates of returns to prison. Specifically, laws with a broader reach that affect day to day living (e.g., restrictions of all felons on employment) will have a greater effect than those that are limited in terms of who they affect (e.g., public housing restrictions for drug offenders only) or that have less impact on day to day living (e.g., voting restrictions).

To address this question I have compiled a dataset of characteristics of state collateral consequence laws in the areas of voting, access to records, employment, public housing, public assistance, and driver's licenses for the year 2009. These are the laws which have garnered the most criticism for impairing the reintegration attempts of former offenders, affect a large amount of offenders, and which lent themselves for comparison between states. I used the Legal Action Center's (LAC) review of laws in their "Roadblocks to Reentry" report as the foundation for this dataset, and referred to state

legal codes, and other sources of information regarding these laws, as necessary to supplement this information. While this data is by no means comprehensive, as these laws are too numerous to capture every aspect, and as some characteristics of these laws defy easy comparison between states, this dataset represents the best available state-level data at this time.[4]

In order to measure state rates of returns to prison, I rely on data compiled by the Bureau of Justice Statistics (BJS) on rates of returns to prison in 2010, specifically the percent of prison commitments which were due to violations of conditional release (from the National Prisoner Statistics (NPS) survey) and the percent of persons on parole in each state that were returned to incarceration due to new crimes or technical violations of parole (from the Parole Survey). Each of these surveys is conducted annually and provides aggregate data for all 50 states. They are derived from different sources, specifically correctional agencies and parole supervising agencies, and cover slightly different populations with somewhat different definitions. Hence they provide the opportunity for two views of the same phenomena, providing greater confidence in the measurement of the trends in reimprisonment that are the object of interest in the current analysis.

In order to ensure proper specification of the model, I have paired the data on state rates of returns to prison with state-level criminal justice controls such as percent of released prisoners on conditional release, imprisonment rates, racial composition of

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[4] Although there have been attempts to categorize these laws, most notably the recent ABA website devoted to documenting the specific laws of each state, the characteristics of these laws do not lend themselves to easy comparison between states. The laws that are used here represent the laws that are best suited to comparison between states.

parolees, and crime types of parolees. I have also included state-level characteristics as controls including rates of single-parent homes and unemployment rates.

I use multiple regression analysis to test whether states that have stricter collateral consequence laws also experience higher rates of returns to prison, and I also look at the relationship specific to both new crimes as well as for technical violations. These analyses allow me to compare the magnitudes of the effects of specific collateral consequence laws on rates of returns to prison.

In addition, as a sensitivity check on the results, I conduct a fixed-effects analysis on the effects of restrictions on TANF. These laws were enacted in 1996 and states vary in their implementation of this restriction. As a fixed-effects model analyzes change within states rather than between states, this will ensure greater confidence that the results are due to the effect of the restriction on TANF, and not related to any state differences in reimprisonment policy, practice or definition of "returns to prison". The TANF law lends itself to a fixed effects analysis as the enactment of the law in 1996 provides significant variation in the law over time.

This dissertation is comprised of five chapters. In the following chapter I provide a description of collateral consequence laws along with their historical context and a description of legal challenges to these laws. I also review the relevant literature dealing with issues of collateral consequences and their effect on a range of outcomes, including recidivism. In chapter three I describe how collateral consequence laws were codified for use in the current study, along with a description of dependent and control variables. I then give descriptive information about these variables and describe the proposed analysis. In chapter four I present the results of the analysis, examining the effects of

these laws across the two BJS datasets, as well as examine differences in the models for

returns to prison for new sentences as opposed to technical violations. I conclude the

dissertation in chapter five with a discussion of the results, the implications of these

findings, as well as a discussion of future research.

Chapter 2: Collateral Consequence Laws in the United States

Overview of Collateral Consequence Laws

Characteristics of Collateral Consequence Laws

Civil restrictions on offenders that go beyond an initial punishment are not a new phenomenon in society. Such laws can be found in the legal codes of ancient Rome, Athens and among Germanic tribes and included the loss of the ability to engage in public affairs, to own property, and could even result in a man's wife being declared a widow and his children orphans (Travis, 2002). Collateral consequence laws are also embedded in the early history of the United States with the framers of the US constitution giving states the right to restrict the ability of offenders to vote.

However, while these types of laws are by no means a new phenomenon, the modern form of these laws is distinct from their historical counterparts. These laws are unique in their relative "invisibility", their pervasiveness across several aspects of modern life, as well as that they take place in a very different context. They also are applied to a larger percentage of the population, and last longer, than similar laws in the past (Petersilia, 2003). Travis (2002) has called collateral consequence laws an "invisible punishment," and he argues that they are invisible in three ways. First, these laws operate largely outside the public view. Many people are unaware of these laws, calling into question the ability of these laws to have a general deterrent effect. Defendants are also frequently unaware of these potential consequences, and may not be aware of these restrictions until after they have served their sentence (Pinard, 2006). As such, the

purpose of these laws is frequently unclear, whether it is for punishment, deterrence or prevention, and it is also often ambiguous as to how the consequence is related to the offense (Demleitner, 1999). For example, the relationship between a drug possession conviction and a permanent ban from being employed as a barber is not easily apparent.

Second, collateral consequence laws are also invisible in that they take place outside the traditional sentencing structure. While traditional punishments are meted out by judges, these laws are dispersed throughout civil and administrative codes and are designated as indirect consequences of crime rather than as punishments. As such, they are exempt from the same standards as traditional punishments. Many defendants are uninformed of these consequences when making decisions to take a plea or to proceed to trial. In response to complaints regarding the lack of transparency of these laws, there have been calls to collect all these laws in one place so that lawyers and judges may be better informed and better able to notify defendants of these restrictions (Pinard, 2004). In 2009, the American Bar Association received funding from the National Institute of Justice to compile these laws and make them more transparent to lawyers, judges and defendants. By the winter of 2012 they had already compiled over 38,000 laws across the US and had not yet finished coding all the states.[5]

The third way that Travis categorizes these laws as invisible is that in terms of legislative action they have frequently been passed as riders on other legislative bills, and thus have not faced the scrutiny afforded to other sentencing laws, such as public hearings. For instance, the restriction on welfare benefits for offenders was debated for

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[5] http://www2.americanbar.org/sections/criminaljustice/cr206500/pages/collateral.aspx

only two minutes as part of the larger overhaul of the welfare system (Rubinstein and Mukamal, 2002).

While these laws are frequently invisible, they are also highly pervasive through many aspects of life, affecting civil, political, economic and social welfare rights (Demleitner, 1999).   In addition, technology has changed the context in which these laws take place. For instance, while criminal records used to involve a lengthy process of going to a courthouse, submitting a request and waiting for the appropriate file to located, many criminal records can now be accessed by anyone with access to a computer. Electronic records can also make it more difficult to expunge old or incorrect records as they frequently have to be expunged from several different locations (Bushway et al 2007). Once the information is online, it can be difficult to erase all traces of the record.

Description of the laws

Collateral consequence laws cover a wide array of outcomes, including deportation, sex offender registration, civil commitment of sex offenders, gun ownership rights, access to social services, student loans, adoption and foster care eligibility, employment restrictions, voting, driver's licenses, and public access to criminal records. Although most collateral consequence laws come from state and local legislation, more recently federal legislation has also played a role. In the mid 1990's, the War on Drugs resulted in federal legislation restricting funding to states in the area of welfare assistance and food stamps, public housing and driver's licenses. States had the option to comply with the federal requirements, or to pass legislation to opt out or alter the restrictions in order to avoid losing federal funds.

As mentioned previously, a comprehensive census of all collateral consequence laws has been difficult. For the purposes of this study, I have chosen to focus on a subset of collateral consequence laws based upon their pervasiveness across states, the number of offenders they affect, the attention they have received from policy makers and advocates, and the length of time they have been in place. I have chosen to examine the laws which have received the most attention as being potentially harmful to the successful reintegration of offenders (Demleitner 1999, Ewald 2012, Legal Action Center 2009, Love 2006, Petersilia 2003, Pinard 2010, Rubinstein and Mukamal 2002, Travis 2005, Uggen and Manza 2006) in order to test the merit in the critique of these laws. Specifically, I include collateral consequence laws in the six following areas: voting, access to criminal records, employment, public housing, public assistance, and driver's licenses.[6]

Voting

States have the right to determine the eligibility requirements of current and former offenders in terms of voting rights, and there is a wide difference in these laws maintained by states, ranging from two states that allow persons currently serving time in prison to vote in elections to eleven states that have no automatic restoration of voting

[6] I do not include information on laws related to restrictions on sexual offending as these restrictions are particular to a group that is relatively small, and thus are not expected to have a large impact for returns to prison. In addition, the BJS data does not contain information on the rate of sex offenders and so there is no way to control for differences in the rate of sex offending for each state. I also do not include information on laws related to gun restrictions. Gun restrictions have not received the same scrutiny as the other collateral consequence laws in terms of the potential impact to hinder reintegration attempts.

rights following conviction. [7] Voting restrictions have historically been based upon

preserving the "dignity" of the ballot box, with the argument that those with a criminal

history are both undeserving of political involvement as well as untrustworthy of the

responsibility. The idea of preserving the "purity of the ballot box" engages the idea that

ex-offenders are more likely to engage in voter fraud or to vote in an anti-democratic

manner (Demleitner, 1999; Kleinig and Murtagh, 2005).

While restrictions on voting date back to the framing of the constitution, these

laws proliferated during the post-Civil War era. Some states attempted to circumvent

federal law extending voting privileges to black men by instituting laws restricting the

right to vote of offenders that committed crimes deemed to be more likely to be

committed by blacks. For instance, the Mississippi Supreme Court of 1896 commented

that the legislature had effectively excluded blacks from voting through

disenfranchisement for particular crimes. They noted,

> "By reason of its previous condition of servitude and dependence, this race
> had acquired or accentuated certain peculiarities of habit, of temperament,
> and of character, which clearly distinguished it as a race from that of the
> whites…its criminal members given rather to furtive offenses than to the
> robust crime of the whites. Restrained by the federal constitution from
> discriminating against the negro race, the convention discriminated against
> its characteristics and the offenses to which its weaker members were
> prone…Burglary, theft, arson, and obtaining money under false pretenses
> were declared to be disqualifications, while robbery and murder and
> crimes in which violence was the principal ingredient were not." [8]

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[7] These laws continue to change. Most recently, in 2013 Virginia altered their voting restriction to allow
the automatic restoration of voting rights to certain categories of offenders. All numbers stated in this
document refer to the laws as of 2009.
[8] Ratliffe v Beale, 20 So. 865, 868 (Miss 1896). As quoted in Chin 2002, 256.

Such racially motivated disenfranchisement laws were later deemed unconstitutional by the 1985 Supreme Court case *Hunter v. Underwood* as a violation of the 14th Amendment as its passage had a discriminatory intent.[9] However without specific evidence of racial motivation, voting disenfranchisement laws have been found to be constitutional under *Richardson v. Ramirez, 1974.*[10]

Access to Criminal Records

A justification for public access to criminal records is that it allows potential employers to assess the trustworthiness of job applicants, which can be particularly important for jobs dealing with vulnerable populations such as the elderly, disabled, or children, or in jobs in which there could be greater opportunities for fraud or embezzlement. States vary in which criminal records they make available to the public with some states providing arrest records and other states limiting access to only convictions that have occurred within a certain number of years, or to certain offense types. In addition, states vary in the ease with which a person can attain records, for instance, whether they can be obtained online or if they must be obtained in person, as well as who can attain access to records. While some states limit access to criminal justice agencies, many states have expanded access to include potential employers across the public and private sector, as well as potentially to any member of the public seeking information. The proliferation of private criminal background check repositories has further increased access to this information. In addition, in some states certain job positions *require* a criminal background check by the employer (Stoll and Bushway,

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[9] Hunter v. Underwood, 471 U.S. 222 (1985)
[10] Richardson v. Ramirez, 418 U.S. 24 (1974)

2008). Also, several states allow "negligent hiring" lawsuits, in which an employer can be sued for any criminal action on the part of their employee.

A concern about the ready availability of criminal records is that potential employers may choose not to hire someone that has a criminal record despite the persons' qualifications and desire to lead a crime free life. As early as 1962, the National Council on Crime and Delinquency (NCCD) proposed allowing for the expungement of criminal records (NCCD, 1962). Efforts in this area continued and in 1981 the American Bar Association (ABA) and the American Correctional Association (ACA) jointly issued standards advocating for a judicial procedure to expunge criminal conviction records. However, in response to the "Get Tough" movement in the 1980's to 1990's, along with technological innovations supporting electronic access, the availability of criminal records has expanded in recent years with more states making criminal records available online (BJS 2011, Travis 2002).

Employment

While many employers are reluctant to hire people that have criminal records, states have codified this reluctance in laws restricting employment in certain fields, or denying occupational licensing. To the extent that criminal activity is interpreted as a reflection of a person's character, the intent of these laws is to restrict the person from using their occupation to commit further crimes. States are able to set the standards for whether public and/or private employers, as well as whether state licensing agencies, can deny employment based upon a person's criminal history. The Equal Employment Opportunity Commission has ruled that under Title VII of the Civil Rights Act,

employers in companies with more than 15 employees[11] cannot deny employment, or fire

an employee, unless there is a clear business justification. However, many states allow

employers and occupational boards to consider arrests that have not led to conviction, and

many states have no standards governing the relevance of the criminal offense type to the

specific position of employment. Many states refuse to grant occupational licenses,

regardless of the offense type, for certain positions, including jobs such as barbering

(Petersilia 2003). In addition, several states have allowed civil lawsuits regarding

negligent hiring of employees with a criminal history who later commit crimes while

employed (Thompson, 2008). These laws have faced criticism for making it more

difficult for returning offenders to find jobs to be able to support themselves and that in

"some states virtually the only "profession" open to an ex-felon is that of burglar" (May

1995: 193). Furthermore, the "character component" of many occupational licenses,

means that in many states there does not have to be a clear relationship between the

offense and the occupation, as any offense can serve as evidence of poor moral character

(May 1995).

Public Housing

Although local housing authorities ultimately determine the standards for

admission to federally assisted housing, federal law allows housing authorities to deny

housing to virtually anyone with a criminal background or drug history. In response to

concerns over the dangerousness of public housing establishments, Congress enacted the

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[11] Employer is defined as "a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person" and excluding the US government and private clubs. http://www.eeoc.gov/laws/statutes/titlevii.cfm

Anti-Drug Abuse Act in 1988 requiring public housing authorities that received federal funds or assistance to use lease provisions that would make criminal activity, particularly drug-related criminal activity, a basis for eviction. This restriction included any member of the household, including temporary guests. The goal of this law was to disrupt the rampant drug market present in many public housing locations. These restrictions were strengthened with the "one strike and you're out" policy, in which residents found to be selling drugs or committing crimes would be immediately expelled from public housing. The Housing Opportunity Program Extension Act of 1996 and the Quality Housing and Work Responsibility Act of 1998 established the basis for this policy, creating uniform screening tools and standards for admission to public housing as well as eviction policies for people with criminal records. A 2002 Supreme court case upheld evictions of the entire household, even those not engaged in criminal activity.[12] While federal law requires that criminal activity be included as a *basis* for eviction from public housing, it only requires eviction (or denial of housing) to registered sex offenders and those convicted of manufacturing methamphetimines on public housing property. Otherwise it is up to local housing authorities to set their own standards and policy regarding the admission and evictions of households including criminal offenders.

A concern with restrictions on public housing is that many returning citizens struggle to find living situations post-prison. Those with drug records cannot live with family members in public housing, nor can they apply for such housing. For many, this restriction increases the difficulty of reuniting with their minor children.

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[12] Department of Housing and Urban Development v. Rucker, 533 U.S. 125 (2002).

Public Assistance

The 1996 Personal Responsibility and Work Opportunity Reconciliation Act included a lifetime ban on Temporary Assistance for Needy Families (TANF) assistance and Supplemental Nutrition Assistance Program (SNAP, also referred to as food stamps) for individuals with drug felony convictions, which could include drug use, possession or distribution. This restriction was introduced as an amendment by Senator Phil Gramm from Texas who said "if we are serious about our drug laws, we ought not to give people welfare benefits who are violating the nation's drug laws" (Rubinstein and Mukamal, 2002),[13] and thus appears to be primarily punitive in its intent. Unlike restrictions on public housing, only the individual with the conviction is affected, the benefits for children or other family members are not. States have the option to either adopt, opt out, or to alter, the ban. Several states have altered the ban so that benefits are reinstated to offenders who have received, or are undergoing, drug treatment, while other states have put time limits on the length of the ban. The concern with this ban is that many returning offenders, particularly those who are reuniting with minor children, have difficulty finding employment, and without TANF are unable to support themselves or their families.

Driver's License

The purpose of suspending driver's licenses of persons convicted of a drug offense is to try to restrict people that may have drug addictions from driving while under

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[13] Presumably this would also be the case if "we are serious" about any laws, including violent or property crimes, however the restriction was limited to drug offenses.

the influence thus endangering the lives of people on the road. Federal legislation passed

in 1992 withheld 10% of certain federal highway funding to states that did not comply

with a mandate suspending the driver's license of anyone convicted of a drug offense for

at least 6 months after the conviction. However, without access to a driver's license, ex-

offenders may find it difficult to find or maintain steady employment due to the added

difficulty of obtaining transportation to and from work. If public transportation is not

readily available, many have to rely on family and friends, increasing the burden on

family and increasing the chances that they will be late or miss work. Some ex-offenders

may find themselves in violation of probation or parole after driving without a license in

order to try to meet work obligations. States can pass legislation to opt out, and several

states have changed the requirement to include only drug offenses that involved driving,

and to offer restricted licenses to travel to work, school, or drug treatment programs.

Legal Challenges and Concerns of Collateral Consequence Laws

History of Collateral Consequence Laws

The mid-1950's through the 1970's was a period in which the efficacy of

collateral consequence laws was called into doubt (Demleitner, 1999). As early as 1955,

the NCCD Standard Probation and Parole Act called for restoration of all civil rights

following periods of supervision (NCCD 1964). This was followed in 1956 by the

National Conference of Parole arguing that deprivation of civil rights was in

contradiction to modern correctional treatment goals, specifically the goal of

rehabilitation (NCCD 1962). During this period, collateral consequences declined overall

across US states and more states offered automatic, statutory restoration of rights as a

way to reward former offenders' efforts to rehabilitate (Demleitner 1999). However, as the Get Tough on crime movement gained momentum in the 1980's the trend reversed and increasingly legislation was passed in states multiplying the number and extent of collateral consequence laws. In addition, as part of the War on Drugs, federal legislation affecting welfare benefits, public housing standards and drivers license suspensions were passed as additional sanctions against drug offenders.

Legal Challenges to Collateral Consequences

Collateral consequences are unusual in that they are activated by the criminal process (arrests and convictions), but are considered to be civil and administrative actions rather than part of the criminal process. Legal challenges have been launched against collateral consequence laws maintaining that they are unfairly punitive and that they violate double jeopardy rules by acting as a second punishment after the sentence has been served (Pinard, 2006). Thus far however courts have mainly ruled in defense of collateral consequence laws under the determination that the laws are passed for a purpose other than being punitive, they are not so punitive as to negate the original intentions of the law, and because collateral consequence laws are enforced by administrative agencies rather than by the criminal process, indicating that they are not under the purview of the criminal justice process (Pinard, 2010).

Additional challenges to these laws have been made under the argument that they violate due process protections as many defendants remain unaware of these consequences throughout the criminal process, and their knowledge of these consequences could affect decisions regarding pleading guilty or proceeding to trial. Here too, courts have largely upheld collateral consequence laws arguing that trial courts

and defense lawyers do not have a responsibility to inform defendants of these consequences (Chin and Holmes, 2002). This has largely been justified under the Supreme Court *Brady v. United States* (1970) ruling that decided that due process only required trial courts to inform defendants of *direct* consequences of a guilty plea.[14] Since collateral consequences are considered indirect, as the court does not rule on them and a separate administrative agency institutes the consequences, they are thus exempt from the due process provisions. Courts have also noted the difficulty of requiring defense attorneys or courts to gather all of the relevant statutes pertaining to any particular defendant in order to inform a defendant of these consequences given that these laws are dispersed throughout administrative and civil codes, (Pinard 2004). However, in stark contrast to previous legal findings, in the recent Supreme Court ruling *Padilla v. Kentucky* (2010) the Court noted that deportation is an "integral part" of the punishment for non-citizens, and as such is "neither a collateral nor a direct consequence."[15] In *Padilla* the court ruled that defendants have a right to be informed of the likely outcome of deportation in a guilty plea and that the failure of a defense attorney to inform a client of this outcome is a violation of the right to effective counsel as defined by *Strickland v. Washington* (1984).[16] Legal scholars make the case that this ruling opens the possibility that other collateral consequences which are also linked to legal proceedings, such as welfare and public housing, could also be viewed as an "integral part" of a legal punishment and as such could also require legal protection for notification (Love and Chin, 2010; Chin, 2011; Le, 2011).

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[14] Brady v. United States, **397** U.S. 742, 755 (1970). More information on the application of this case to collateral consequences can be found in Chin and Holmes, 2002 (726-730).
[15] Padilla v. Kentucky, 130 S. Ct. 1473 (2010).
[16] *Strickland v. Washington,* 466 U.S. 668 (1984).

Effect of Collateral Consequences

While evidence regarding the impact of collateral consequence on rates of returns to prison has been sparse, previous studies have demonstrated an effect of these laws on other outcomes. Past research has demonstrated the impact of collateral consequence laws on a variety of outcomes, including voting turnout, election results, employment, and wages, college attendance, food insecurity and racial inequality. All of the studies reviewed below examine the impact of collateral consequences at the individual-level.

Effect of Collateral Consequences on Voting

Recent research indicates that voting disenfranchisement laws have had a significant effect on rates of voting turnout, and that this effect on voting turnout is responsible for a significant proportion of the drop in voter turnout rates in the last 30 years, as well as on the outcome of several federal elections. As part of their comprehensive look at the effect of voter disenfranchisement, Manza and Uggen (2006) estimate a predicted voter turnout rate of former felons if disenfranchisement laws were not in place. To do this, they use socio-demographic information from the Current Population Survey (CPS) to create a lower-bound estimate of the turnout rate if disenfranchised felons were allowed to vote. They estimate 35% of the disenfranchised population would vote compared to 52% of the entire electorate for federal elections.[17] In a second analysis, they use data from the Minnesota Youth Development Study (YDS) and again use socio-demographic characteristics to predict probability of voting. Based

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[17] This number represents a lower bound estimate as the estimate for how many offenders would vote if allowed is based on characteristics of the currently incarcerated population. Thus it does not take into account changes for formerly incarcerated – such as greater residential stability, labor force attachment and marriage - that are correlated with higher rates of turnout.

on this analysis they estimate a voter turnout probability in Minnesota of .63 for arrestees – statistically insignificant from the .69 probability for non-arrestees. In both studies they find that restrictions on voting prevents a significant number of people from voting in elections. This is in agreement with their qualitative interviews which indicate that many former felons would vote if given the opportunity.

While it appears that voter turnout has steadily declined since 1972, McDonald and Popkin (2001) argue that when the denominator to determine voter turnout is based upon a voting eligible population (VEP)[18] figure that excludes ineligible voters rather than a voting-age population (VAP) figure, that voter turnout has not declined. They use a conservative estimate for disenfranchised offenders as they only include the currently supervised (incarcerated, parolees, and probationers), and many states also disenfranchise offenders post-supervision. They argue that voting disenfranchisement accounts for a significant proportion of the supposed decline in voter turnout.

While McDonald and Popkin (2001) estimate approximately 3.2 million disenfranchised individuals in 2004, Uggen et al (2012) estimate a higher number of 5.85 million once laws disenfranchising offenders post-supervision are included. Furthermore, it appears that this disenfranchisement has had a meaningful impact on the democratic process. Using the voting habits of people with similar demographic characteristics to those of former offenders to estimate likely voter turnout rates and voting preferences, Manza and Uggen (2006) estimate that without voting disenfranchisement the 2000 presidential election along with 7 senate elections would

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[18] McDonald and Popkin construct the VEP figure by excluding individual ineligible to vote, including felons and non-citizens, as well as eligible but excluded groups such as overseas citizens.

have had different victors. Thus it would appear that these laws have an impact on the demomcratic process.

Effect of Collateral Consequences on Employment and Wages

Former offenders face a multitude of barriers to obtaining and maintaining steady employment, and these barriers have a documented relationship with employment rates and wages. Research indicates that steady employment is related to lower levels of offending (Bushway and Reuter, 2002; Lipsey, 1995). Maintaining employment is important both for avoiding the draw of criminal activity and because it is frequently a requirement of parole. Restrictions on occupational licenses and certain professions, the availability of criminal records, and restrictions on driver's licenses (and thus the ability to drive to and from work) can all hinder an ex-offenders ability to successfully reintegrate.

Employers are well documented as preferring to avoid hiring persons with a criminal record. For instance, in her study Pager documents that white males with a criminal record were 50% less likely to get a call back from employers if they had a criminal record. Blacks suffered a similar disadvantage (65% less likely to get a call back if they had a criminal record), on top of an already significant racial disadvantage. For blacks, the combined disadvantage of race and a criminal record can make finding employment a practically impossible proposition across a range of different contexts (Pager 2003, Pager 2007). In a survey of employers, Holzer et al (2004) report that over 60% of employers responded that they definitely or probably would not hire someone with a criminal record for their most recently filled position not requiring a college

degree. Furthermore, they found that 63% of employers in 2001 always or sometimes conducted background checks.

In addition to affecting levels of employment, criminal records also affect a person's wages. Pettit and Lyons (2007) find a wage penalty of 2-5% in Washington State even when controlling for prior work experience, conditions of confinement, and individual fixed effects. In their review of previous studies, Western et al (2001) report a wage penalty of about 10-30% following incarceration. Wage penalties tend to be highest among white collar jobs and those with at least some college education, perhaps because there is a stronger stigma attached to incarceration among these jobs, or due to laws prohibiting employment in certain industries.

Context does appear to have an effect on the employment stability of ex-offenders. For instance, Raphael and Weiman (2007) found a moderate effect of county unemployment rates on the likelihood of paroled offenders being returned to custody. Sabol (2007) found a similar effect on unemployment rates for prisoners in Ohio. Uggen (2000) found that employment opportunities reduced recidivism rates among offenders age 27 or older, but had no effect on younger offenders. Finlay (2009) found that the availability of criminal records online resulted in worse labor market outcomes for ex-offenders. However, Stoll and Bushway (2008) found that employer-initiated background checks only negatively affect hiring for employers that have a legal obligation to perform background checks. Thus, it may not be the availability of criminal history information that is detrimental to the hiring of ex-offenders, but rather the laws that require these background checks for certain occupations.

However, while the widespread access of criminal records can be detrimental to the ability of ex-offenders to find jobs, there does appear to be a positive effect of their availability. There is evidence that in the absence of criminal background checks employers may be more likely to engage in statistical discrimination against people that are members of groups with high rates of criminal histories, specifically young, black, men. Employers that report an aversion to hiring ex-offenders and that check the criminal backgrounds of applicants are more likely to hire black men, indicating that employers that are averse to hiring ex-offenders and do not conduct background checks are more likely to avoid hiring ex-offenders by avoiding hiring people from groups with a higher likelihood of being ex-offenders (Bushway 2004, Holzer et al 2006, Holzer et al 2007). This introduces an added complexity to the issue of criminal records, with some arguing that adding additional information on records, such as rehabilitative efforts or behavior in prison, may be more beneficial than eliminating access to records (Freeman 2008). Another potential response, which is used in some states, is to place time limits on criminal records. This practice is supported by current research predicting the time to "redemption" or the time at which a former offenders risk of reoffending approximates non-offenders (Blumstein and Nakamura 2009, Kurlychek et al 2006, Kurlychek et al 2007).

Effect of Collateral Consequences on Other Outcomes

Recent research also indicates the effect of collateral consequence laws on a variety of other outcomes, such as college attendance (Lovenheim and Owens 2013), racial inequality in employment (Wheelcock et al 2011) and food insecurity and risky behaviors (Wang et al 2013). Using the NLSY 1997, Lovenheim and Owens (2013) find

that amendments passed in 2001 to the Higher Education Act, which caused people

convicted of drug offenses to be temporarily ineligible for federal financial aid, had a

large negative impact on college attendance of students with drug convictions. The two

year ban on eligibility for federal financial aid increased the amount of time between high

school graduation and college, and the authors argue may have caused students convicted

of drug offenses to be less likely to ever go to college. They also find that the law did not

have any deterrent impact in reducing the number of young people committing drug

felonies.

There is also some preliminary evidence that collateral consequence laws

restricting employment may increase racial inequality in jobs that limit employment by

former offenders. Given that blacks are disproportionately likely to have a criminal

record, restricting felons from employment in certain occupations would be expected to

raise the racial inequality for those occupations. To test this, Wheelcock et al (2011)

compare racial inequality across different job types in New Jersey and Minnesota. While

both states restrict felony employment in some occupations, New Jersey prevent former

offenders from being employed in a higher number of occupations. Employing

Difference-in-Difference technique they find that for the occupations restricting felony

employment in New Jersey, but not in Minnesota, that racial inequality is higher in New

Jersey, whereas racial inequality is not higher in New Jersey for occupations that are

unrestricted in both states.

Wang et al (2013) examined the impact of bans on SNAP on food insecurity on a

sample of 110 individual across three states. They found that while food insecurity was

high among all former offenders (91% reported food insecurity and 37% reported not

having eaten for a whole day at some point in the last month because of money), that

food insecurity and not having eaten for a whole day were significantly higher in states

with a total or partial ban on SNAP, compared to a state with no ban. They also found

that not having eaten for a whole day was correlated with HIV risk behaviors.

Collateral Consequences and Recidivism

Recidivism

Approximately 2/3 of released inmates are arrested within 3 years of release, with

the bulk of the reoffending occurring within 6 months (Langan and Levin, 2002). Crime

rates of an area increase as rates of released offenders returning to the area increase

(Vieratis et al 2007, Hipp and Yates 2009), however the role played by collateral

consequences in this relationship is largely unexplored. Currently the bulk of research on

recidivism has focused on individual-level predictors, such as employment history,

family relationships, drug history, physical or mental health problems, age, race, and

gender (Langan and Levin 2002, Lipsey 1995, Visher et al 2010, Berg and Huebner

2011) and on treatment programs related to individual-level factors (Lipsey 1995,

Gendreau 1996).   However, recent research highlights the potential role that macro-level

factors, such as neighborhood context may play in the successful reentry of former

offenders. Kubrin and Stewart (2006) found that neighborhood socioeconomic status was

an important predictor of recidivism net of individual-level characteristics of those

offenders; specifically those who returned to resource rich communities after serving

time were less likely to recidivate. Morenoff and Harding (2011) found that the

socioeconomic composition of the neighborhood a parolee returned to predicted the labor

market outcome of a parolee whereas the residential stability of a neighborhood predicted

recidivism. Hipp and Yates (2009) demonstrate that the social capital of a neighborhood,

specifically residential stability and the presence of voluntary organizations for youth,

can moderate the effect of high numbers of parolees in a community on crime rates.

These studies highlight the need to include macro-level processes in studies of

recidivism.

Integral to the study of recidivism is research on parole violations. Returns to

prison reflect decisions made by parolees, parole officers, parole boards, as well as

prosecutors. While actions by parolees, such as committing a new offense, failing a drug

test or missing appointments with a parole officer, can initiate proceedings to be returned

to prison, prosecutors, parole officers and parole boards have discretion in how to treat

these violations. Research indicates that while the decisions of parole officers and parole

boards vary based on the behavior of parolees (such as the number of appointments

missed, whether there was failed drug test, whether the parolee committed a new

offense), that these decision-makers also take into account parolee characteristics (such as

race, gender, age), offense characteristics (such as violent offenses) organizational

constraints (such as prison crowding) as well as community factors (such as community

punitiveness) (Lin et al 2010, Steen et al 2012). Steen et al 2012 find support that

individual characteristics, specifically gender, race, and age, play a role in the decisions

of parole officers even after controlling for the behaviors of parolees. Other studies have

found differential impacts of parolee characteristics for whether the violation was for a

new sentence or a technical violation. For instance, Lin et al, 2010 found that parole

boards were more likely to return blacks (rather than whites) to prison after a parole

officer filed a violation for a new sentence, whereas they were evenly likely to return

blacks and whites to prison when parole officers filed a violation for technical violations.

Individual factors, organizational factors and community factors have also been found to

have an effect in decisions by parole boards to grant parole to people in prison, as well as

by prosecutors in decisions whether to file an arrest as a new crime or to have it charged

as a violation of probation (Huebner and Bynum 2008, Kingsnorth et al 2002).

Theoretical perspectives of collateral consequences and recidivism

When examining the effect of these collateral consequence laws through the lens

of criminological theories, most major theories support the expectation that harsh

collateral consequence laws will be related to high rates of returns to prison. While many

of the processes that have been described in this relationship are at the individual level,

and coincide with micro level theories, this study seeks to examine whether these policies

have an effect at the state-level. While ultimately this research is unable to test

individual-level theories at the risk of committing ecological fallacy, it can still be useful

to examine how criminological theories would explain this relationship. In particular,

strain, labeling and social disorganization theory are well suited to examining the role of

collateral consequence laws on rates of returns to prison.

According to strain theory, people are more likely to commit crime when they

experience strain in their lives. In the framework of traditional strain theory, collateral

consequence laws may produce strain by blocking access to conventional means, such as

legal work, to the culturally defined goal of financial success (Merton, 1968). Collateral

consequences are expected to increase the difficulty of achieving stable legitimate work

due to restrictions on the type of employment for which they are eligible, making individuals unattractive as potential employees through the availability of their criminal record, or creating difficulties attending work due to restrictions on driver's licenses and thus individuals may turn to crime as a way to achieve financial success, or as a way to dropout from societal norms through drug use. Those subject to employment-barring collateral consequence laws would, then, become the classic Mertonian innovators or retreatists. Similarly, modern versions of strain theory (Agnew 1992), would note the negative affect or frustration that is expected to result due to the role of collateral consequences in preventing people from attaining positively valued goals, such as stable employment, or the ability to live with family members (if family members live in public housing). These collateral consequences may be particularly influential to the extent that they result in the clustering of negative events (as they can impact multiple aspects of a person's life, that they have a long duration (in that many of these restrictions never expire, and effects, such as unemployment, may be long lasting), that they are of high magnitude to the individual (such as failure to reunify with children is for most parents) and recentness (given that the effects can be recurring, at any given time the sting of these laws can be quite recent) In addition, blocking access to employment or family relationships also hinders access to legitimate coping mechanisms that could alleviate strain. Thus the individual is more likely to engage in illegitimate coping strategies, such as illicit behavioral coping strategies of violence or theft, or emotional coping strategies such as drugs.

Another theoretical avenue to consider is theories related to labeling, stigmatization and legitimacy. As restrictions activated by a person's criminal history,

collateral consequences serve as a formal label of a person as criminal and as an isolating action by society by preventing the person from easily gaining access to employment or stable housing. The constant reminder of this label through restrictions could contribute to a person internalizing the label and then engaging in further secondary deviance (Lemert 1951). These restrictions can cause angry and defiant responses among former offenders who then respond by engaging in further criminal behavior (Scheff and Retzinger 1991, Sherman 1993). As these restrictions are frequently permanent, there is no way for a person to overcome the label once it is applied, it is a permanent, stigmatizing badge which would then lead a person to seek out support from other similarly branded individuals (Braithwaite, 1989). Furthermore, the permanency of the label serves as an additional block to an offender changing their self-label to one of a pro-social person. Voting, successful employment and housing, could help an individual redefine self as a contributing member to society, and these restrictions serve to prevent the re-labeling process (Maruna 2001, Manza and Uggen 2006). In addition, the permanent nature of these restrictions can lead to feelings of illegitimacy of a system in which serving one's time is not enough, thus leading individuals to reject the system and engage in criminal activities (Manza and Uggen 2006, Tyler 2006). The formalization of these restrictions as laws could also foster stigmatization by the public by formally designating former offenders with a permanent "outsider" status, and this stigmatization could extend to stigmatizing communities with high rates of parolees.

Social disorganization theory is particularly well suited to explaining the relationship between collateral consequences and rates of returns to crime. Social disorganization theory would predict a positive relationship between harsh collateral

consequence laws and rates of returns to prison due to the effect of these laws on the

community, and the resulting inability of the community to prevent criminal activities.

Collateral consequences contribute to the economic problems of the community by

making it difficult for individuals with a criminal history to find stable employment, thus

increasing levels of poverty within the community. Similarly, restrictions on public

housing and the availability of criminal history records can make it more difficult for a

person to attain affordable, stable housing contributing to higher rates of family

breakdown and population movement. By restricting access to public housing, many

offenders are not able to return to living with their families. Returning offenders may

also be unable to provide financial assistance to the family, and are more likely to be a

drain on the families' finances, thus leading to greater tension in these relationships (Berg

and Huebner 2011; Huebner and Berg 2011). This is likely to make it difficult for

individuals to rekindle and maintain positive pro-social bonds to significant others, or to

form a strong commitment to pro-social activities such as employment. These laws can

thus be expected to reduce the social cohesion within the community. This contributes to

the social disorganization of the community and the resulting weak controls contribute to

the high crime rates of these communities. Individuals returning to these communities

are thus more likely to return to prison due to the low collective efficacy in the

community, that is, the low levels of social cohesion among neighbors and their

collective willingness to intervene on behalf of the common good (Sampson,

Raudenbush, and Earls 1997).

Within the traditional of social disorganization, Rose and Clear (1998) emphasize

the role of coercive mobility, that is removing individuals from the community through

incarceration, and that this removal further destabilizes the community and weakens its ability to engage in informal social control. The coercive mobility hypothesis emphasizes the role of both removing young residents from the community to incarceration, as well as the destabilizing effect of individual reentering the community from prison. They argue that the families and social networks in communities that receive high rates of individuals returning from incarceration expend their already limited interpersonal and social resources to assist these individuals. In keeping with coercive mobility, collateral consequence laws would be expected to have a negative effect on the community's economic structure, family stability, parental capacity, and pro-social beliefs. As in coercive mobility, while each of these individual effects would be expected to be small, they are expected to be cumulative. Collateral consequence laws would increase the demands on family and community resources, while limiting the subsequent contributions these individuals can make to the community. Collateral consequences would be expected to maintain this destabilization as people returning to the community struggle with issues of employment and housing and are unable to help the community build the social networks needed to maintain social control (Clear 2007).

While the majority of criminological theories support a positive relationship between the harshness of collateral consequence laws and high rates of return to prison, there is also the potential that collateral consequence laws could have a deterrent effect on crime rates. Deterrence theory suggests that people are deterred from crime when they perceive the risk of being caught, and the severity of the potential punishment as being too high. It is possible that collateral consequence restrictions could serve as an additional cost of engaging in criminal activity thus deterring potential offenders. Thus

when a person is considering committing a criminal act s/he would not only consider

potential jail or prison time, but would also consider the loss of voting rights,

employment restrictions, loss of access to public housing and welfare, loss of her/his

driver's license, as well as the creation of a criminal record. However, in applying this

view there are several items to consider. First, collateral consequences could depress

crime rates of *first time, potential offenders*, but they would not be expected to have a

specific deterrent effect on re-entering offenders as many of the consequences are

triggered by a first offense and do not increase with subsequent offending. Thus any

deterrent effect would only be among people with no criminal record, and this potential

effect on crime rates may not outweigh the effect of these laws on returning offenders.

Second, considering that many people are unaware of these consequences prior to

conviction, and in fact, many are unaware until after their release from custody, it is

unlikely to serve as a general deterrent from crime since even if potential offenders were

to consider the effect of their criminal actions on their future chances for housing,

employment or voting, many are unaware that these consequences exist (Travis, 2002).

Third, the deterrent effect of collateral consequences may be seen as fairly minor

additional cost compared to potential costs of crime such as prison. Fourth, from a wider

rational choice perspective, there are many aspects of the decision making process which

collateral consequences do not effect, such as the rewards of criminal activity. As

previously discussed, collateral consequences may also lower the social or economic

disincentives to crime. The delayed nature of collateral consequence restrictions

(imposed after serving a sentence), combined with decreasing the cost of secondary

offending (there is less to lose since by blocking access to conventional systems such as

employment, or making contact with family more difficult due to housing restrictions) can make crime less unattractive than if these blocks were not in place. Thus, while rational choice theory could indicate that collateral consequence laws might have a deterrent effect on initial crime, in terms of its effect on rates of return to prison these laws would potentially decrease the costs associated with crime (by disrupting contact with families or employment) and would not deter secondary crime as additional crime would not incur any further costs in terms of additional collateral consequences.

Most criminological theories are consistent with the expectation of a positive relationship between the burdens imposed by collateral consequence laws and rates of return to prison. Given that the data used in this study is aggregate level data, it is not possible to test the individual level processes that take place. Instead, this study will examine the impact of these policies at the state level.

Research on collateral consequences and recidivism

Despite strong reasons to expect that collateral consequences may increase recidivism, as of yet, there is scant evidence of the effect of collateral consequence laws on the outcome of returns to prison. One notable exception to this dearth of research is Lee (2011). Lee compared states based upon when criminal background checks became available online and found that online availability of background checks was associated with a 2.5% drop in aggregate property crimes, but that it had an insignificant relationship with violent crime. However, using data from the Department of Justice National Corrections Reporting Program (NCRP) Lee found that online records increased the likelihood of a prisoner admitted for a new crime having a prior felony record by 11%, and that a parolee is 10% more likely to be returned to prison. This provides

preliminary evidence of a modest general deterrent effect (for some crimes) but that it is accompanied by higher rates of recidivism.

The bulk of available research on the effect of collateral consequences on recidivism comes from the effect of sex offender registration and notification laws and indicates mixed results, with some reporting reductions in offending (Duwe and Donnay, 2008), some reporting higher recidivism rates (Freeman, 2009), some reporting no differences (Letourneau et al 2008; Letourneau et al, 2010; Sandler et al 2008; Tewksbury and Jennings, 2010) and some reporting mixed findings (Prescott & Rockoff, 2008). In addition, research indicates that sex offenders fear and experience negative outcomes as a result of registration and community notification laws – such as social stigmatization, employment, housing, and verbal and physical assaults, (Levensen and Cotter, 2005; Mercado et al, 2008; Tewksbury, 2005; Zgoba et al, 2009).

Another limitation of existing recidivism research, as well as research on collateral consequence laws, is that with only a few exceptions, previous studies have been restricted to individual counties or to a single state and have not examined the factors that affect variations across states. Thus, the current project provides unique insight into whether state-level differences in collateral consequence laws are a key contributing factor behind variations in rates of returns to prison across U.S. states.

Conclusion

While many researchers, practitioners and policy makers have expressed concern that collateral consequences hinder ex-offender reintegration and therefore make a return to criminal activity more likely, as of yet there is a dearth of evidence to support this

claim and it is possible that collateral consequences have a spurious or null relationship

with recidivism, or that they could in fact act as a deterrent. For instance, Western

(2008), in his policy response to Stoll and Bushway (2008), suggested that the

availability of background checks may be less important than the fact that the ex-

offenders subject to background checks tend to have a history of entrenched marginality

that already serves as a barrier to employment. It is also possible that even without

formal restrictions on employment that ex-offenders are likely to face discrimination in

hiring. Some also suggest that collateral consequences may serve as a deterrent as first-

time offenders will want to avoid having a criminal record (Lee, 2011) and thus while

removing these collateral consequences could lower recidivism, it may increase overall

crime. And finally, there is also the concern that the removal of some of these barriers

could have unfortunate consequences. For instance, removing restrictions on public

housing could result in more drug problems and higher crime rates in public housing

units, removing or limiting background checks could result in dangerous criminals

gaining employment with vulnerable populations or could result in employers engaging

in statistical discrimination against certain populations in an attempt to avoid hiring ex-

offenders. Thus there is a great need for empirical evidence regarding the relationship

between collateral consequences and crime.

A first step in examining the relationship between collateral consequence laws

and crime, is determining whether these laws are associated with higher rates of returns

to prison, as several scholars have speculated. This dissertation will examine this

relationship, investigating three hypotheses. First, that harsher collateral consequence

laws in the categories of voting, access to records, employment, public housing, public

assistance and restrictions on drivers' licenses will be related to higher rates of returns to

prison for new crimes. Second, that harsher collateral consequence laws in these

categories will be associated with higher rates of returns to prison for technical violations

of parole. Third, that these laws will vary in the magnitude of their relationship with rates

of returns to prison based upon whether they have an impact on daily living and whether

they are applied to all offenders.

Chapter 3: Data and Methods

This project aims to address three hypotheses. First, that harsher collateral consequence laws will make it more difficult for a person leaving prison to abstain from crime, and thus states that have a greater number of, and stricter, collateral consequence laws will have higher rates of returns to prison for new crimes. Second, that harsher collateral consequence laws also make it more difficult to abide by conditions of parole, such as maintaining employment or stable housing and will lead to increases in technical violations of parole for failing to meet the conditions of release. Third, collateral consequence laws will vary in the effect that they have on rates of returns to prison. Specifically, laws with a broader reach that affect day to day living (e.g., restrictions of all felons on employment) will have a greater effect than those that are limited in terms of who they affect (e.g., public housing restrictions for drug offenders only) or that have less impact on day to day living (e.g., voting restrictions).

Law Application: Applies to all (all) offenders, or only some (restricted), or mixed (mixed) based on the state

Law Reach: Likely to affect daily living (daily) or only occasional situations (limited)

	Application	**Reach**
Voting	All	Limited
Access to records	All/Mixed	Daily
Employment	Mixed	Daily
Housing	Restricted	Daily
Public Assistance	Restricted	Daily
Driver's License	Restricted/Mixed	Daily

Data

The units of analysis for this study are US states. Data come primarily from two sources. The independent variables, the collateral consequences faced by convicted felons, are based upon the laws and practices of each state which were coded primarily through reference from the Legal Action Center's (LAC) review of laws in their "Roadblocks to Reentry" module with reference to the actual laws as needed. The dependent variables have been drawn from two separate surveys published by the Bureau of Justice Statistics' (BJS), specifically the prisoner survey and parole survey.

Independent Variables: State Collateral Consequence Laws and Practices

State collateral consequence laws have been notoriously difficult to catalog as they are dispersed through states administrative, civil, and criminal codes (Love 2006; Mauer 2010). These laws can also be quite complex, making comparison between states difficult due to the wide variation in laws between states (Love, 2006; Mauer, 2010). As a testament of the complexities of these laws, in 2009, NIJ awarded over $700,000 to the American Bar Association (ABA) to fund a 3 year project to collect information on these restrictions and to make them more transparent to defense lawyers, judges and defendants. By February 23, 2012 they had compiled over 38,012 statutes, and had not yet collected data from all the states.[19]

The LAC first compiled a review of state collateral consequence laws in 2004, which they updated in March 2009. While the LAC does not attempt to catalog all

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[19] http://www.abacollateralconsequences.org As of October 9, 2013, the ABA data had information available on 26 states.

collateral consequence laws, they have collected information on a subset of laws which have features that can be compared between states and that are particularly salient in their repercussions. Researchers have begun turning to the LAC database as an important source of information for these laws. Bushway (2004) used the database for his analysis on the effects of records checks, and Finlay (2009) used it as a source for internet access of records. I used the LAC database as a starting point for coding and I accessed the original state laws as necessary to complete the coding. In this current study, I include information on laws related to voting, access to criminal records, employment, public housing, public assistance, and drivers' licenses. This has resulted in the creation of a unique dataset providing specific information of these laws by state, such as whether the restriction is permanent, temporary, or can be petitioned for removal, or whether the restriction is triggered by conviction or merely by arrest, among other characteristics (see Table 1 for coding notes).[20] This will allow an analysis to be conducted on the effect of particular categories of laws, for instance the effect of collateral consequence laws related to employment versus voting, dimensions of those laws, as well as a combined score of the cumulative effect of all of the laws.[21] I have identified 21 dimensions across six categories of laws for 2009.[22] Laws are coded so that higher numbers indicate harsher

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[20] The LAC currently employs its own ranking of states however I employ my own coding of the laws in order to allow a more nuanced examination that includes analysis specific characteristics of the laws.

[21] It should be noted that while this coding attempts to properly categorize states based upon their law and practices, in many cases there is no way to capture the reality. Laws may be misinterpreted by policy makers, for instance South Dakota settled a case in 2010 in which they had improperly barred persons on probation from voting (projectvote.org 2010) . In addition to administrative mistakes, ex-offenders themselves may not be fully informed of their rights. For instance, Manza and Uggen (2006) document several ex-offenders that believed they were ineligible to vote when in reality their voting rights had been restored.

[22] Ultimately three dimensions were dropped from the analyses, as will be discussed later.

characteristics of the law, while lower numbers indicate more lenient laws.[23] Coding of

these laws can be found in Table 1, following the descriptions of these laws.

Coding of Collateral Consequence Laws

<u>Voting</u>

Comparison of voting restrictions between states is relatively straightforward in

that restrictions have only one dimension – the length of time which people must wait

until voting rights are restored. Coding began with a review of the LAC coding, and was

then compared with other sources, including Uggen et al, 2012. Discrepancies were

investigated and resolved by a review of the laws as available through Lexis-Nexus,[24] and

ultimately matched the coding found in Uggen et al, 2012. Restrictions range from

permanent ineligibility to vote following a conviction to no restrictions on voting for

anyone (including those currently incarcerated). The largest category is states that

restrict inmates, parolees, and probationers from voting (19 states). While most states bar

only people convicted of a felony from voting, five states, Colorado, Illinois, Michigan,

South Carolina, and Maryland, bar anyone currently serving time, whether the offense

was a misdemeanor or a felony (Ewald, 2005).

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[23] Originally the intention was to create aggregate measures of these laws within each category, as well as an overall measure of all measured collateral consequence laws, and factor analysis was employed in an attempt to create these measures. However, initial analyses indicated that this would not be appropriate. Many laws were negatively correlated with each other, even when they were in the same category of law. In addition, many laws had contradictory effects with the dependent variable.

[24] Two states, Louisiana and South Dakota, were particularly difficult to categorize. Despite language in the Louisiana Constitution that states restrictions occur while "under an order of imprisonment for conviction of a felony," in practice "imprisonment" is interpreted to include probation and parole (Ewald, 2005). Similarly, while South Dakota law appears to allow the right to vote as long as a person is not currently incarcerated, in practice it is extended to persons on probation, but not those on parole. http://felonvoting.procon.org/sourcefiles/south-dakota-felon-voting-law-2012.pdf

<u>Access to Criminal Records</u>

Access to criminal records was the category of law with the highest number of

dimensions coded with seven dimensions. The first dimension of access to criminal

records is the availability of online records; specifically, whether the state puts all

criminal records available online or only the records of people that are currently under

supervision, or whether records must always be requested in person or by mail to a state

agency.[25]

The second dimension of access to records is whether or not they have a time

limit on arrests not leading to conviction. Most commonly this involves states removing

arrests from the record after a period of time if there is no subsequent disposition,

frequently these are disposed after one year, although it may be as soon as 30 days

(Alabama) or as long as three years (North Dakota).[26] In a few rare instances, states will

expunge arrest records that have resulted in conviction after a period of time following

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[25] While my coding of online availability was based upon information provided through the Legal Action Center, I also conducted an in independent search to confirm this information. Specifically, I would go to each state's website and search for the last name "Smith" in the online database. Since "Smith" is the most common surname in the US I would then search all the people with "Smith" as a last name to see if anyone by that name had completed his/her sentence or was currently on probation or parole. Using this process I ultimately found five states which were incorrectly marked by the LAC as not having online records (AZ, CT, ID, NE and RI). I also compared my coding to the coding in a recent paper by Lee (2011). In it I found 4 discrepancies in the coding; 3 were cases in which Lee reported no internet availability whereas my data reported online records (AK, ME and MO), and 1 reported online availability whereas my data indicated it was not available (DE). Through correspondence with Lee, I learned that two states were incorrectly reported in her paper (DE and ME), that she did not include AK as having online availability as the database is incomplete and does not include cases prior to 1990, and that she did not include MO as it came online after she started her research. Although Alaska does not have complete records I have chosen to include it in the category of having online availability since in 2009 it would have had 19 years worth of cases. Since offenders are most likely to recidivate in the years immediately after their release I believe that this database covers a large proportion of released ex-offenders.

[26] A few states remove arrests from the record after a certain age, such as age 75 in South Carolina or age 99 in Arizona and New Mexico. As the removal of arrest records at this advanced age is unlikely to affect the reintegration of the majority of returning offenders, these states were coded as having no time limit for the removal of records.

completion of the sentence. For instance, in Montana arrests are removed seven years after completion of the sentence. In Massachusetts, public access to Criminal Offender Record Information (CORI) has different time limits based on whether the offense was a misdemeanor, felony or sex offense. Some states, such as Alaska, remove access to records not resulting in disposition, however employers dealing with vulnerable populations, such as minors or adults, are still able to access the removed records.[27]

The third dimension of access to criminal records, related to the second dimension, is whether there are time limits on access to conviction data.[28] Seven states remove convictions from criminal records after a certain number of years following completion of the person's sentence, generally 3 to 15 years, and usually with the requirement that there are no subsequent arrests or convictions during that time.[29]

The fourth dimension of access to criminal records is the extent to which information is available. For coding, this combines two aspects – who has access to information, and what information they can access. For instance, in some states only statutorily authorized government agencies, or employers that work with vulnerable populations such as children or the elderly, have access to records, whereas in other states records, including both arrests and convictions, are available to all members of the public.

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[27] Washington and Hawaii also keep the removed information, however these states were coded as having removed arrest information since it is only available in limited circumstances.

[28] New Mexico removes convictions from the record after the person reaches 99 years of age, North Caroline at age 80, and Louisiana removes convictions after age 61 with no convictions in the last 15 years. Since these ages are too advanced to make a significant impact on the bulk of offenders, they were coded as having no conviction time limits.

[29] Some states exclude sex offenses and sex offenders from these time limits.

The fifth dimension of access to criminal records is whether or not there are penalties in place for violating rules of disseminating criminal records. A state that has penalties in place for violations, whether or not they institute the penalties, may be seen as placing a greater premium on privacy regarding records.

The final two dimensions of access to criminal records relate to the availability of expunging aspects of the record, either arrests (dimension 6) or convictions (dimension 7). These typically require the defendant to actively initiate the expungement process. In the case of expungements for arrest, this option is typically reserved for only cases in which the defendant was found to be factually innocent, resulted in a dismissal, or for which were not prosecuted. In the case of expunging arrests, many states will then allow the person to deny the existence of the arrest if asked about it. In some cases, states will not grant an expungement if the person has previously expunged a record, or if the person has similar arrests for similar crimes (for example, North Carolina, Indiana and West Virginia). Typically, expungement of arrests is available one year after the arrest, although in other cases it may be 18 months (Pennsylvania) to 3 years (Washington) after the arrest, and in rare instances could be sooner (such as 30 days in Utah).

The rules regarding expunging convictions vary by state. Some limit expungements to certain offenses, such as minor drug or non-violent offenses (Arizona and Arkansas). In some cases expungements may still appear on the record, but with a notation that they have been expunged (California). In many cases, the offender must wait several years with no subsequent criminal activity in order to see expungement (for instance, Indiana requires people to wait 15 years) and the waiting period may vary based upon the severity of the offense (such as Massachusetts and Illinois). I do not include

states when the expungement is only available for a case in which the person was

pardoned or the conviction was reversed.[30]

The dimension of access to criminal records that has been most heavily

scrutinized by scholars in recent years has been the online availability of criminal records

(Finlay 2009; Lee 2011). This area has also seen the greatest change as an increasing

number of states have started to post criminal records online, leading to a greater number

of records being easily accessible than ever before (BJS, 2011). However, other

dimensions of the availability of criminal records may be equally important, particularly

whether time limits exist for criminal records and who has access to criminal records.

For instance, many states allow for expungement of arrests that did not result in

convictions, and a few states allow for expungements of convictions after a certain

number of years. These expungements could offset the effect of having records available

online. The multiple dimensions involved with access to criminal records can make

comparison between states very difficult since a state may be very harsh on one

dimension, but forgiving on another aspect. For instance, while Montana allows any

member of the public access to arrest and conviction records, they also have an automatic

time limit in which no records are available seven years after the completion of a

sentence.[31]

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[30] I do not include Wyoming as having a expungement policy, as the expungement is only available in order to obtain a firearm and does not apply to record searches that might be conducted by potential employers. I also do not include Pennsylvania which requires the person to be over age 70.

[31] Interestingly, while Montana does not expunge arrests not leading to conviction, it does allow that "fingerprints and arrest photographs will be returned to individual if requested where an arrest does not lead to the filing charges or where charges filed do not result in a conviction." The record however remains. This seems as though it would have a varying effect based on whether your name is common, such as John Smith, or if it is a more unique name.

<u>Employment</u>

Within the category of employment I coded six categories of laws. The first two dimensions are whether employers can ask about arrests not leading to conviction, and whether employers can consider arrests not leading to conviction. Most states allow employers to both ask about and consider arrests not leading to conviction.[32]

The third and fourth dimensions related to employment are whether or not standards are in place to prevent discrimination by public employers and licensing agencies (dimension three) or by private employers (dimension four). Standards prohibiting employment discrimination vary, but frequently when in place they state that employment or a licensure or certificate of registration necessary for employment cannot be flatly denied based upon conviction, although it still allows consideration of the conviction in determining whether or not the person can be entrusted to serve in that occupation. Some states specifically mention that serious drug offenses can serve as a bar to employment or licensure (for example, Indiana). A state which allows an employer to view arrests not leading to conviction, may still have standards prohibiting how those arrests are used (for example, Kansas requires that they must directly bear on the person's trustworthiness or safety or well-being of the employer's employees or customers). Maine has limits considering records after a three or ten year period (based on the type of license) and only allows certain types of convictions within that time period to be considered. In Massachusetts, Governor Patrick issued an Executive Order

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[32] One potential concern is that criminal records may contain inaccurate information. Maryland is unique in stating that employers must allow individuals to inspect and challenge their record, but in other states applicants may be rejected based on faulty information in a criminal record – information of which they are unaware.

(EO 495) in 2007 which prohibits background checks of prospective or current employees until after s/he is deemed qualified for employment.

Dimension five in the category of employment is whether there are restrictions on employment in the field of home health care for people with criminal records. Most states (38) restrict jobs in the home health care profession for anyone convicted of a felony.

Finally, dimension six is whether the state offers a mechanism to demonstrate the person has been rehabilitated. This could also be offered in stages. For instance, Illinois courts may give a "certificate of completion" after a sentence has been satisfactorily served. While this does not lift occupational bars, it offers a first step in demonstrating a commitment to moving past a conviction. A person with no more than two non-violent felony offense can apply for a "Certificate of Relief from Disabilities". This Certificate goes a step farther and prevents occupational licensing agencies in 27 categories from denying licensure based on lack of good moral character unless there is a direct relationship between the offense and the type of license sought, or issuance of the license would involve unreasonable risk to property or public safety. Similarly, Connecticut has a "provisional pardon" which is available immediately after discharge and removes the occupational bars associated with the conviction, but does not remove the conviction from the record. After a three year waiting period, the person may apply for a full pardon which would remove the offense from the record. Mississippi does not offer any certificate to lift occupational bars, but does offer a certificate to restore access to firearms.

Mechanisms to demonstrate rehabilitation vary widely. In some states it is a fairly standard process going through a board of pardons, whereas in other states (such as Indiana) the pardon must be granted by the governor. The effect of the mechanism may also differ, in some states the offense remains on the record and does not lift occupational bars, but merely acts as an additional piece of information (such as Indiana), whereas in others it removes the offense from the record (such as Connecticut's full pardon), or it lifts occupational bars associated with the record, but the conviction remains on the record (such as Iowa's "Certificate of Employability"). In some cases, states technically have a process for pardons, but they use it so rarely, or it has such severe restrictions, that I have coded them as having no mechanism for relief (for instance Wisconsin and Washington).

Unfortunately, I am unable to capture perhaps the most important dimension of employment – how many and what jobs and licenses are restricted by these laws. This information is simply too complex to categorize. For instance, depending upon the state there can be bars against employment in multiple areas, including child care, education, security, nursing, law, real estate, physical therapy, barbering and cosmetology to name but a few. There are roughly 6,000 occupations requiring licensing in one or more states in the US (Clear and Cole 2000), and so trying to count, much less rank, the reach of these laws is quite difficult.[33]

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[33] It is possible that this unaccounted for variation of specific forms of employment or licensing may be related to the dimensions of employment measured in this study. For instance, states that don't restrict many occupations may not offer a certificate of rehabilitation, whereas states with a multitude of restrictions may be more likely to offer certificates of rehabilitation as a mechanism to deal with those restrictions. It is important to keep this in mind when interpreting the results of the effect of employment laws on rates of returns to prison.

Public Housing

While federal law requires that criminal activity be included as a basis for eviction from public housing it is up to local housing authorities to set their own standards and policy regarding admissions and evictions. The Legal Action Center collected information from the public housing authority of the most populous city in the state. Since it is well-documented that most parolees return to a few core counties, which are generally located in the largest cities of the state, this should account for a significant proportion of a state's parolee population.

I coded three dimensions within the category of public housing. First, whether the housing authority considers arrests in the screening process, or if they only include convictions. Second, whether the housing authority makes individual determinations for all cases or whether they automatically reject ex-offenders with certain offense convictions.[34] While only two housing authorities report that they have automatic exclusions, ten housing authorities report that they have individual determinations for most cases but not all (for instance the Birmingham housing authority of Alabama reports an automatic bar for those convicted of drug trafficking), or that they have an appeal process in place when a person is denied (for instance the Chicago housing authority of Illinois).

The third dimension in the category of housing collateral consequence law is the length of the longest conviction bar (excluding the mandatory bar for certain sex

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[34] Federal law requires that all federal housing agencies permanently bar individuals convicted of certain sex offenses, or of methamphetamine production. Since there is no variation in this restriction, I do not include it in my analysis.

offenders or for methamphetamine manufacturing), categorized by no conviction bar, conviction bar ranging from 2-3 years, to 5-7 years, or to 10 years or more. Some states state that they do not have any set time limits because they consider evidence of rehabilitation.

<u>Public Assistance</u>

Public Assistance is coded has having one dimension, the extent to which the state adopted the 1996 Personal Responsibility and Work Opportunity Reconciliation Act ban on Temporary Assistance for Needy Families (TANF) and food stamps for felony drug offenders. States have the option to opt out of, modify, or adopt the federal drug felon ban on TANF and food stamps. Coding of the laws as of 2009 was based on reference to the LAC report, along with the "Welfare Rules Database" compiled by the Urban Institute. Contradictions between the two reports were investigated by searching information on state websites administering TANF. Ultimately, ten states we coded as having chosen to opt out of the law, while 29 modified the ban in 2009. While there are a multitude of ways that states might modify the law, including limiting the ban to only certain drug offenses (such as drug trafficking) or setting time limits on the ban, the most common modification was to reinstate benefits for individuals that participate in drug treatment programs. For instance, in Kansas a person may receive benefits if s/he has been evaluated by a licensed substance abuse provider as not needing treatment, is currently undergoing treatment, or has successfully completed treatment. Some states acknowledge the long waiting lists and lack of availability of drug treatment programs, and also lift the ban if the person is on a waiting list for a drug treatment program (such as California). Modified laws don't always require the person to undergo treatment,

sometimes they must only comply with probation or parole requirements which may or may not require treatment (for instance, Pennsylvania and South Dakota). Sometimes other exemptions are allowed as well – for instance in Kentucky the ban can be lifted for pregnancy. Massachusetts removed the ban related to food stamps, and limited the welfare ban to 12 months. Massachusetts also allows exemptions for the 12 month ban in the case of disability, being a caregiver for a disabled child or spouse, those in the third trimester of pregnancy or that have a child under 2 years of age, or those who are under twenty-one years of age and are attending high-school full-time.

In addition to coding laws restricting TANF across states in 2009, I also coded TANF laws across the states for the four year period following the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. This allows for a look at the effect of these laws within states. In order to categorize the laws over this time period, I compared data from several sources, including the LAC 2004 report, the "Summary of State Laws" provided as part of the LAC "Opting out of federal ban on food stamps and TANF Toolkit", the 2005 Government Office of Accountability report, "Drug Offenders: Various factors may limit the impact of federal laws that provide for denial of selected benefits" and the "Welfare Rules Database" compiled by the Urban Institute. Contradictions between the different sources were resolved by looking at information on state websites, and in some cases contacting the authors of the reports.

Driver's License

Collateral consequence laws related to restrictions of driver's licenses are coded on three dimensions. The first dimension is whether revocation of driver's licenses occur for all drug offenses or only for driving related offenses. The second dimension is

whether or not the state offers a restrictive license to allow a person to drive to work,

school, or health related reasons (such as attending drug or alcohol treatment). The third

dimension is whether the state uses the federally recommended restriction of 6 months, or

whether they have instated a revocation period that lasts longer than six months for non-

driving drug related offenses.

The coding of all collateral consequence laws can be found in Table 1.[35]

Table 1: Coding Dimensions for Collateral Consequence Laws

Higher numbers indicate harsher laws

Voting (Periodic effect, all offenders)

1 dimension

Length of time until voting rights restored

2	1 incarcerated persons can vote
13	2 can vote once released (while on probation or parole)
4	3 can vote on probation, not parole
17	4 can vote once completed all supervision
14	5 can vote after set waiting period after supervision, or need to petition, or permanently ineligible

Access to Records (Daily effect, all offenders)

7 dimensions

Available on internet
19	0 Not available on internet
5	.5 Only parole, probation or incarcerated available online
26	1 Available on internet

Automatic time limit for arrests not leading to conviction
21	0 Automatic time limit for arrests not leading to conviction
29	1 Arrests not leading to conviction remain on criminal record

Automatic time limit for convictions
6	0 Automatic time limit for convictions following period with no subsequent arrests
44	1 No time limit on convictions

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[35] The numerical codes applied to these laws represents but one possible way to transform these laws into empirical data. As a test on the sensitivity of the analyses to this coding I also tested other coding schema – for example, constraining the measure of "online availability of records" to a binary measure. The results based on these different coding schema were comparable to what is presented here, and I chose to use the measures which I believe best capture the impact of these laws.

From a statistical standpoint however, it is more defensible to code laws that are not binary using dummy variables as this avoids the assumption inherent in creating interval measures that the effects are equally spaced. I address this aspect in greater depth in the chapter on Findings.

Who has access to which records

4	0 only statutoriliy authorized government agencies, or employers with vulnerable populations, have access to records
17	1 non-CJ Employers have access to records
12	2 public has access to convictions
17	3 public has access to convictions and arrests

Penalty for wrongful dissemination of records

36	0 has a penalty for wrongful dissemination
14	1 no penalty for wrongful dissemination

Expungement available for arrests not leading to conviction

29	0 can expunge arrests and subsequently deny their existence
18	.5 can expunge arrests
3	1 unable to expunge arrests from record

Expungement available for convictions

22	0 expungement of convictions available (usually after a waiting period, and only for certain minor offenses)
7	.5 very limited number of cases (minor city infractions, misdemeanor marijuana, first time alcohol related driving, or specific program for deferred adjudication for limited types of offenses)
21	1 no expungement available (except in case of a pardon or wrongful conviction)

Employment (Daily effect, all offenders)

6 dimensions

Employers can ask about arrests not leading to conviction

12	0 cannot ask about arrests not leading to conviction
38	1 can ask about arrests not leading to conviction

Employers can consider arrests not leading to conviction

10	0 cannot consider arrests not leading to conviction in employment decisions
40	1 can consider arrests not leading to conviction in employment decisions

Standards in place to prevent discrimination by public employers or licensing agencies based on conviction records

	0 States have standards to prevent discrimination based on conviction records
28	1 States do not have standards to prevent discrimination based on conviction
22	records

Standards in place to prevent discrimination by private employers based on conviction records

8	0 States have standards to prevent discrimination based on conviction records
42	1 States do not have standards to prevent discrimination based on conviction records

Restrictions on employment in field of home health care for people with criminal records

11	0 no restrictions for healthcare work
3	.5 some restrictions
36	1 restrictions in place for healthcare work

State offers mechanism to recognize rehabilitation of former offenders

23	0 Formal mechanism to demonstrate rehabilitation
23	.5 Limited mechanism (significant restrictions remain)
4	1 No mechanism to demonstrate rehabilitation, or very rarely used

Housing (Daily effect, select offenders)

3 dimensions

Housing Authority considers arrests in screening process
21   0 does not consider arrests in screening process
29   1 does consider arrests in screening process
Housing Authority makes individual determinations for all cases
38   0 makes individual determinations for all cases
10   .5 makes individual determinations for most cases, or have appeal process for
            automatic denial
 2   1 has mandatory bars

Length of longest conviction bar
        does not include permanent bans for federal restrictions (meth production on
        premises, sex offenders)
 9   0 no conviction bars
19   1 longest conviction bar ranges from 2-3 years
11   2 longest conviction bar ranges from 5-7 years
11   3 longest conviction bar ranges from 10-permanent

Public Assistance (Daily effect, drug felons)

1 dimension

Adopted federal drug felon ban
10   1 opted out of ban
29   2 Modified the ban
11   3 Comply with federal ban, no modifications

Driver's License (Daily effect, limited group)

3 dimensions

Automatic revocation only for driving related offenses
22   0 only for offenses related to operating a vehicle under the influence
28   1 also revoked for other crimes

Offer restrictive license for school/work
40   0 offer a restrictive license
10   1 do not offer a restrictive license

Longer than 6 month restriction for non-driving drug related
44   0 no revocations longer than 6 months for non-driving related
 6   1 revocations longer than 6 months for non-driving related

Dependent Variables: Bureau of Justice Statistics Prisoners Data and Parole Data

Data on the dependent variable, rates of returns to prison, comes from data

provided by the Bureau of Justice Statistics (BJS). Information on state rates of returns to

prison, as well as on characteristics of the prison population and of the prisons has been

obtained from the Bureau of Justice Statistics, specifically from the National Prisoner

Statistics (NPS) and the Annual Parole Survey. The strength of both the prison and

parole survey is that they are not limited to a particular geographic area, but instead cover

the entire US. While both provide information on rates of returns to prison, they do so by

different avenues. The prison survey includes counts of all persons entering prison, and

whether they are entering while on conditional release, whereas the parole data provides

information on what percentage of people exiting parole returned to prison. While BJS

provides guidance on how states should report their numbers in both surveys, variation

between states in definitions, policy and practices may lead to some variation in the

numbers they supply creating the concern that reported rates of return to prison are a

reflection of these differences. To address this concern I will conduct separate analyses

using as the dependent variable rates of return to prison from both the NPS and parole

data. As rates of return are calculated differently within states by each agency, agreement

in the trends between the datasets can minimize this concern.

National Prisoner Statistics (NPS) Data

That National Prisoner Statistics (NPS) compiles data regarding the prison

population of each state. The US Census Bureau serves as the data collection agent for

the BJS, and they administer a survey to each state's Department of Corrections on an

annual basis. The survey collects information on key characteristics of each state's prison

population, such as year-end prison counts, admissions and releases during the year,

prison system capacity, and HIV/AIDS. An advantage of this data is that it is provided by

each state and the federal system and thus covers all prison inmates in the US. This data

allows me to examine the rates or returns to prison as all entrants to prison are

categorized as either new commitments or violators of conditional release. Thus, my first

dependent variable is the percent of the state's admissions to prison in 2010 that are

categorized as returns from conditional release.[36]

> DV 1: Percent of the state's admissions to prison in 2010 that are
> categorized as returns from conditional release.

Violators of conditional release include anyone that was on conditional release

when returned to prison, whether the return was for a new crime or for a technical

violation of parole.[37] A categorization of "new commitment" does not mean that the

person does not have a criminal history, but rather that they were not on any type of

conditional release when the current offense occurred. States vary greatly in the extent to

which they release offenders conditionally and this affects the number of offenders that

are eligible to be counted as "returns" to prison. The prison data reports the number of

people released from prison each year, and what percentage of those releases were

released conditionally, unconditionally, or by other reasons (transfers, deaths, etc). [38] In

order to control for differences by state in the use of conditional release, whenever I use

the dependent variable from the prison data I also include a control for the percent of

releases in the previous year that were conditional.

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[36] Ideally I would be able to test the percent of releases in a given year that are later returned to prison. Unfortunately, based on how the data are structured, this is not possible, as we cannot control for what year the person returned to prison was initially released. The individual-level BJS recidivism data, which is not yet available, does report the percent of releases that are returned to prison.
[37] This does *not* include probation violators entering prison on the probated sentence, probation violators are counted as new court commitments.
[38] Included in BJS's definition of conditional release is "discretionary parole, mandatory parole, post-custody probation, and other unspecified conditional releases".

Parole Survey

The US Census Bureau serves as the data collection agent for the BJS Parole

Survey, and collects the information annually from parole agencies. The data includes

information on the year-end and year beginning parole population counts, entries and

exits to parole, and characteristics of the parole population such as maximum

incarceration, gender, race, offense type and supervision status. The survey covers all

persons under parole in a given year.[39] Although this data does not include individuals

that were not released on conditional release, approximately 80% of released prisoners

are released to parole supervision (Hughes and Wilson BJS, 2010), so it accounts for the

majority of people released from prison. Although many states have moved to

determinate sentencing, all states report some amount of conditional release, with 47

states reporting a third or more of their prisoners released as being on "conditional

release."

Within the parole survey, each state reports the number of exits from parole,

along with whether the exit was categorized as a successful or unsuccessful completion.

Unsuccessful completions include returns to incarceration, absconders, and "other"

unsatisfactory completions[40]. An advantage of this data is that it distinguishes between

returns to incarceration from parole that are due to a technical violation versus those that

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[39] The Parole Survey is part of a larger series that contains information on the probation and parole
populations of each state. Parole data is collected, and can be accessed separately, from probation data,
although they are both reported as part of the same series. The current research only uses data from the
parole portion of the series.
[40] According to BJS this includes "parolees discharged from supervision who failed to meet all conditions
of supervision, had their parole sentence rescinded, or had their parole sentence revoked but were not
returned to incarceration because their sentence was immediately reinstated, and other types of
unsatisfactory exits. Includes some early terminations and expirations of sentence."

are returned with a new sentence from a new crime. This is of particular interest as

collateral consequence laws may make it more difficult for a person to comply with the

conditions of release, such as maintaining employment, stable housing or paying child

support. Thus even if collateral consequence laws do not impact rates of recidivism, they

are still of interest if they result in higher rates of return to prison through technical

violations, as these represent a high cost to the states which then must support the prison

population.[41] As a result, I will run analyses based upon the number of all returns to

incarceration, as well as for technical violations and new crimes separately. [42]

> DV 2: Percent of exits from parole for a state that are returned to prison.
>
> DV 3: Percent of exits from parole for a state that are returned to prison
> for a new sentence.
>
> DV 4: Percent of exits from parole for a state that are returned to prison
> for a technical violation.

Summary and Comparison of the BJS Prison and Parole Data

Ultimately, five states were excluded for analysis for the prison data. Descriptives

of the percent of prison admissions that are returns to prison can be found in Table 2.

Two states were excluded because they were unable to distinguish between returns for

new commitments versus for violation of parole. Three additional states, FL, NC and VA

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[41] States differ in how they record violations of conditional release. For instance, some states are more likely to return a person to prison on technical violations rather than pursuing new charges. In addition, some states do not "terminate parole supervision" with a return to prison and thus these would not appear in this dataset, but they would appear in the Prisoners 2009 dataset. This underlines the importance of using combined measures, as well as using data from both datasets.

[42] Originally I also included analyses on the dependent variable "Percent of parole exits that were unsatisfactory" as measured by the parole survey. This variable was more inclusive of unsatisfactory exits to parole that did not result in incarceration. Ultimately however, the models using this variable did not differ from the model of "Percent of parole exits that were returned to incarceration (including new crimes and technical violations) as measured by the parole survey", so in the interest of parsimony it was dropped.

had rates of returns to prison for parole violation that were markedly different from other

states. Examination of their parole policies indicated that these states had either abolished

parole or do not utilize it in a meaningful way. This was consistent with their relatively

low rates of number of people on parole per 100,000 population, as well as their low use

of conditional release.[43] An additional four states were excluded due to missing

information on "percent of releases in 2009 that were conditional" which occurred in

states that reported that their data collection methods changed between 2009 and 2010,

causing discrepancies in their collection.

Descriptives of the dependent variables using the parole data can be found in Table 2. Four states were excluded for analysis from "percent of parole completions that are returned to incarceration" due to being unable to report returns to prison from parole. Ultimately, eight states had to be excluded for "rates of returns to prison for new sentence only" and "rates of returns to prison for revocation only", as those states were not able to distinguish these types of returns. Table 2: Summary Statistics of Measures for Rates of Returns to Prison

Prison Data 2010	*Missing*	Min	Max	Mean	Median
Percent of Prison Admissions that are Parole Violators	5	7%	65%	31%	29%
Parole Data 2010					
Percent of all parole completions that are returned to incarceration	4	9%	68%	32%	31%
Returned for New Sentence Only	8	0%	20%	9%	8%
Returned for Revocation only	8	2%	59%	23%	20%

The dependent variable for the prison data was significantly, positively related to

two of the measures in the parole data, "parole completions returned to incarceration" and

"parole completions returned for revocation only", with a correlation of .481 and .435

respectively. Although weakly positively related to "parole completions returned for new

sentence only" the relationship was not significant. Although the variable "parole

completions returned to incarceration" is related to both "parole completions returned for

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[43] As a check, analyses were also conducted keeping these states in the model. These models did not meaningfully differ from the models when these states were excluded.

revocation only" and "parole completions returned for new sentence only" (as well as

"other" reasons for return to incarceration), the overall measure of "parole completions

returned to incarceration" has a much stronger correlation with returns to incarceration

for revocations (at .849) than to new sentences (.263). This reflects that on average

technical violations make up a higher percentage of all returns to incarceration than do

new sentences. As this is true in the prison data as well, it is not surprising that the prison

data has a higher correlation with technical violations than with new sentences.

Table 3: Correlations Between Dependent Variables

		Percent of Prison Admissions that are Parole Violators	Parole completions that are returned to incarceration	Parole completions returned for New Sentence only
Parole completions that are returned to incarceration	Beta	.481		
	Sig	.001		
	N	44		
Parole completions returned for New Sentence only	Beta	.118	.263	
	Sig	.466	.093	
	N	40	42	
Parole completions returned for Revocation only	Beta	.435	.849	-.143
	Sig	.005	.000	.367
	N	40	42	42

Controls

Several controls will be used in the model in order to ensure proper specification

and avoid bias in estimating the effect of collateral consequence laws. Controls are

drawn from BJS data sources, as well as other national data sources, such as the Bureau

of Labor Statistics and the US census. Summary statistics of the control variables are

reported in Table 4.[44]

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[44] Several other potential controls were investigated, including percent of state population that is male and percent of state population between ages 15 and 24. While gender and age have shown to have an effect on parole revocations at the individual level (Steen et al 2012), at the aggregate level there was little variation

Table 4: Summary Statistics for Control Variables

	Missing	Min	Max	Mean	Median
Prison Data - Controls 2009					
Percent of Prison Releases that are Conditional	5	10%	98%	68%	73%
Imprisonment rate	0	150	881	406	382
Parole Data - Controls 2009					
Percent of parolees released under Discretionary release*	0	0%	100%	52%	66%
Percent of parolees released under Mandatory release*	0	0%	100%	34%	4%
Percent of parolees released unde Other release*	0	0%	100%	14%	2%
Parolee Race - Percent Black	3	2%	72%	32%	33%
Percent Parolees - Violent	9	8%	68%	34%	31%
Percent Parolees - Property	9	7%	55%	22%	24%
Percent Parolees - Drug	9	3%	63%	30%	29%
State Level - Controls 2009					
Unemployment as a percent of the civilian workforce	0	4%	13%	8%	8%
Percent of kids living in single-parent homes	0	16%	39%	27%	27%

*Ultimately these variables were not included in the models as they did not contribute to the models.

As previously discussed, it is necessary to control for the percent of prison releases that are conditional as states that have lower rates of conditional release will have a lower number of individuals eligible to be counted as "returns." State imprisonment rates may be correlated with rates of returns to prison as prior criminal record is one of the strongest predictors of recidivism, (Petersilia, 2003), thus states with higher imprisonment rates may also experience higher rates of returns to prison. High imprisonment rates could also have an effect of eroding the stigma that is attached to the prison record due to a higher number of citizens in the population with prison records (Hirschfield and Piquero, 2010).[45]

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between states on these factors, and they were not related to the dependent variables. As such, they were excluded from the analyses.

[45] This could increase the salience of collateral consequence laws. It is quite possible that employers or housing agents show preferential treatment to applicants with no prison record regardless of the law, however this may be less possible when there is an expanded number of persons in the pool with prison records. Thus, in those circumstances, employers or housing officials may be more likely to ignore prison records unless prevented by law.

As rates of recidivism and of violations are parole vary based on individual characteristics, such as race (Gendreau et al 1996, Lin et al 2010, Spohn and Holleran 2002), information as to the percent of parolees that are black will be included as a control in the analysis. Three states were unable to provide statistics on the racial breakdown of their parole population and were excluded from the analysis. Since some collateral consequence laws are specific to certain offenders, for instance federal bans on welfare assistance to drug offenders, and since different types of offenders may have different likelihoods of returning to prison, I also control for the percent of parolees that are property, violent or drug offenders.[46] Nine states were unable to provide information on the breakdown of parolees by offense type and were excluded from the analysis.

Community level theories argue that high levels of unemployment rates and high rates of single-parent households will negatively impact the ability of a community to regulate their members. In an attempt to capture this relationship, I include state-level controls for unemployment rates and rates of single-parent households.

Due to missing data on the dependent and control variables, the number of states included in the analyses was reduced to 32 in the prison analyses, 39 in the parole analyses predicting all returns to incarceration, and 36 in the parole analyses predicting returns to incarceration for new sentences only and for technical revocations only. The specific states that were excluded for each analyses, as well as the reason for exclusion,

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[46] Initially I also included a control for the percent of parolees released on discretionary parole (as opposed to mandatory parole, a reinstatement of parole, or other). Those who are released to parole through a discretionary process may be less likely to recidivate than those who have mandatory release as they have gone through a screening process which removes the offenders that are most likely to recidivate (Petersilia 2003; Travis 2005). Ultimately however, this variable was very weak and did not contribute to the model, and so was dropped from analyses.

76

can be found in the appendix. Examination of the remaining states does not indicate any

substantial differences with the full sample. Descriptives of each sample can be found in

the appendices.[47]

Analysis

As the dependent variables are continuous, this research will employ ordinary

least squares (OLS) regression analysis, and separate analyses will be run using the

dependent variables from the Prisoners and the Parole data. OLS regression estimates a

relationship between variables by finding the regression line in which the squared

deviations between the observed values and the actual values is the lowest. States will be

scored on the harshness of the collateral consequences of dimensions of laws within each

category, as well as a total cumulative value for all collateral consequence laws.

This research consists of four initial analyses, based upon different dependent

variables. I run this analysis for the laws in 2009 on rates of returns to prison for 2010.

One of the analyses pulls on data from the prison data, while three pull on data from the

parole data. The parole data includes more analyses in order to examine the differences

between new crimes and technical violations.

> Analysis 1: Percent of new admissions to prison that are violations of conditions
> of release (including new crimes and technical violations) as measured by NPS
>
> Analysis 2: Percent of parole exits that were returned to incarceration (including
> new crimes and technical violations) as measured by the parole survey

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[47] Of the full 50 states, 16 are considered to be in the "South" (32%). In the analyses using prison data, 9 of 32 (28%) are in the South. In the analyses predicting percent of parole exits that are returned to incarceration, 14 of 39 (36%) are in the South. In the analyses predicting percent of parole exits that are returned to incarceration for New Sentences Only or for Technical Violations Only, 13 of the 36 (36%) are in the South.

Analysis 3: Percent of parole exits that resulted from new crimes as measured by the parole survey

Analysis 4: Percent of parole exits that resulted from technical parole violations as measured by the parole survey

A preliminary examination of the data indicates that there is significant variation between states on the dependent and independent variables. In 2010, states varied in the percentage of prison admissions that were made up of parole violations from 7% to 65%, with an average and median of 31% and 29% respectively. For the parole data, states varied from 9% to 68% of parole exits being due to returns to incarceration, with an average and median of 32% and 31%.[48] Due to missing data, each analysis includes 42 to 48 states.

As a sensitivity check on the results, I conduct a fixed-effects analysis on the effect of collateral consequence laws between 1994 and 2000, a time period which includes the implementation of these laws in 1996. The TANF restrictions are well suited to this type of analysis as there was significant variation in their use during this time, as it captures the period of their implementation.[49] As a fixed-effects model

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[48] In comparing the two datasets, the Prisoners data tends to have higher numbers of persons entering prison that are parole violators than those that are counted as parole violators in the Parole data. There are several explanations for this, for instance, in the parole data a person may still be under parole supervision even after they have been returned to prison and thus they would appear in the Prisoners data, but would not be counted as an "exit" in the Parole data. In addition, some states may have a more inclusive definition of what is covered by "conditional release" as opposed to what is covered under "parole" in the parole data. However, in some states the trend is reversed, and the number is higher in the parole data than the NPS data. These may reflect instances in which a person's parole is terminated, but the person is returned to incarceration at the local rather than the state level. Again, these differences highlight the importance of using multiple datasets.

[49] Ideally, I would be able to conduct similar analyses on other laws as well. Unfortunately, changes in laws regarding voting and employment do not provide enough variation. Fixed effects analyses on public

analyzes change within states rather than between states, this will ensure greater

confidence that the results are due to the effect of collateral consequence laws, and not

related to any state differences in reimprisonment policy, practice or definition of

"returns to prison".

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housing is not possible as these changes occur with local housing authorities and has not been sufficiently documented.

Chapter 4: Findings

In this chapter I use ordinary least squares regression to examine the relationship between collateral consequence laws and state rates of returns to prison. In my analyses, I expect to see a positive relationship between the harshness of laws and higher rates of returns to prison. All collateral consequence variables have been coded in such a way that higher numbers are associated with "harsher" laws, thus a positive relationship indicates that harsher laws are related to higher rates of returns to prison, whereas a negative relationship indicates that harsher laws are related to lower rates of returns to prison. Given the large number of independent variables, and the relatively small sample size, I have run my analyses for each category of law separately.

It is helpful to first examine a baseline model with only the controls included as it allows us to examine the relationship of the controls to the dependent variable, and will also allow us to compare whether the models including collateral consequence laws improve the explanatory power of the baseline model. It also allows a preliminary look at the similarities between the prison and parole models. I first present the results using the rates of returns to prison from the prison data, and then I examine the relationship using the rates of returns to prison from the parole data. I examine the effects of percent of releases that are conditional,[50] state imprisonment rate, the percent of parolees that are black, percent of parolees whose most serious offense was a violent offense, percent of parolees whose most serious offense was a property offense, percent of parolees whose

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[50] As will be discussed later, this variable is only included in the model using the prison data.

most serious offense was a drug offense, the state unemployment rate, and the percent of households headed by a single-parent. [51]

In the first baseline model using the prison data (see table 5), only the variable measuring "Percent of Releases that are Conditional" obtains statistical significance. Given the small N in this model, as the units of analysis are states rather than individuals, this is not entirely surprising. The model indicates that states with higher rates of conditional release also have higher rates of returns to prison. This is expected as people are only counted as returns to prison if they were on conditional release when they enter prison, thus states that have low rates of conditional release have fewer people eligible to be counted as a "return to prison." This relationship is fairly strong with a standardized coefficient of .444.

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[51] I also ran analyses controlling for the percent of parolees that were released on discretionary release. The inclusion of the variable resulted in a decrease in the adjusted R-square and ultimately was not included in the model.

Table 5: Estimated Effects of Controls on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.425 *	.182	.444	2.336
Imprisonment rate	-.044	.029	-.453	-1.510
Parolee Race - Percent Black	-.131	.236	-.166	-.555
Percent Parolees - Violent	-.084	.264	-.089	-.318
Percent Parolees - Property	.071	.400	.049	.178
Percent Parolees - Drug	.111	.291	.099	.381
Unemployment Rate	1.191	1.810	.158	.658
Single-Parent Homes	.692	1.166	.217	.594
R-square: .308				
N=32				
p < .05; p < .01; p < .001				

States with high imprisonments rates are associated with lower rates of returns to prison. While states that rely heavily on imprisonment may be more likely to also revoke parole, it appears that they maintain a high proportion of new offenders. Although this relationship fails to reach statistical significance, it is moderately strong at -.453. Interestingly, states with a higher proportion of black parolees tend to have slightly *lower* rates of returns to prison. Although this relationship is fairly weak, with a standardized coefficient of -.166, the negative relationship is surprising as at the individual level blacks are more likely to be returned to prison from parole. States with a higher proportion of parolees from violent crimes have slightly lower rates of returns to prison, whereas states with high rates of parolees for property or drug crimes are more likely to have slightly higher rates of returns to prison, although these relationships are very weak with standardized coefficients of -.089, .049 and .099 respectively. Finally states with high rates of unemployment, as well as high rates of single-parent headed families, have

higher rates of returns to prison with standardized coefficients of .158 and .217 respectively. This is consistent with the idea that higher employment and strong family networks can work to provide supervision in the community, and thus prevent people from returning to crime. The R-square for the model is .308.

When examining the same baseline model using dependent variables from the parole data (see table 6), we see similar results. This model does not include the variable "percent of releases that are conditional." As the parole data uses all persons on parole in the state as the base number, there is not the concern as with the prison data that lower rates of returns to prison is a reflection of lower rates of conditional release. In this data I examine three potential outcomes; returned to incarceration, retuned to incarceration for a new sentence, and returned to incarceration for a technical violation.[52] It must be noted that these three measures are interdependent as returns to prison for new sentences and for technical violations make up a large percentage of all returns to incarceration.[53]

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[52] **Coding of Dependent Variables for Parole**
Parole completions that are returned to incarceration: The sum of all four returns to incarceration (new commitments, revocations, receive treatment, and other) divided by total known exits (successful completions, all four returns to incarceration, as well as absconder and "other unsatisfactory")
Parole completions returned for New Sentence only: Returns to incarceration for new commitments divided by the total typical exits (successful completions, incarcerated for new commitments, and incarcerated for revocation)
Parole completions returned for Revocation only: Returns to incarceration for revocations divided by the total typical exits (successful completions, incarcerated for new commitments, and incarcerated for revocation)
[53] As a check on the data, originally a fourth dependent variable was also included in the analyses:
All unsatisfactory parole completions: The sum of all four returns to incarceration (new commitments, revocations, receive treatment, and other) as well as other unsatisfactory ("absconder" and "other unsatisfactory") divided by total known exits (successful completions, all four returns to incarceration, as well as absconder and "other unsatisfactory")
The two dependent variables "all unsatisfactory parole completions" and "parole completions that are returned to incarceration" were correlated with one another at .88, and the results from the model "all unsatisfactory parole completions" mirrored "parole completions that are returned to incarceration", and so it was not included for this chapter. While running the analysis using the alternative dependent variable was a check on whether there was a differential impact by including "absconders" and "other unsatisfactory" ultimately it was determined that there was no significant difference.

83

Returns to incarceration for technical violations have a particularly large effect on the total number of parole completions that are returned to incarceration. On average, roughly two-thirds of returns to incarceration are due to technical violations. These two variables, "all returns to incarceration" and "returns to incarceration for technical violations" are correlated at .849, as contrasted by a correlation of .263 between "all returns to incarceration" and "returns to incarceration for a new sentence".[54]

Table 6: Estimated Effects of Controls on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.029	(.021)	-.319	-1.368	.015	(.011)	.357	1.382	-.034	(.020)	-.350	-1.667
Parolee Race - Percent Black	-.224	(.135)	-.369	-1.665	.045	(.071)	.161	.633	-.209	(.133)	-.325	-1.570
Percent Parolees - Violent	.081	(.216)	.102	.374	.084	(.116)	.224	.725	.084	(.218)	.096	.384
Percent Parolees - Property	.335	(.288)	.250	1.163	.132	(.151)	.223	.871	.312	(.284)	.228	1.099
Percent Parolees - Drug	.241	(.231)	.260	1.046	-.043	(.123)	-.091	-.347	.408	(.230)	.377	1.775
Unemployment Rate	.375	(1.266)	.058	.296	-.311	(.655)	-.105	-.475	1.395	(1.228)	.204	1.136
Single-Parent Homes	-.074	(.813)	-.026	-.090	-.588	(.442)	-.413	-1.331	-.597	(.828)	-.181	-.721
R-square:	0.314				0.157				0.445			
N	39				36				36			

p < .05;   p < .01;   p < .001

None of the tested control variables are statistically significant across the three models, although again this is likely due to the small number of cases. What is perhaps most interesting is that it appears that the controls have different effects based on whether the person is returned for a new sentence or for a technical violation. Of the seven controls included, four have different effects on whether the model predicts returns for new sentences or for technical violations. (Not surprisingly, given that returns to prison for technical violations make up two-thirds of all returns to incarceration, the model predicting "all returns to incarceration" mirrors the relationships in the model "returns for

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[54] "Returns to incarceration for technical violations" is actually negatively correlated with ""returns to incarceration for a new sentence" at -.143, which hints that different processes may be at work for returns to prison for technical violations versus for new sentences.

technical violations".) None of the models exactly mirrors the relationships found in the prison data, although the "returns for technical violations" and "all returns to incarceration" models more closely mirror the prison model with relationships in the same direction for five of the seven controls. Given that the prison data does not distinguish between returns to prison for new crimes versus for technical violations, and that roughly two-thirds of returns to incarceration are due to technical violations, it makes sense the relationship observed in the prison data would more closely mirror the relationship observed in the parole data for the models of "all returns to incarceration" and "returns for technical violation".

In the parole models, the effect of a state's imprisonment rate is negative, consistent with the prison data, in the "all returns to incarceration", and the "returns to incarceration for technical violations" models, but has a positive relationship for "returns to incarceration for a new sentence". These relationships are moderate in strength with an absolute magnitude for the standardized coefficients of roughly about .3 in each model. The percent black of the parolee population has a negative effect for "all returns to incarceration", and "returns to incarceration for technical violations" (with standardized coefficients of -.369 and -.325 respectively), however it has a positive effect for returns for a new sentence, with a standardized coefficient of .161. Although impossible to test using aggregate data, this suggests the possibility that blacks may be more likely to be returned to incarceration under a new sentence, than for a technical violation. This explanation is consistent with findings by Lin et al 2010, which find that blacks have higher odds than whites of having parole revoked by the parole board following a parole

officer filing a revocation complaint for criminal violations, but not for technical violations.

Contrary to the prison data, having a high percent of parolees for violent crimes indicates higher rates of returns to prison across all three models, with standardized coefficients of .201, .224, and .096. This finding is consistent with previous research indicating that parolees of violent crime are more likely to be returned for both new crimes and technical violations (Lin et al 2010, Steen et al 2012). Consistent with the prison data, high rates of property parolees is weakly to moderately related to higher rates of returns to prison across all three models, while high rates of drug parolees have higher rates of returns to prison for in the "all returns to incarceration", and the "returns to incarceration for technical violations" models. Percent of parolees that are drug offenders may be related to higher returns to prison for technical violations, but lower rates of returns for new sentences, due to drug testing of parolees. People on parole may be both more likely to fail a drug test, and also more likely to have a parole officer file a failed drug test as a technical violations as it is consistent with the original offense (Steen et al 2012). This would result in a lower rate of return to prison for new sentences as drug offenders may be more likely to commit drug offenses rather than other crimes (which are more likely to be processed as a technical violation) and the higher rate of returns to prison for technical violations could leave drug offenders with less time in the community to commit a new crime.

Consistent with the prison data, states with high unemployment rates also have higher rates of returns to prison for "all returns to incarceration" and "returns for technical violations", however, high unemployment rates indicate lower rates of returns

86

to prison for new sentences. Interestingly, and in contrast to the prison data, in these models states with higher levels of single-parent headed families have lower rates of returns to prison across all three models. This relationship is moderately strong with a standardized coefficient of .413 for returns for new sentences, and of .181 for returns for technical violations. This is in contrast to the predicted direction as we would expect that higher levels of single-parent headed households would reduce the ability of areas to monitor and regulate their surroundings, leading to higher rates of returns to imprisonment.

The R-squares for these models range from .157 to .445, with the highest R-square for the model predicting rates of returns to prison for technical violations, and the lowest for the model predicting rates of returns to prison for new sentences. It appears that the models do a better job explaining returns for technical violation, than returns to incarceration for new sentences.

In sum, a preliminary look at these models, without including measures for collateral consequence laws, indicates that there are potentially different processes at work for explaining returns to incarceration for new sentences versus for technical violations. There are also variations between the effects of the control variables between the prison and parole data. While the prison data most closely resembles the parole data measuring technical violations, two of the seven control variables have different relationships between those two models. Interestingly, even factors which have a moderately strong relationship in the prison data, as well as the "technical violations" model (such as the imprisonment rate or the percent of parolees that are black), have a different relationship for the "returns to incarceration for new sentences" model. The

model predicting returns to prison from parole for technical violations had the highest R-square, at .445, followed by the model using the prison data which had an R-square of .439. The R-square was lowest for returns to prison from parole for new sentences, with an R-square of .157. It must be noted however, that apart from the impact of "percent of releases that are conditional" in the prison model, none of the controls reached statistical significance, and thus are not significantly different from zero.

Voting

The first collateral consequence model tests the effect of voting restrictions. I expect that voting laws should have a positive, though relatively weak relationship to rates of returns to prison. Extending the right to vote has been argued as a mechanism by which people can be reintegrated. The right to vote can encourage people to be involved in civic engagement, and thus re-invest them in the community. By contrast, excluding people from voting can reinforce the notion that they will never be part of society, thus freeing them to reengage in criminal activity. However, as the effect of the law does not impact a person's day to day life, and only periodically affects them during elections, I would expect the relationship to be relatively weak.

Contrary to expectations, harsher voting restrictions are associated with *lower* rates of returns to prison in the prison model, as well as across the three parole models (see table 7 and 8). The relationship between voting and rates of returns to prison is fairly weak, the highest standardized coefficient is -.168, and does not approach statistical significance, but it is consistently negative across the four models.

Table 7: Estimated Effects of Voting Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators				
	b		(SE)	Beta	t
Percent of Releases that are Conditional	.392	*	.190	.410	2.068
Imprisonment rate	-.044		.029	-.453	-1.490
Parolee Race - Percent Black	-.145		.239	-.184	-.606
Percent Parolees - Violent	-.078		.267	-.083	-.291
Percent Parolees - Property	.052		.406	.035	.128
Percent Parolees - Drug	.163		.303	.145	.537
Unemployment Rate	1.173		1.830	.156	.641
Single-Parent Homes	.819		1.193	.256	.687
CC Voting Laws	-1.646		2.343	-.141	-.702
R-square: .323					
N=32					
p < .05; p < .01; p < .001					

That voting laws are negatively related to rates of returns to prison is surprising given that there is no reason to suspect that restricting a person's right to vote would make them more likely to abide by their conditions of release or less likely to commit additional crime. It is possible that voting laws are correlated with a spurious, unmeasured variable that is causing this relationship. The direction of the control variable relationships stayed the same, as did their relative magnitude, although as with the baseline model, apart from percent of releases that are conditional in the prison model, they did not achieve statistical significance.

Table 8: Estimated Effects of Voting Laws on Rates of Unsuccessful Parole using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.028	(.021)	-.314	-1.343	.016	.011	.369	1.421	-.034	.021	-.346	-1.621
Parolee Race - Percent Black	-.211	(.136)	-.346	-1.550	.052	.072	.186	.722	-.204	.136	-.317	-1.499
Percent Parolees - Violent	.125	(.221)	.158	.564	.108	.120	.287	.899	.100	.227	.116	.442
Percent Parolees - Property	.361	(.290)	.269	1.244	.144	.153	.244	.946	.321	.289	.235	1.108
Percent Parolees - Drug	.297	(.239)	.320	1.244	-.017	.127	-.036	-.132	.427	.240	.395	1.775
Unemployment Rate	.137	(1.294)	.021	.106	-.409	.667	-.138	-.612	1.325	1.266	.194	1.047
Single-Parent Homes	-.002	(.818)	-.001	-.003	-.554	.446	-.388	-1.243	-.572	.845	-.174	-.677
CC Voting Laws	-1.685	(1.804)	-.156	-.934	-.830	.957	-.168	-.867	-.599	1.815	-.052	-.330
R-square:	0.333				0.180				0.447			
N	39				36				36			
p < .05; p < .01; p < .001												

The R-squares indicates only a very minor improvement in the models compared to the baseline model. The R-square for returns to prison for technical violations barely increased – from .445 to .447, and the increase for new sentences was only from .157 in the baseline model to .180 in the model including collateral consequences for voting.

Access to Records

In examining the effect of collateral consequence laws related to access to records, I test the effect of six collateral consequence laws in a single model[55]. I hypothesize that in areas where employers have greater access to criminal records, that it will be harder for people leaving prison to find work. This will subsequently make it more difficult to abide by the terms of release if they are required to maintain steady employment, and will also increase the chances of parolees returning to criminal activity. I test the effect of six laws, whether the state provides access to criminal records online,

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[55] Originally another law related to access to records was included – whether or not the state has a statute specifying a punishment (civil or criminal) for a person that violates laws related to access to records. This variable was eventually dropped from the analysis. There is no indication in the literature that this process has actually been used in any state. The variable did not improve the model and so was eventually dropped.

whether arrest records expire after a certain amount of time, whether conviction records expire after a certain amount of time, whether arrest records are available to the general public or to a limited group, whether arrest records can be expunged, and whether conviction records can be expunged.[56] I looked at correlations between the laws related to access to records, and I also examined the Variance Inflation Factors to ensure there was no multi-collinearity among the variables.

Access to records online has a positive, albeit somewhat weak, effect in three of the four models, indicating that states that have greater access to criminal records online, generally also have higher rates of returns to prison (see tables 9 and 10). The one exception is the parole data which models returns to prison for technical violations, in which online records have a negative effect. The strength of the relationship is strongest in the model predicting new sentences, with a standardized coefficient of .177, and is weaker in the model predicting all returns to incarceration from parole (.032) and in the prison data (.038). The weaker relationship in the prison data, and in the "all returns to incarceration" model, is likely a reflection of the differential effect found in technical violations, which makes a large proportion of all returns. Technical violations have a standardized coefficient of -.142, indicating that states with online access to records have lower rates of returns to prison for technical violations. Although this is counter to the original hypothesis, one potential explanation is that parole officers may employ greater discretion in deciding to return a person for a technical violation versus a new sentence. Parole officers may be more sympathetic for technical violations, particularly if the

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[56] The variables measuring whether records expire differs from expungement in that expiration occurs automatically, whereas expungement is a process in which the person must apply to have their records erased.

violation is for failure to maintain steady employment if there are statutes in place that explicitly increase the difficulty of obtaining employment.

Whether a state has statutes in which records of arrests not leading to conviction are automatically removed from the records has mixed results, with the expected positive relationship in only two of the four models (in the prison model, as well as in the model for technical violations only). This effect is stronger in the prison model (standardized coefficient of .271) than for technical violations (.092), and indicates that states in which records of arrests not leading to conviction are automatically removed from the records have lower rates of admissions to prison for violations of conditional release, as well as lower rates of returns to prison for technical violations. However states in which records of arrests not leading to conviction are automatically removed from criminal records have somewhat higher rates of returns to prison for new sentences, with a standardized coefficient of -.215. This is contrary to prediction and is surprising as we would expect that removing an arrest from a criminal record would make it easier for a person to reintegrate, and thus less likely to commit an additional offense.

Table 9: Estimated Effects of Access to Criminal Records Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.553 *	.223	.579	2.479
Imprisonment rate	-.057	.036	-.588	-1.590
Parolee Race - Percent Black	-.274	.285	-.349	-.961
Percent Parolees - Violent	-.171	.306	-.182	-.558
Percent Parolees - Property	.087	.465	.060	.187
Percent Parolees - Drug	-.009	.378	-.008	-.025
Unemployment Rate	.083	2.466	.011	.034
Single-Parent Homes	1.199	1.469	.375	.816
CC Online Records	1.168	9.561	.038	.122
CC Arrest Records expire	7.768	6.877	.271	1.130
CC Conviction Records expire	-5.438	10.461	-.126	-.520
CC Who has access to Records	3.242	5.373	.235	.603
CC Arrest Records can be expunged	-15.592	13.188	-.360	-1.182
CC Conviction Records can be expunged	-3.521	9.264	-.107	-.380
R-square: .402				
N=32				
p < .05; p < .01; p < .001				

While automatically removing arrests not leading to conviction has a negative effect on new sentences, it appears that automatically removing (certain) convictions from the record has a positive effect for new sentences, but a negative effect for the other three models. Thus states that automatically remove certain convictions have higher rates of returns to prison for new sentences (with a standardized coefficient of .211). The prison data indicates a negative relationship (standardized coefficient of -.126) as does the overall parole data (standardized coefficient of -.088) and returns for technical violation (standardized coefficient of -.227). As was mentioned previously, this could indicate a certain amount of sympathy among parole officers, and a certain reluctance to revoke parole when laws make finding employment more difficult.

Table 10: Estimated Effects of Access to Criminal Records Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.024	.025	-.272	-.990	.019	.013	.460	1.515	-.031	.025	-.318	-1.257
Parolee Race - Percent Black	-.209	.152	-.343	-1.370	.066	.077	.239	.865	-.213	.147	-.332	-1.446
Percent Parolees - Violent	-.017	.266	-.022	-.064	.123	.136	.327	.905	-.042	.261	-.048	-.160
Percent Parolees - Property	.273	.345	.204	.789	.166	.176	.280	.942	.160	.338	.117	.474
Percent Parolees - Drug	.220	.277	.238	.796	.041	.140	.088	.295	.310	.270	.287	1.149
Unemployment Rate	.616	1.756	.095	.351	.314	.873	.106	.360	1.299	1.679	.190	.774
Single-Parent Homes	-.186	.964	-.065	-.192	-.763	.500	-.535	-1.527	-.483	.961	-.147	-.503
CC Online Records	.880	7.544	.032	.117	2.290	4.407	.177	.520	-4.243	8.476	-.142	-.501
CC Arrest Records expire	-.474	5.138	-.018	-.092	-2.559	2.607	-.216	-.981	2.516	5.014	.092	.502
CC Conviction Records expire	-3.678	9.288	-.088	-.396	3.882	4.601	.211	.844	-9.640	8.849	-.227	-1.089
CC Who has access to Records	-2.500	3.550	-.201	-.704	-2.577	1.954	-.451	-1.319	-.309	3.758	-.023	-.082
CC Arrest Records can be expunged	-2.631	8.942	-.066	-.294	4.499	4.505	.251	.999	-3.511	8.664	-.085	-.405
CC Conviction Records can be expunged	3.716	6.189	.135	.600	2.101	3.127	.166	.672	1.796	6.015	.061	.299
R-square:	0.345				0.271				0.494			
N	39				36				36			

p < .05;   p < .01;   p < .001

States that allow greater access to records, for instance having records available to the general public, have higher rates of returns to prison in the prison data, but have lower rates of returns to prison in the parole data. That is, in the prison data states that allow greater access to public records, for instance, in which the general public has access to criminal records, have higher rates of returns to prison (with a standardized coefficient of .235). This is the expected relationship, as greater access to criminal records may make a person more likely to be discriminated against in a job search, and may also lead to feeling alienated from the community if former offenders believe that community members are aware of their criminal records, thus preventing the person from reintegrating into the community. However, the relationship is reversed in all the models using the parole data, indicating that states that allow more widespread access to criminal records have lower rates of returns to prison for both new sentences as well as for technical revocations. This relationship is somewhat strong for new sentences (standardized coefficient of .451) but substantially weaker for technical violations (.023).

While leniency by parole officers could potentially explain lower rates of technical violations, it would not explain the returns to prison for new sentences.

States which allow arrest records to be expunged, a process in which a person must apply to have the record removed as opposed to having it automatically expire, have higher rates of returns to prison in three of the four models, with the exception for new sentences only. Thus while it appears that states which do not allow a process to expunge arrests not leading to conviction have higher rates of returns to prison for new sentences (with a standardized coefficient of .251), they have lower rates of returns to prison in the prison data (standardized coefficient of -.360), as well as a weak negative relationship for the overall exits from parole that are returns to incarceration (standardized coefficient of -.066) and for technical violations (standardized coefficient of -.085). It is possible that these negative relationships are again a reflection of leniency by parole officers, but that this leniency does not extend to new crimes, explaining why the relationship for new sentences is in the expected direction.

States which allow conviction records to be expunged have the expected relationship in the parole data, but a weak, negative relationship in the prison data (standardized coefficient of -.107). Thus states which allow people to have certain convictions removed from their record have slightly lower rates of exits from parole due to returns to prison, although the relationship is weak with a magnitude ranging from .061 for technical violations to .166 for new sentences.

The effect of the control variables changed somewhat between the baseline models and the models which included collateral consequence laws related to access to criminal records. In the prison model, the magnitude of the effect of percent of parolees

that are black increased from a standardized coefficient of -.166 in the baseline model, to

-.349 in the new model, although it still failed to reach statistical significance. The effect

of the percent of parolees that are drug offenders changed direction from a weak positive

effect (standardized coefficient of .099) to a very weak negative effect (standardized

coefficient of -.008). The effect of percent of parolees that are violent offenders changed

direction in both the overall parole model, as well as the technical violation model, from

a weak positive effect to a very weak negative effect. In the model predicting rates of

returns to crime for new sentences, both percent of parolees that are drug offenders, as

well as unemployment rate both changed direction, from weak negative effects, to weak

positive effects. Given that these variables had weak relationships initially and were not

statistically significant, it is not surprising that they changed direction.

Access to criminal records was hypothesized to have a moderately strong positive

relationship to rates of returns to prisons. I expected this relationship to hold for both new

sentences as well as for technical violations, and as criminal records can have an impact

on a person's day to day life through their effect on employment and interactions within

the community, I expected this relationship to be moderately strong. However, findings

were mixed, both between the prison versus the parole data, as well as within the

different measures used in the parole data. [57] Interestingly, the models indicate that

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[57] In response to criticism that laws that could not be categorized as binary would be better categorized
using dummy variables, I recoded one of the laws, access to records online, to test the difference in coding
the data using this method. The advantage of dummy coding is that it avoids the assumption that the
middle category, (in this case states in which only the records of people on parole, probation or currently
incarcerated), are evenly spaced with the other categories (in this case states in which records are not
available online versus those in which records are available online). Interestingly, when coded in this
way, states which post records of parole, probationers and currently incarcerated individuals only, have a
significant, negative relationship. This could support the idea that parole officers are more sympathetic, and
therefore more lenient, with parolees when these laws are in place although it should be noted that the

different processes may be at work for technical violations versus returns for new sentences. Returns for new sentences were slightly more likely to have relationships in the expected direction (four of the six relationship) than returns to prison for technical violations (two of the six relationships). While negative relationships between rates of returns to prison for technical violations and collateral consequence laws related to access to criminal records could potentially be explained by more leniency by parole officers in states which formalize laws giving greater access to criminal records, it is more difficult to find an explanation as to why laws which allow arrest records to expire, or which prevent widespread public access to records would result in lower rates of returns to prison for new sentences. A limitation of the data is that there is no measure of the employment rates of parolees, and therefore I am unable to test whether access to records impacts employment as expected. The R-square with the greatest increase was in the model predicting returns to prison for new sentences, and was .271 in the model including measures of collateral consequence laws related to access to records, compared to .157 in the baseline model. The prison model saw an increase in the R-square from .308 in the baseline model to .402 when measures of access to criminal records are included. The increase in the R-square for the model predicting technical violations was more modest, at .494 in the new model, compared to .445 in the baseline model.

Employment

Collateral consequence laws related to employment include four laws; whether employers are allowed to consider arrests not leading to conviction in hiring decisions,

relationship is strongest for returns for new sentences. However, this does indicate that future work with this data should incorporate dummy coding of these variables.

whether there are standards in place to prevent hiring discrimination of former offenders by public companies, whether there are standards in place to prevent hiring discrimination of former offenders by public companies, and whether the state offers a "Certificate of Rehabilitation" or something comparable to indicate that a person has officially been rehabilitated.[58] These laws are expected to be positively related to returns to prison. Allowing employers to consider arrests in hiring, lack of standards preventing hiring discrimination against former offenders in private or public employment, as well as not offering any form to officially recognize rehabilitation attempts, are all expected to make finding employment more difficult, leading to higher rates of returns to prison for technical violations (particularly for violated conditions requiring steady employment) as well as for new sentences. Correlations between the laws related to employment, as well as Variance Inflation Factors, indicated that there was no concern with multi-collinearity among the variables.

Results on these laws indicate mixed findings. States in which employers were allowed to consider arrests not leading to conviction were associated with lower rates of returns to prison in all four models, contrary to expectations (see tables 11 and 12). This negative relationship was strongest for returns to prison for new sentences, having a standardized coefficient of -.370, and weakest for returns to prison for technical violations, which had a standardized coefficient of -.052 (see table 12). This is surprising

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[58] Originally I also coded whether the law allowed employers to ask about arrests (but not "consider" them) and whether the state had restrictions on home health care workers. Ultimately I dropped both of these variables. There was a strong overlap between states that were allowed to "ask" about arrests not leading to conviction and whether they were allowed to "consider" those arrests. There was no indication of a substantive difference between those two variables. Also, as the number of people employed in "home health care" is relatively small, I ultimately dropped this variable as well given that the numbers of individuals affected by this law are relatively small compared to the entire population of re-entering individuals.

and indicates that states which allow employers to consider arrests not leading to conviction in hiring decisions have lower rates of returns to prison. Once again, leniency by parole officers could explain a negative relationship between allowing employers to consider arrests and rates of returns to prison for technical violations. While it is more difficult to explain a negative relationship between allowing employers to consider arrests and rates of returns to prison for new sentences, it is possible that these laws allow employers to better screen potential employees.

Table 11: Estimated Effects of Employment Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables				
	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.311	.215	.325	1.448
Imprisonment rate	-.028	.037	-.288	-.760
Parolee Race - Percent Black	-.167	.257	-.213	-.651
Percent Parolees - Violent	-.107	.287	-.114	-.374
Percent Parolees - Property	-.156	.461	-.106	-.338
Percent Parolees - Drug	-.008	.325	-.007	-.024
Unemployment Rate	.963	2.004	.128	.481
Single-Parent Homes	.386	1.358	.121	.284
CC Allowed to consider arrests	-12.467	10.660	-.341	-1.170
CC Standards in place for public employers	-1.901	7.166	-.064	-.265
CC Standards in place for private employers	10.531	10.340	.288	1.018
CC Certificate of Rehabilitation available	6.602	13.046	.137	.506
R-square: .374				
N=32				

Having standards in place for public employers to protect potential employees from discrimination had a differential effect for returns to prison for new sentences versus for technical violations. States which did *not* have standards in place for public employers had higher rates of returns to prison for new sentences (with a standardized

coefficient of .141), providing support for the idea that in the absence of these laws

former offenders had a more difficult time finding employment, and were perhaps more

likely to return to criminal activity. The effect was reversed for returns for technical

violations, in which it appeared that a lack of standards preventing discrimination by

public employers saw a reduction in returns to prison for technical violations

(standardized coefficient of -.142). As discussed with previous laws, it is possible that

this could indicate parole officers are being more lenient regarding technical violations

when there are laws in place which make it more difficult to abide by the terms of

release. The effects of these laws were very weak in the prison data (standardized

coefficient of -.064) and for the percent of all parole violators exiting due to returns to

incarceration (standardized coefficient of .077) which is likely a result of these measures

being made up of both technical violations and new sentences, which appear to have

opposing effects.

Table 12: Estimated Effects of Employment Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.021	.023	-.234	-.934	.020	.011	.469	1.809	-.034	.021	-.348	-1.586
Parolee Race - Percent Black	-.250	.139	-.411	-1.801	.040	.068	.143	.582	-.177	.134	-.275	-1.321
Percent Parolees - Violent	.118	.221	.148	.532	.095	.110	.252	.859	.108	.215	.124	.502
Percent Parolees - Property	.388	.330	.290	1.175	.097	.158	.164	.613	.387	.309	.283	1.251
Percent Parolees - Drug	.176	.239	.190	.738	-.110	.120	-.234	-.910	.303	.235	.281	1.291
Unemployment Rate	.298	1.321	.046	.226	-.343	.636	-.116	-.538	1.124	1.242	.165	.905
Single-Parent Homes	-.148	.832	-.052	-.178	-.785	.428	-.550	-1.832	-.921	.836	-.280	-1.102
CC Allowed to consider arrests	-8.303	6.929	-.237	-1.198	-6.181	3.403	-.370	-1.816	-2.017	6.642	-.052	-.304
CC Standards in place for public employers	1.934	4.914	.077	.394	1.625	2.387	.141	.681	-3.781	4.658	-.142	-.812
CC Standards in place for private employers	.798	8.079	.023	.099	4.117	4.049	.247	1.017	.151	7.903	.004	.019
CC Certificate of Rehabilitation available	-4.669	7.567	-.108	-.617	-3.498	4.307	-.164	-.812	-13.066	8.406	-.266	-1.554
R-square:	0.383				0.353				0.537			
N	39				36				36			

Standards preventing *private* employers from discriminating had a consistently

positive effect across the four models, although the effect was the strongest for returns for

new sentences (standardized coefficient of.247) and weakest for returns for technical violations (.004). This is consistent with the hypothesis that states with standards in place to prevent private employers from discriminating against former offenders may then employ more former employers and have lower rates of returns to prison for new sentences, as well as for technical violations. The very weak effect for technical violations is consistent with the idea that the negative effect of a lack of standards to prevent discrimination may be offset by sympathetic parole officers.

Finally, the availability of a "Certificate of Rehabilitation," or something comparable, was associated with lower rates of returns to prison in the prison data, consistent with expectations, but higher rates of returns to prison in the parole data. Certificates of Rehabilitation have met with enthusiasm as a way to placate both sides of the debate – leaving criminal access to records intact, but also giving former offenders a mechanism by which to indicate to employers that the former offender has changed. The negative relationship is strongest for returns to prison for technical violations (with a standardized coefficient of -.266), which could once again be explained as parole officers being more lenient regarding technical violations when there is no mechanism for a person to indicate a reformed status, however the negative relationship persists, although more weakly, for returns to prison for a new sentence (standardized coefficient of -.164). One potential explanation is that the presence of Certificates of Rehabilitation may make it *more* difficult for some returning offenders to obtain work as employers may only be willing to hire former offenders that have a Certificate of Rehabilitation, thus making offenders that do not have one more vulnerable to employee discrimination. It should be noted however, that the prison data does indicate a positive, (although weak with a

101

standardized coefficient of .137) relationship, indicated that states that offer a Certificate of Rehabilitation (or something comparable) have lower rates of returns to prison.

The impact of the control variables stayed largely the same as in the baseline model, although there were a few exceptions. The percent of parolees that are property offenders changed from a very weak positive relationship in the baseline model using prison data to a very weak negative relationship in the prison model once employment variables were added, however this is not surprising given that both of these relationships are very weak, and that neither achieved statistical significance. The effect of percent of parolees that are drug offenders increased in magnitude in the model predicting new sentences from a standardized coefficient of -.091 in the baseline model to a standardized coefficient of -.234, whereas the effect of single parent homes increased in magnitude from a standardized coefficient of -.181 in the baseline model to a standardized coefficient of -.280.

I expected laws restricting access to employment would have a moderately strong effect on rates of returns to prison as these laws affect the day-to-day living of former offenders by restricting access to work. I expected that harsher restrictions on employment would be accompanied by higher rates of returns to prison for both new sentences, based on the idea that persons that do not have stable employment may be more likely to return to crime, as well as for technical violations, as people without stable employment may be more likely to be in violation of conditions of release, such as maintaining steady employment. However, the data tells a different story, with roughly half of the relationships in the opposite direction as predicted. Most particularly, allowing employers to consider arrests was negative across all models, and the availability of

Certificates of Rehabilitation was negative in the parole data. One potential concern is that this study is not able to look at the intermediary effect of employment. These models are based upon the assumption that states that allow employers to consider arrest, that do not have standards in place to prevent discrimination by employees, and that do not offer Certificates of Rehabilitation will have lower rates of employment for former offenders, and subsequently will have higher rates of returns of prison. However, as this data is not able to measure the percent of parolees with steady employment, we are unable to examine whether these laws have the expected impact on employment.

Interestingly, these laws had a generally negative effect on rates of returns to prison for technical violations (the only law without a negative relationship has a magnitude of .004). This could offers the intriguing possibility that while former offenders could face employment difficulties with or without formalized laws, that parole officers may be more sympathetic in states in which there are laws documenting the barriers faced by former offenders.

Public Housing

One area of concern for many people leaving prison is finding housing. Due to federal legislation targeted at reducing drug markets in public housing, public housing authorities were encouraged to adopt standards which would evict people suspected of drug offenses from public housing, and would permanently bar drug offenders from public housing. However, it is possible that preventing returning offenders from public housing could make reintegration more difficult, increasing the likelihood of returning to crime. Also, as many states include maintaining stable housing as a condition of release, preventing former offenders from living with family in public housing or from applying

for public housing, could increase the likelihood of being returned to prison for a technical violation if that person is unable to find alternative housing arrangements. These laws could have a strong effect given that housing affects a person's day to day living, however this effect is likely to be tempered as these restrictions apply only to drug offenders.

An important caveat to note when examining the relationship between restrictions on public housing and rates of returns to prison, is that this data reflects the practices of the most populous county in the state, and that public housing policies can differ across the state. Thus while it is expected that a high proportion of returning offenders will be subject to these practices, the data does not account for differences within the state. The practices considered are whether the Public Housing Authority (PHA) considers arrests not leading to conviction in their housing decisions, whether decisions are individualized, and whether there are time limits on how long offenses will be considered.[59]

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[59] Correlations between these factors, as well as Variance Inflation Factors, indicated that there was no concern with multi-collinearity among these three variables.

Table 13: Estimated Effects of Housing Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.448 *	.192	.469	2.342
Imprisonment rate	-.044	.030	-.451	-1.447
Parolee Race - Percent Black	-.218	.258	-.277	-.845
Percent Parolees - Violent	-.265	.301	-.282	-.881
Percent Parolees - Property	-.135	.441	-.093	-.307
Percent Parolees - Drug	.002	.305	.002	.008
Unemployment Rate	1.762	1.859	.234	.948
Single-Parent Homes	.563	1.228	.176	.458
CC Housing decisions consider arrests	-9.622	6.257	-.334	-1.538
CC Housing decisions are individualized	.985	12.139	.017	.081
CC Housing decisions put time limits on	-.784	3.141	-.052	-.249
R-square: .396				
N=32				
p < .05; p < .01; p < .001				

When first looking at the effect of these laws based on the prison data, the results indicate that contrary to prediction, harsher housing laws are associated with lower rates of returns to prison, although the relationship is generally weak (see table 13). Public Housing Authorities (PHA) that consider arrests not leading to conviction, and which do not have time limits on crimes that they will consider in the decision making process are associated with lower rates of returns to prison, while making individualized decisions is barely positive. This effect is very weak for individualized housing decisions (with a standardized coefficient of .017) and time limits on offenses (with a standardized coefficient of -.052), whereas the effect of considering arrests is slightly stronger with a standardized coefficient of -.334. This indicates that states in which the PHA of the most populous county is allowed to consider and reject applications for housing based on arrests for drug offenses that did not lead to conviction have a lower rate of return to

prison. This is surprising as I expected that allowing the PHA to consider arrests, having across-the-board exclusionary decisions instead of individualized decisions, and not having time limits on offenses would lead to more difficulty in obtaining housing, which would subsequently lead to higher rates of returns to prison for new sentences as well as technical violations.

Table 14: Estimated Effects of Housing Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.031	.022	-.343	-1.426	.015	.011	.367	1.378	-.038	.021	-.386	-1.810
Parolee Race - Percent Black	-.222	.159	-.365	-1.399	.063	.083	.228	.763	-.181	.154	-.283	-1.179
Percent Parolees - Violent	.067	.251	.084	.266	.151	.141	.403	1.075	.050	.261	.058	.192
Percent Parolees - Property	.406	.348	.303	1.168	.220	.187	.373	1.181	.397	.346	.291	1.149
Percent Parolees - Drug	.243	.240	.262	1.010	-.044	.126	-.094	-.350	.408	.234	.378	1.748
Unemployment Rate	.300	1.358	.046	.221	-.387	.706	-.131	-.549	1.321	1.308	.193	1.011
Single-Parent Homes	.160	.867	.056	.185	-.669	.466	-.469	-1.435	-.397	.863	-.121	-.460
CC Housing decisions consider arrests	2.532	4.737	.099	.534	-1.275	2.471	-.109	-.516	3.457	4.576	.128	.756
CC Housing decisions are individualized	7.389	9.515	.144	.777	-4.775	5.483	-.204	-.871	8.622	10.152	.160	.849
CC Housing decisions put time limits on offense	-1.703	2.290	-.132	-.744	-1.130	1.183	-.197	-.955	-2.477	2.191	-.187	-1.131
R-square:	0.347				0.216				0.496			
N	39				36				36			

p < .05;   p < .01;   p < .001

The models using information from the parole dataset are more mixed than the prison data, but also give some indication of a negative relationship between these laws and rates of returns to prison (see table 14). States in which the PHA of the most populous county does not consider arrests not leading to conviction, and which make individualized decisions, have lower rates of returns to prison for percent of all parole exits resulting in a return to prison and all technical revocations, however they have higher rates of returns for returns to prison for new sentences. That is, it appears that when the PHA is allowed to consider arrests not leading to conviction in housing decisions, that they have a slightly higher rates of returns to prison for technical violations (.128), but slightly lower rates of returns to prison for a new sentence (-.109).

106

And if the PHA makes blanket decisions regarding certain categories of drug offenders, rather than individualized decisions, that they have higher rates of returns to prison for technical violations (.160), but lower rates of returns to prison for a new sentence (-.204).

Having time limits on whether offenses can be considered in the housing decision has a consistently negative effect, indicating that in states where the PHA of the most populous counties can consider a drug offense indefinitely after it was committed have lower rates of returns to prison. This relationship is similar between returns for new sentences (with a standardized coefficient of -.197) and technical violations (with a standardized coefficient of -.187).

For the most part, the control variables included in the model including housing practices maintained the general relationship found in the baseline models. However, there were some exceptions. In the prison data, the percent of parolees that were property offenders, and the percent of parolees that were drug offenders changed directions from being very slightly positively related to rates of returns to prison, to very slightly negatively related to rates of returns to prison (with standardized coefficients of .047 and .116 in the baseline model respectively, to standardized coefficients of -.089 to -.011 in the model including housing practices). Again, this is not concerning given their weak relationships and that they were not statistically significant. The only change in the control variables in the parole variables was in the overall model looking at parole violations, in which single-parent homes changed from a very weak negative relationship (with a standardized coefficient of -.026) to a very weak positive relationship (.056).

One potential explanation for the negative relationships found between laws restricting access to public housing and rates of returns to prison may be related to the

original intent of these laws, which was to disrupt drug markets within public housing. It may be that by preventing returning drug offenders from living in public housing, that they prevent those offenders from re-entering the drug market. This would explain why practices restricting access to public housing have a consistently negative relationship on rates of returns to prison in the prison data, as well as percent of exits from parole due to returns to incarceration for new sentences. However this interpretation is speculative at best, the increases to the R-square were relatively modest, and the relationship with technical violations was mixed. States in which the PHA in the largest county considered drug arrests not leading to conviction and which did not use individualized decisions had higher rates of returns to prison for technical violations, but states which did not put time limits on offenses had lower rates of returns to prison for technical violations. The largest increase in R-square was in the prison data, and only increased from .308 in the baseline model to .396 in the model including housing laws. These modest increases in R-square may be indicative of the fact that these practices do not cover all PHAs in the state, but only the PHA in the most populous county.

Unfortunately I am unable to capture other housing options in the state, for instance whether there are affordable private housing options, the willingness of landlords to rent to returning offenders, as well as the availability of transitional housing such as halfway houses. It is quite possible that these factors could have a spurious relationship in the model – that is, PHAs may be more amenable to allowing former offenders to live in public housing, when they see other housing options as being more limited. These other options may also be related to lower rates of returns to prison.

Unfortunately, without measures of these alternative living arrangements, we are unable to test whether this is the case.

Public Assistance

The 1996 Personal Responsibility and Work Opportunity Reconciliation Act instituted a lifetime ban on Temporary Assistance for Needy Families (TANF) for persons that were convicted of a drug felony. States had the option to adopt, modify or opt out of this law. I expect that states that adopted this law will have higher rates of returns to prison as many people with a prison record may struggle to support themselves. I would expect these laws to have a strong effect as they effect a person's day to day living, but the effect on the aggregate rates of return to prison may be tempered by the fact that these restrictions only affect people convicted of a drug felony, and not all offenders.

Restrictions on access to TANF have a mixed relationship with rates of returns to prison. Contrary to expectation, restrictions on TANF are negatively related to rates of returns to prison in the prison data, with a standardized coefficient of -.238 (see table 15). This indicates that states that restrict access to TANF for drug offenders have a lower percent of prison admissions being made up of offenders that were on conditional release when they entered prison. Similarly, states that restrict access to TANF have lower rates of returns to prison for new sentences, with a standardized coefficient of -.210 (see table 16). This is surprising given that it is difficult to explain why restricting access to public assistance would make a person less likely to return to criminal activity.

Table 15: Estimated Effects of TANF Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.435 *	.180	.455	2.413
Imprisonment rate	-.045	.029	-.460	-1.544
Parolee Race - Percent Black	-.144	.234	-.183	-.615
Percent Parolees - Violent	-.161	.270	-.172	-.598
Percent Parolees - Property	.109	.398	.075	.275
Percent Parolees - Drug	.133	.289	.119	.460
Unemployment Rate	.743	1.834	.099	.405
Single-Parent Homes	.708	1.156	.221	.612
CC TANF Restrictions	-5.559	4.694	-.238	-1.184
R-square: .350				
N=32				
p < .05; p < .01; p < .001				

In contrast, rates of returns for technical violations, as well as overall violations in the parole data, are positively related to restrictions on TANF (with standardized coefficients of .185 and .215 respectively), indicating that states that restrict access to TANF have higher rates of returns to prison for technical violations (as well as in the overall measure of returns to prison from parole). However, it is puzzling as to why restrictions on TANF would result in higher rates of returns to prison for technical violations, but not for new sentences.

Table 16: Estimated Effects of TANF Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.030	.021	-.335	-1.456	.016	.011	.373	1.449	-.035	.020	-.364	-1.747
Parolee Race - Percent Black	-.238	.133	-.392	-1.791	.055	.071	.199	.779	-.230	.133	-.358	-1.732
Percent Parolees - Violent	.134	.216	.169	.621	.055	.118	.147	.466	.143	.221	.164	.646
Percent Parolees - Property	.358	.284	.267	1.259	.119	.151	.201	.786	.338	.282	.248	1.202
Percent Parolees - Drug	.289	.230	.312	1.259	-.074	.125	-.157	-.590	.471	.233	.436	2.020
Unemployment Rate	.739	1.274	.114	.580	-.476	.667	-.161	-.713	1.729	1.245	.253	1.388
Single-Parent Homes	-.118	.802	-.041	-.147	-.619	.440	-.434	-1.405	-.535	.822	-.163	-.651
CC TANF Restrictions	4.409	3.174	.215	1.389	-1.951	1.712	-.210	-1.140	3.966	3.195	.185	1.241
R-square:	0.355				0.196				0.475			
N	39				36				36			

$p < .05$; $p < .01$; $p < .001$

The control variables in these models had similar relationships as found in the baseline model, and none changed direction. The increase in the R-squares for these models were modest, the largest increase was in the measure of all parole completions that are returned to incarceration which increased from .314 in the baseline model to .355 in the model including restrictions on access to TANF.

Driver's Licenses

Restrictions on access to driver's licenses for people convicted of drug crimes has come under scrutiny as making it more difficult for returning offenders to drive to and from their jobs, thus increasing the likelihood of losing their job. This law affects the day to day living of offenders, but similar to the public housing and TANF law is restricted in effect to only drug offenders. Three laws are examined; whether driver's licenses are revoked for driving-related offenses only (as opposed to drug offenses not involving driving) whether a restricted license is offered to allow a person to drive to and from work, and whether driver's licenses are revoked for more than six months.

Table 17: Estimated Effects of Drivers' License Laws on Rates of Returns to Prison using Ordinary Least Squares

Variables	Percent of Prison Admissions that are Parole Violators			
	b	(SE)	Beta	t
Percent of Releases that are Conditional	.494 *	.195	.516	2.528
Imprisonment rate	-.044	.032	-.456	-1.368
Parolee Race - Percent Black	-.137	.258	-.175	-.532
Percent Parolees - Violent	-.039	.289	-.042	-.136
Percent Parolees - Property	.090	.426	.061	.211
Percent Parolees - Drug	.118	.332	.106	.357
Unemployment Rate	.972	1.916	.129	.507
Single-Parent Homes	.712	1.219	.223	.584
CC Drivers' Licenses only driving related offenses	.478	6.337	.017	.075
CC Drivers' Licenses offer restrictive license	9.604	7.599	.244	1.264
CC Drivers' Licenses more than 6 months	-2.330	10.260	-.048	-.227
R-square: .366				
N=32				
p < .05; p < .01; p < .001				

Laws restricting access to driver's licenses have an inconsistent effect on rates of returns to prison. States that only restrict driver's licenses for driving related offenses, rather than all drug offense, are related to lower rates of returns to prison only in the prison model, and this effect is exceedingly weak with a standardized coefficient of .008 (see table 17). States which limit revocation of driver's licenses to only driving related incidents have higher rates of returns to prison, contrary to expectations, in the parole data (see table 18), however this relationship is relatively weak with a standardized coefficient of -.113 for returns for new sentences, and -.026 for returns for technical violations.

Table 18: Estimated Effects of Drivers' License Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.033	.022	-.369	-1.494	.021	.011	.504	1.884	-.046 *	.019	-.472	-2.481
Parolee Race - Percent Black	-.239	.141	-.393	-1.696	.066	.074	.236	.885	-.264 *	.122	-.411	-2.164
Percent Parolees - Violent	.089	.220	.112	.403	.059	.114	.158	.520	.154	.187	.178	.823
Percent Parolees - Property	.361	.292	.269	1.234	.105	.148	.178	.707	.408	.244	.299	1.672
Percent Parolees - Drug	.283	.237	.305	1.193	-.082	.121	-.176	-.678	.515 *	.199	.476	2.587
Unemployment Rate	.317	1.302	.049	.244	-.222	.646	-.075	-.344	1.118	1.060	.164	1.054
Single-Parent Homes	.053	.831	.018	.063	-.702	.445	-.492	-1.578	-.221	.731	-.067	-.303
CC Drivers' Licenses only driving related offenses	-1.430	4.459	-.056	-.321	-1.318	2.401	-.113	-.549	-.709	3.942	-.026	-.180
CC Drivers' Licenses offer restrictive license	-6.857	5.304	-.208	-1.293	4.761	2.981	.307	1.597	-13.980 *	4.896	-.391	-2.855
CC Drivers' Licenses more than 6 months	3.217	7.964	.068	.404	-3.654	4.004	-.175	-.913	8.672	6.574	.180	1.319
R-square:	0.367				0.286				0.639			
N	39				36				36			

p < .05;   p < .01;   p < .001

Access to a restrictive license, which allows a person access to a vehicle for only certain activities, such as those related to employment, is related to lower rates of returns to prison in the prison model, and in the "new sentences only" parole model, but is related to higher rates of returns to prison in the overall percent of exits from parole that are returns to incarceration as well as for technical violations. The positive effect is moderately strong for new sentences, with a standardized coefficient of .307, indicating that offering a restrictive driver's license lowers rates of returns to prison for new sentences. Interestingly, the negative relationship of restrictive driver's licenses on technical violations is moderately strong with a standardized coefficient of -.391, and is the only time a collateral consequence law has a statistically significant relationship. This is contrary to expectations as we would expect that in states in which people have access to a restrictive license, that they are better able to abide by conditions of release, such as maintaining stable employment or attending parole appointments, when they have access to a vehicle. However, once again, it is possible that parole officers are more lenient

regarding technical violations when a law is in place that formally restricts a former offenders access to a motor vehicle, in this case in terms of maintaining steady employment but also in attending regular appointments with parole officers. Possibly parole officers are more lenient when a person misses a parole appointment, or if the person loses their job, when the offender is legally restricted from access to a vehicle.

Finally states that restrict drivers' licenses for more than six months have higher rates of returns to prison for technical violations and for all parole exits due to returns to incarceration, however they have lower rates of returns to prison in the prison model and the "new sentences" only model. Thus it appears that longer periods without access to a car increase the likelihood of a person returning to prison on a technical violation (standardized coefficient .180), but lower the chances that they will return to prison for a new sentence (standardized coefficient -.175). One explanation for a negative relationship with new sentences is that perhaps having access to a car creates more opportunities or temptations for a person to engage in criminal activity. For instance, having access to a drivers' license may increase the social activities a person is able to engage in, and could lead to temptations for criminal involvement. Given that the other two collateral consequence laws (for limiting restrictions to only driving offenses, and offering a restrictive license) had negative relationships with technical violations, it is surprising that restrictions on drivers' licenses of more than six months would have a positive relationship. If it is true that parole officers are more lenient when formal, legal restrictions are in place, this may indicate that there is a time limit to this leniency when it comes to driver's licenses. While parole officers may be more lenient regarding violations that may stem from lack of access to a vehicle, they may have expected for

114

offenders to have adjusted to these restrictions after several months, and found ways, such a public transportation, to accommodate these restrictions. On the other side, it is possible that parolees may be more likely to violate parole by driving without a license when the restriction lasts longer than six months, whereas when the restriction is for only six months, they may be more committed from abstaining from driving during that time.

The control variables in the models retained the same relationship with rates of returns to prison.[60] Interestingly, the magnitude of the relationships of the control variables strengthened in the model predicting rates of returns for technical violations to the extent that imprisonment rates, percent of parolees that are black, and percent of parolees that are drug offenders were statistically significant in the model. The model predicting technical violations also saw the largest increase in R-square, from .445 in the baseline model to .639 in the model including restrictions on driver's licenses. The model predicting new sentences saw an increase in the R-square from .157 in the baseline model to .286 in the new model.

The results from the models examining the effect of laws restricting access to driver's licenses offer some intriguing findings. They appear to hint that restrictions on driver's licenses could reduce the likelihood of criminal activity among former offenders, contrary to expectations. One potential explanation is that when former offenders are able to drive, particularly in the six month period after release when recidivism rates are at their highest, that have access to a vehicle could put them in more situations that might tempt them to return to criminal activity. The car could allow them to attend more social

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[60] The effect of "single-parent homes" changed directions in the "percent of prison admissions that are parole violators" model, but it changed from a standardized coefficient of -.029 in the baseline model, to a standardized coefficient of .018 in the new model, and thus is a very minor change.

engagements, where drugs could be present, where altercations could occur, or where they may make the decision to drive after drinking with friends. The exception to this is when a person is given access to a restrictive license which allows them to travel only for certain purposes, such as to and from a job. States with access to a restrictive license have lower rates of returns to prison than states that do not have access to a restrictive license. This may indicate that a restrictive license allows a person to maintain employment, but does not offer them the opportunity to be as involved socially.

These laws appear to have a different effect on technical violations. States that restrict driver's licenses of all drug offenders, even when the offense was not driving related, and states that do not offer a restrictive license, have lower rates of returns to prison. This may indicate greater sympathy on the part of parole officers in situations when a law makes abiding by the terms of release more difficult. However, the relationship differs when driver's licenses are revoked for more than six months, with these states experiences higher rates of returns to prison for technical violations, perhaps indicating that this leniency by parole officers eventually expires.

Cumulative Effect of Collateral Consequence Laws

Potentially the effect of collateral consequence laws could combine in a cumulative effect. To examine these effects, I created two cumulative scores for each state as a measure of the overall harshness of their collateral consequence laws. The first score scaled each law from zero to one, and then summed the scores. Thus scores had a possible range from zero to 18, although in actuality ranged from two to 13.41. This measure gives equal weight to each individual law. The second score gives equal weight to each category of law, rather than each individual law. Each law (scored zero to one)

116

was summed within each category. These measures were then scaled from zero to one, and then combined, resulting in a score that could hypothetically range from zero to 6. Actual scores ranged from 1.25 to 4.72.[61]

I first tested the effect of these scores in bivariate relationships with the four measures of rates of returns to prison. Both variables had very weak positive relationships with returns to prison for new sentences, but had moderate negative relationships with the other measures. Particularly interesting is that both variables reached significance in the model predicting rates of returns to prison for technical violations using a .1 cutoff (see table 19).[62]

Table 19: Bivariate Correlation of Collateral Consequence Laws on Rates of Unsuccessful Parole Completions

	Parole completions that are returned to incarceration			Parole completions returned for New Sentence only			Parole completions returned for Revocation only		
	Beta	Sig.	N	Beta	Sig.	N	Beta	Sig.	N
Sum of 18 laws, each law weighed equally	-.153	.311	46	.091	.564	42	-.301	.053	42
Sum of 18 laws, each category weighed equally	-.198	.187	46	.040	.803	42	-.296	.057	42

These variables were no longer significant in regression models in which control variables were included, however they did maintain the negative relationship (see tables 20 and 21). This is consistent with the hypothesis that parole officers may be more lenient in which formalize barriers to reintegration through collateral consequence laws.

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[61] I also created two scores (based on the 18 laws, and based on the 6 categories) using factor analysis. Results were similar to those reported here, with slight differences in magnitude and significance.
[62] Scatter Plots of the cumulative collateral consequence measures and the dependent variables can be found in the appendix.

Table 20: Estimated Effects of Collateral Consequence Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.029	.021	-.324	-1.388	.015	.011	.356	1.364	-.034	.020	-.353	-1.732
Parolee Race - Percent Black	-.228	.135	-.376	-1.694	.044	.072	.160	.621	-.210	.129	-.328	-1.631
Percent Parolees - Violent	.078	.216	.098	.361	.082	.117	.218	.700	.075	.211	.086	.354
Percent Parolees - Property	.360	.290	.269	1.243	.140	.153	.237	.913	.346	.276	.253	1.253
Percent Parolees - Drug	.208	.233	.224	.890	-.058	.126	-.124	-.461	.343	.226	.317	1.514
Unemployment Rate	.078	1.303	.012	.060	-.414	.677	-.140	-.611	.961	1.220	.141	.788
Single-Parent Homes	.045	.823	.016	.054	-.555	.448	-.389	-1.237	-.455	.808	-.138	-.563
CC Laws - 18 laws weighed equally	-.857	.882	-.151	-.971	-.326	.463	-.128	-.704	-1.383	.834	-.236	-1.658
R-square:	0.157				0.173				0.496			
N	39				36				36			

p < .05;   p < .01;   p < .001

Table 21: Estimated Effects of Collateral Consequence Laws on Rates of Unsuccessful Parole Completions using Ordinary Least Squares

Variables	Parole completions that are returned to incarceration				Parole completions returned for New Sentence only				Parole completions returned for Revocation only			
	b	(SE)	Beta	t	b	(SE)	Beta	t	b	(SE)	Beta	t
Imprisonment rate	-.028	.021	-.315	-1.335	.016	.011	.375	1.460	-.033	.021	-.338	-1.607
Parolee Race - Percent Black	-.223	.136	-.366	-1.636	.049	.070	.176	.694	-.203	.133	-.316	-1.520
Percent Parolees - Violent	.082	.218	.104	.377	.085	.115	.226	.738	.085	.218	.098	.389
Percent Parolees - Property	.351	.293	.262	1.199	.149	.151	.252	.986	.336	.285	.247	1.179
Percent Parolees - Drug	.233	.234	.251	.996	-.060	.123	-.128	-.490	.382	.232	.354	1.647
Unemployment Rate	.191	1.323	.029	.144	-.501	.669	-.169	-.749	1.116	1.266	.163	.881
Single-Parent Homes	-.014	.830	-.005	-.017	-.551	.439	-.386	-1.253	-.542	.832	-.165	-.651
CC Laws - 6 Categories weighed equally	-1.502	2.733	-.087	-.549	-1.701	1.416	-.216	-1.201	-2.504	2.680	-.138	-.934
R-square:	0.320				0.200				0.303			
N	39				36				36			

p < .05;   p < .01;   p < .001

Fixed Effects Analysis of TANF Restrictions

As another test of the effect of collateral consequence laws, I examine the longitudinal effect of one law in particular – access to Temporary Assistance to Needy Families (TANF). TANF restrictions are particularly well suited to a focused examination because these laws were spurred by federal legislation, and therefore were implemented, albeit in different forms, across states at roughly the same time. This means there is significant change in the laws during this time, as states moved from having no restrictions on access to public assistance for drug offenders, to several states adopting such restrictions. I collected data on a seven year period – starting in 1994, roughly three years before the law went into effect for most states, and continuing until 2000.

The advantage of the fixed effects approach is that unobserved heterogeneity is modeled as a time constant intercept for each state, and therefore the unobserved heterogeneity is no longer part of the error term (Bushway et al 1999, Loughran 2011). That is, while in random-effects models, stable, unmeasured differences that exist between the states introduce error into the model, those differences are accounted for as part of this model by using state-specific dummy variables. This model takes into account state-specific factors that occur over time, such as cultural differences, allowing estimates to remain unbiased when unmeasured, stable characteristics that are associated with the independent variable influence the dependent variable.

The equation used to represent the fixed-effects model is as follows:

$$y_{it} = \beta_1 x_{it} + \delta 0 d2t + a_i + \varepsilon_{it}$$

The y_{it} denotes the rates of returns to prison (*y*) for the state (*i*) at time (*t*). β_1 is the coefficient for the explanatory variable (*x_{it}*). $\delta 0 d2t$ is an indicator for being in time period two. The term a_i represents the unobserved factors that remain constant at the state level (*i*), controlling for the unobserved heterogeneity. ε_{it} represents the idiosyncratic error that effects the dependent variable and occurs within the state (*i*) and across time (*t*).

Data for Fixed Effects Analysis

States are coded as either adopting the laws (making anyone convicted of a felony drug offense permanently ineligible for TANF), modifying the law (such as allowing persons to regain eligibility after a rehabilitation program, or by only restricting TANF for certain drug offenders), or opting out of the laws (allowing drug offenders to maintain eligibility for TANF). While the initial source of information on collateral consequence

laws in the previous analyses was the 2009 LAC report, for this analysis I needed to

examine the data as it was initially passed in each state, as well as any subsequent data in

the years of interest. The Urban Instituted has compiled the "Welfare Rules Database",

which tracks changes in TANF by state on an annual basis since 1996. Information from

the Welfare Rules Database on restrictions on TANF for drug offenders was compared to

other data sources, including the LAC 2004 report, the "Summary of State Laws"

provided as part of the LAC "Opting out of federal ban on food stamps and TANF

Toolkit", and the 2005 Government Office of Accountability report, "Drug Offenders:

Various factors may limit the impact of federal laws that provide for denial of selected

benefits." Contradictions between the different sources were resolved by looking at

information on state websites, and in some cases contacting the authors of the reports.

During the four year period following the 1996 Personal Responsibility and Work

Opportunity Reconciliation Act, about two-fifths of states adopted the ban in its entirety,

while half of the states adopted a modified version of the ban (see table 22).

Table 22: Eligibility of drug offenders to receive public assistance

	1994*	1995*	1996*	1997	1998	1999	2000
Eligible	50	50	50	8	7	7	7
Modified				23	24	24	25
Ineligible				19	19	19	18

* Restrictions on access to public assistance for drug offenders was introduced with the
1996 Personal Responsibility and Work Opportunity Reconciliation Act

As a measure of state rates of returns to prison I used the Bureau of Justice

Statistics (BJS) parole data,[63] specifically the percentage of people that exited parole

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[63] Originally I used data from the parole dataset with the intent to measure returns for "new sentences" as
compared to "returns for technical violations only." Unfortunately, an insufficient number of states
collected such data during this time period.

status due to a return to incarceration for new sentences, technical violations, or for other reasons.[64] While initially the intention of using the parole data was to be able to run separate analyses for rates of returns to prison for new sentences and for technical violations, ultimately not enough states collected information on this distinction during this time period.

Findings of Fixed Effects Analysis

In the model, states' laws restricting access to TANF are regressed on the states' percent of parole completions resulting from a return to prison, with a dummy variable included for each state. I also include a parameter for the year effect in order to control for any annual trends.

The model indicates that, as predicted, the restrictions on TANF did have a positive, and statistically significant effect on a state's rate of return to prison, with a standardized coefficient of .204 (see table 23). This offers preliminary support for the hypothesis that states that instituted restrictions on TANF experienced an increase in their percent of parole completions that were returned to incarceration, however a more complete analysis which includes state-level controls is needed.

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[64] This variable counts only unsatisfactory completions that were due to returns to incarceration (whether for new sentences, technical violations, or "other" reasons), and excludes from the numberator and denominator completions for "other" reasons, such as deaths, transfers, absconders, and "other".
I also tested another measure which measured any completion that was not considered "successful". This would include exits for absconding, death, transfers etc. This variable also had a relationship with the TANF variable in the expected direction, but did not reach significance. This was as expected as there is little reason to expect TANF laws to have an effect on how states use the "other" category.
Beginning in 1998 BJS broke the "other" category into more category choices, including "other-unsatisfactory" and absconder. As an additional test, I created another dependent variable which used the previously mentions "not successful" category prior to 1998, and which excluded "other" categories that were not explicitly unsatisfactory (such as deaths, transfers and "others"). Ultimately this variable mirrored the "not successful" variable, the effect of TANF was in the expected direction, but was not significant.

Table 23: Fixed Effects Regression on TANF Laws

Measure	Fixed-Effects B		Standard Error	Beta	t
TANF Law	.168	**	.040	.204	4.253
1995	.076	**	.025	.065	3.037
1996	.084	***	.025	.071	3.335
1997	-.011		.035	-.009	-.306
1998	-.010		.035	-.009	-.289
1999	-.030		.035	-.025	-.836
2000	-.038		.035	-.033	-1.074
p < .05; p < .01; p < .001					

Discussion of Results

In these analyses I used data from two different sources – the BJS prison data and the BJS parole data Agreement between the two data sources would increase confidence in any trends that were found. Unfortunately, the effects of the collateral consequence laws were mixed between the two datasets, as well as within the parole data (when using different outcome measurements). Perhaps most intriguing in the data was the suggestion of different processes for rates of returns to prison for new sentences versus technical violations. While the effect of the laws on returns to prison for new sentences was mixed, it was more likely to be found in the expected direction (harsher laws leading to higher rates of returns for new sentences), whereas technical violations were more likely to have a negative relationship, indicating that harsher laws led to lower rates of returns to prison for technical violation. Although this data is unable to speak to why this relationship exists, one potential explanation is that in states with harsher laws, parole officers may be more sympathetic when a parolee commits a technical violation, particularly one that can

be directly traced to these restrictions. More research is necessary to confirm these findings.

Restrictions on voting were related to lower rates of returns to prison, indicating that states in which more people were disenfranchised had lower rates of returns to prison. Although these effects were weak, they were consistent across all models. There is little reason to expect that disenfranchisement would reduce levels of offending or likelihood of committing a technical violation of parole. It is possible that voting laws are correlated with an unmeasured variable, and thus an unmeasured, spurious effect is causing this relationship. For instance, voting laws may be correlated with political leanings in a state and consequently how a state administers parole or responds to parole violations. Voting laws are significantly negatively correlated with the percent of individuals that voted for Obama in the 2008 election, and are also significantly correlated with being located in the South. While inclusion of these variables in the model does not affect the negative relationship of the voting laws, they suggest that there may be error in the model due to an unmeasured spurious relationship.

The effects of access to criminal records on state rates of returns to prison vary based upon the law, and also varied between the prison and parole models. For instance, access to online records was positive in three of the four models, a relationship that is consistent with previous research (Lee 2011). However, access to online records has a negative relationship for returns to prison for technical violations only. Most interesting in these models was the variation in the effect of the laws on returns to prison for new sentences as opposed to technical violations. Harsh collateral consequence laws were more likely to be positively related to returns to prison for new sentences, but negatively

related to rates of returns to prison for technical violation. While this is consistent with the original prediction that harsher collateral consequence laws will lead to higher rates of returns to prison for new sentences, it was unexpected that these same harsh laws were likely to be related, although weakly, to lower rates of returns to prison for technical violations.

As previously suggested, one possible explanation is that parole officers may be more lenient with parolees for technical violations, particularly in violations involving maintaining steady employment, if they believe that parolees are facing discrimination in the workforce. Parole officers may be more sympathetic when a parolee has difficulty abiding by the terms of release when they are aware that online access to records may make employment more difficult for the parolee. This may also help explain some of the other negative relationships found between collateral consequence laws related to access to records and technical violations: time limits on convictions, access by the general public to records, and whether a person can petition to have an arrest not leading to conviction expunged all had negative relationship with technical violations. Potentially this could reflect that parole officers are more sympathetic to parolees, and thus more reluctant to return them to prison on a technical violation, when there are public laws that may make employment more difficult. Previous research has indicated that when employers do not have access to public records, that they are more likely to engage in statistical discrimination in an attempt to not hire persons with a criminal record (Holzer et al 2006). Thus it is possible that employers in states with less access to criminal records still manage to avoid hiring formerly incarcerated persons (using cues such as gaps in employment history), but that because it is not formalized by law, that parole

124

officers in those states view inability to find a job as a personal failing rather than as a systematic event.

While we can explain a negative relationship between these laws and technical violations as being a result of sympathy by parole officers regarding these laws, it is difficult to explain why two of the six collateral consequence laws, time limits on arrests not leading to conviction and wider availability of records to the public would have lower rates of returns to prison for new sentences.

The effects of restrictions on employment were also mixed, both between the two datasets as well as within the parole dataset. Contrary to prediction, states which allowed employers to consider arrests not leading to conviction had lower rates of returns to prison across all four models. Similar to the access to records, this could indicate that formalization of hurdles may cause parole officers to be more lenient in deciding whether or not to return a parolee to incarceration. In terms of explaining its relationship with new sentences, perhaps allowing employers to consider arrests not leading to conviction does allow them to avoid hiring people that might commit more crime during the course of the job. Having standards in place to prevent discrimination in *private* companies did appear to be helpful in all four models, however those having standards in place to prevent discrimination in *public* companies was beneficial in terms of rate of returns to prison for new sentences and in the overall parole data, but had a negative relationship in the prison data, as well as in returns for technical violations. Once again, a potential explanation for this is due to leniency by parole officers in these states. Certificates of rehabilitation have been argued by some to be one of the most important factors in allowing people to successfully reintegrate (private correspondence with Margy Love), however they had a

125

negative relationship in all of the models using parole data. However, while the

relationship was consistently negative in the parole data, it was positive in the prison

data. The negative relationship found in the parole data may indicate that Certificates of

Rehabilitation may not be sufficient to convince employers to overlook the criminal

records of potential employees. One potential concern is that these measures do not

capture what may be the most important factor of employment laws - namely which jobs

are restricted. That is, whether or not employers consider arrests, have standards in place

to prevent discrimination, or offer certificates of rehabilitation, may not be as important

as whether the state flatly refuses occupational licenses in particular fields – such as

being a barber, or being a garbage collector. In addition, as I am unable to include a

measure of the employment rates of employees, I am unable to determine whether these

laws actually have an impact on employment.

While a person's ability to maintain stable housing is potentially important in

successful reintegration, the relationships uncovered indicated primarily negative

relationships, indicating that contrary to expectations greater restrictions on public

housing led to lower rates of returns to prison. It is important to note in the interpretation

of these results however, that public housing practices can vary across the state and these

practices reflect only the policies Public Housing Authority (PHA) in the most populous

county in the state, whereas the rates of returns to prison are for the entire states.

The three measures of collateral consequence laws in housing were all negative in

the prison data. The parole data was more equivocal, with positive relationships for

considering arrests not leading to conviction and the use of automatic denial in the overall

parole model, as well as for technical violations. However these same two variables were

associated with lower rates of returns to prison for new sentences. Having time limits on

when a persons' past criminal record could be considered in an application to public

housing had a negative relationship across the three parole models. One potential

explanation for a negative relationship is that while restrictions on public housing may

make finding housing more difficult, it may also help prevent returning offenders from

renewing relationships with past criminal networks. Living in public housing may

provide more opportunities to commit crime, or make it harder to resist temptations, such

as using drugs. These models hint at the possibility that access to public housing may be

detrimental to successful reintegration.

A difficulty with these measures of housing, is that they only measure one small

aspect of housing, that is, public housing. It does not include measures of a states use of

half-way houses, which may be more important in transitioning people back into the

community. It also does not include the availability of affordable housing choices, or of

the screening choices of private housing options. Whether private housing agents are

willing to rent to former offenders may have a larger impact on the ability of parolees to

find and maintain housing than public housing, particularly given the long waiting lists

found for public housing in many states. Another possible explanation for the negative

relationship between housing practices and rates of returns to prison is the possibility of a

spurious effect. It is possible that counties that do not have a strong transition network

from prison to the community, are more likely to allow access to public housing, whereas

states that have greater access to transitional housing (such as halfway houses) may be

less likely to allow access to public housing. It could be that alternative transitional

housing options offer greater support than what is found in public housing, and as such it

is the access to these other options, rather than not having access to public housing, which reduces rates of returns to prison. However, as we do not have a measure of the living accommodations available to returning parolees, it is not possible to test this hypothesis.

Access to public assistance (TANF), had a positive relationship for overall percent of exits from parole that were returns to prison as well as returns to prison for technical violations, however it had a negative effect in the prison model, as well as in the model predicting returns to prison for new sentences. It is hard to explain why access to public assistance would cause higher rates of returns to prison for new sentences, or why this relationship would occur in the prison data. A benefit of the TANF legislation however, is that it lends itself to being studied longitudinally. I was able to examine the relationship more closely by looking at a seven year period that included data for three years prior to the enactment of the TANF legislation as well as for four years after the legislation. This data allowed me to examine within state variation rather than between state variation, thus controlling for unmeasured stable differences between states. This analysis indicated that restrictions on TANF for former drug offenders, did have a positive, though modest, effect on rates of returns to prison, although the inclusion of state-level control variables is needed before conclusions can be drawn from this data.

Similar to the other collateral consequence laws, restrictions on driver's licenses for persons convicted of drug offenses have mixed findings between the two sources of data, as well as within the parole data. States that suspend driver's licenses only when the underlying offense was driving related had lower rates of returns to prison in the parole data, but higher rates of returns to prison in the prison data. Arguably these laws could

reduce the likelihood of returns to prison as suspension of a driver's license may reduce a

person's chances of driving while intoxicated, however given that the two datasets are not

in agreement we cannot draw any conclusions. States that offer a restrictive license,

which allow persons convicted of drug-related offenses to drive under particular

circumstances, generally to drive to and from work, have lower rates of returns in the

prison data and for new sentences, but lower rates of returns for technical violation, and

for overall parole returns to incarceration. The negative relationship is particularly strong

in the model predicting technical violations, and is the only instance in which the effect

of a collateral consequence law reaches statistical significance. Here again, it could be

that parole officers are more lenient in states in which there is no access to a driver's

license, and thus if parolees are unable to meet conditions of parole, such as maintaining

stable employment, parole officers may be less likely to return the person to prison.

Finally, the effect of whether states restrict driver's licenses for more than 6 months has a

mixed effect across the models, and the strength of the relationship is very weak in each

model. This could indicate that whether a state restricts the license for more than 6

months has very little effect, which is not surprising given that most violations occur

within the first six months of release (Langan and Levin, 2002). It may also indicate that

the leniency offered by parole officers based on restrictions to driving, expires at some

point and that parole officers expect parolees to make adjustments to respond to lack of

access to a car.

The results of these analyses are in no way conclusive regarding the effects of

collateral consequence laws. Rather they suggest that the laws may be more nuanced,

with some having a negative effect and some a positive effect. Furthermore, these results

indicate that different processes may be at work to explain returns to prison for new

sentences as opposed to technical violations. However, as will be discussed in the

conclusion of the dissertation, data limitations, both on measurements of the law, as well

as in measuring state rates of returns to prison, limit the interpretation of these results and

may obfuscate the true relationship.

Chapter 5: Conclusion

With the massive increase in incarceration that has taken place in the U.S. over the last several decades, the issue of reentry has become an important issue in the field of criminology, as well as for the government, as we struggle with how to best reintegrate former offenders back into society. In order to address the issue of reentry, the US is devoting greater resources toward the issue of reentry of offenders, as evidenced by authorizing $165 million for the Second Chance Act in 2008. However, some scholars, advocates and policy makers have expressed concern that at the same time that federal, state and local governments are expending resources to assist with reentry, they also maintain laws that hinder this process. Specifically, that collateral consequence laws that restrict voting, increase access to criminal records, restrict employment, block access to public assistance and public housing, and that restrict driver's licenses make it more difficult for former offenders to successfully re-integrate, and increase the chances of returning to prison for a new crime or for a technical violation (Legal Action Center 2009, Manza and Uggen 2006, Petersilia 2003, Thompson 2008, Travis 2005).

In the last several years, collateral consequence restrictions have come under increased scrutiny in the government sector. The Smart on Crime Coalition (2011), comprised of over 40 notable organizations and individuals, recommended "expanding and improving legal mechanisms for individuals to obtain relief from collateral consequences" as part of their recommendations to the 112th congress; and in June 2010, Marc Mauer of The Sentencing Project provided testimony to the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security regarding the need to provide relief in the area of collateral consequences (Mauer, 2010).

Although there has been an increasing concern with the effect of collateral consequence laws on the reintegration of offenders, to date there has been no systematic analysis on the impact of these laws on recidivism or technical violations (Petersilia, 2003; Travis, 2005; Mauer and Chesney-Lind, 2002). Collateral consequence laws may have the unintended consequence of increasing victimization through rising crime rates, as well as the expense to taxpayers of re-imprisoning offenders, and the social costs of removing these individuals from the community and their families. If such a relationship exists, legislatures will need to reconsider the efficacy of these policies.

This study is the first to systematically look at the effect of these laws on state rates of returns to prison. Pairing data on specific collateral consequence laws with data from two BJS datasets, I sought to address three hypotheses. First, that the measured collateral consequence laws are related to higher rates of returns to prison for new crimes. Second, that that the measured collateral consequence laws are related to higher rates of returns to prison due to technical violations of parole. Third, that the types of collateral consequence laws vary in the effects that they have on rates of returns to prison. The analyses conducted did not support the first two hypotheses – that collateral consequence laws result in higher rates of returns to prison for new crime or for technical violations. While collateral consequence laws did vary in their effects, they did not appear to vary in the expected direction – specifically that collateral consequence laws with a greater effect on day to day living would have a greater effect.

While ultimately data limitations limit the conclusions that can be drawn from this study, the analyses show some support for two, tentative findings. First, based upon the fixed effects analysis of seven years worth of data, that states that restricted access to

TANF appear to have had a small increase in the percent of exits from parole that are returns to incarceration. Second, that harsh collateral consequence laws appear to be related to *lower* rates of returns to prison for technical violations.

Although the measures of collateral consequence laws in the cross-sectional analyses failed to reach significant levels, the uniqueness of the TANF data allowed for a more robust analysis. As restrictions on TANF were passed by states in response to a 1996 federal law, there was significant variation within states in passing these laws over this time period. Using seven years of data, I found that states that restricted access to TANF appear to have also seen subsequent increases in rates of returns to prison, and that this change was statistically significant. Although this analysis is not yet complete as it at risk of misspecifcation for failing to include controls, this finding warrants further investigation into the effects of restrictions on TANF.

The second tentative finding is that harsh collateral consequence laws appear to be related to lower rates of returns to prison for technical violation. This finding is surprising, and is contrary to the predicted relationship. This relationship was found for several of the laws. When the cumulative measures of these laws were used, this relationship was statistically significant in the bivariate relationship with rates of returns to prison for technical violations. One speculative explanation for this relationship is that the formalization of collateral consequences into law may make parole officers more cognizant of the hardships faced by returning offenders. Former offenders may have similar difficulties in terms of abiding by the terms of their conditional release, such as making appointments with their parole officers, maintaining stable employment, maintaining stable housing, making child support payments, and passing drug tests (when

applicable). These issues may be similarly difficult for offenders across states, however the formalization of employment restrictions, restrictions on driver's licenses, or barriers on public housing, may make parole officers more aware of these issues. As such, they may be choose to be more lenient when parolees violate the conditions of their release. While this data suggests the possibility of a negative relationship between collateral consequence laws and state rates of returns to prison for technical violations, this data is unable to offer any evidence as to whether this is a result of different choices being made by parole officers, or due to another process.

Data Limitations

Unfortunately, while this analyses was exploratory, it largely failed to find statistically significant relationships between collateral consequence laws and state rates of returns to prison. While this may indicate that collateral consequence laws do not significantly impact rates of returns to prison, it may also be that the data used in this analysis may not be robust enough to support these analyses. Ultimately there were several potential problems with this data.

As the data is aggregate, state level data, it is severely limited in the number of data points available. It is possible that variations in how these laws affect individuals is lost with aggregation. Similarly, the impact of these laws may simply not be strong enough to create an impact at the aggregate level.

There are several concerns with the BJS data sources. While data was used from two separate sources – prison data and parole data – in an attempt to address these limitations, the two data sources had significant variation between them in measuring the effect of collateral consequence laws. This can be a reflection of several potential issues

with these data sources. First, there may be too much variation in how states respond and record rates of returns to prison. For instance, when a person that is on conditional release is arrested for a crime, there is some discretion as to whether the person is returned to incarceration as a violation of conditional release, or whether they are processed under a new sentence. These decisions may be impacted by local culture or by local resources (as processing a new sentence can be more expensive and time consuming that returning on a violation of parole) (Kingsnorth et al 2002). Another difficulty within the BJS data is that it is not possible to adequately control for differences in the parole and prison populations within each state. Although I include controls for the percent of parolees whose crimes were violent, property or drug, this may not sufficiently capture variations in the parole and prison populations of each state.

In addition to problems with the BJS data source, there are also potential concerns with the measures of the laws as well. Unfortunately, the measures that lend themselves to comparison between states, may not be able to capture some of the important aspects of these laws. For instance, the laws on restrictions for employment don't measure which specific jobs former offenders are restricted from holding or for acquiring an occupational licenses. While the specific occupations that former offenders are excluded from may have a strong impact on the ability of offenders to gain employment, it is difficult to compare between states as there are literally thousands of jobs that can be restricted, states vary in what triggers exclusion (drug or violent offense, misdemeanor or felony, specific) and they can also vary in how it implemented. Two states may both restrict access to particular jobs through an individualized review

process, however they may vary greatly in the number of former offenders that are rejected for an occupational license.

In addition, while this data looks at the effects of a number of collateral consequence laws, these laws largely reflect what is in the state statutes, and the reality could vary in implementation. For instance, in South Dakota probationers were prevented from voting, even though by law they were eligible. Similarly, discrimination against former offenders could occur in spite of legal restrictions against it. Former offenders have reported that employers have informally told them that former offenders "need not apply" even though based on the laws of the state they are required to show a relationship between a specific offense and the current job. It's quite possible that discrimination in the areas of employment and housing are so widespread, that the variations found in the legal statues measured here have little impact. This is in line with Pager's (2006) finding that employers are much less likely to call someone for an interview if there is an indication on their resume that they have served time, as well as Holzer et al's (2006) finding that in the absence of criminal records, employers are more likely to engage in statistical discrimination. It is also possible that even when states do not have laws in place that restrict former offenders, that individuals may assume they are ineligible for services or rights, even though that is not the case in their state. For instance, Manza and Uggen (2006) found that many individuals were misinformed about their voting rights, and believed themselves to be ineligible to vote, when in reality they were eligible.

Another potential issue with these analyses, is related to the impact these laws may have on entire communities, and not just individuals. In keeping with the coercive mobility hypothesis, by making it more difficult for offenders to find stable employment,

access public assistance or food, or to reunite with families, these laws negatively impact the social cohesion of the communities to which parolees return, and disproportionately consume valuable social and family resources in the community. As such, these laws would be expected to have a negative impact on entire communities. Due to their effect on the community, potentially these laws could have community wide effects that would impact not only rates of returns to prison, but also crime rates as a whole. As the measures of rates of returns to prison used in this study are affected by changes in rates of entries to prison for new crimes, this could obscure the effect of these laws.

A final limitation in this data is insufficient controls for factors that could affect the impact of these laws. It should be noted that these laws could be significantly related to other factors in the state of which I am unable to control. For instance, in the area of employment, it is possible that states that are limited in the number of jobs they restrict for former offenders, may not offer a certificate of rehabilitation as it is less necessary, whereas states with a multitude of restrictions may be more likely to offer certificates of rehabilitation as a mechanism to deal with those restrictions. Thus a state that appears harsh based upon the laws measured for this analysis, may in reality be relatively lenient. It is important to keep this in mind when interpreting the results of the effect of employment laws on rates of returns to prison.

Similarly, this data does not include controls for factors that could temper the effect of these laws, such as the availability of reentry programs, treatment programs, transitional housing, soup kitchens, effective public transportation, etc. Thus states that may appear to be similarly situated in terms of their formal laws, may vary markedly in the context to which parolees are released.

Finally, these analyses are limited to the extent that they are unable to account for the mediating factors predicted to be relevant to these laws. Collateral consequence laws are predicted to be related to higher rates of returns to prison based on the mediating factors of decreasing the employment of parolees, contributing to family disruption, negatively impacting the social cohesion of communities, and decreasing housing options. Thus without being able to measure these mediating factors, it is not possible to effectively test the relationship between rates of returns to prison and collateral consequence laws.

Conclusions and Future Directions

Although ultimately this research was unable to find firm support for the original hypothesis predicting that collateral consequence laws increase rates of returns to prison, there are too many potential problems with the data to say that this data indicates a finding of the absence of a relationship. When a more robust analysis was conducted, that is, longitudinal data on the effect of TANF laws, preliminary statistically significant results were found in the expected direction. Additional research is needed before we can dismiss the possibility of a relationship between collateral consequence laws and rates of returns to prison.

While the findings of this study are suggestive of a potential negative relationship between collateral consequence laws and rates of returns to prison for technical violation more research is needed to determine whether this relationship holds in future research, and if so, if it is spuriously related to an unmeasured variable. Additional research would

be needed into the decision making process of parole officers and parole boards to determine their role in this relationship.

While more research is needed to determine whether a relationship exists between collateral consequence laws and rates of returns to prison, there are still reasons to be concerned about the negative impact of these laws in other areas, such as their impact on election outcomes (Manza and Uggen 2006), labor market outcomes (Finlay 2009, Stoll and Bushway 2008), racial inequality in the employment (Wheelcock et al 2011), college attendance (Lovenheim and Owens 2013) and food insecurity (Wang et al 2013). Furthermore, it should be noted that some laws, such as permanent voting disenfranchisement, are not supported by the public (Pinaire 2002).

This dissertation highlights the need for future research on this topic. First and foremost is the need for individual level data. Unfortunately this dissertation was ultimately limited in the use of aggregate level data. Individual level data would be better suited to determining a relationship between collateral consequence laws and recidivism. Specifically, the Bureau of Justice Statistics collects data on individual recidivism data. They have recently collected data on individuals released from 30 states in 2005, although this data has not yet been released. They tracked these individuals for a five year period following release. As this data includes arrest data, and uses consistent definitions across states within the dataset, many of the data limitations present in the BJS prison and parole data can be avoided.

Another advantage of the BJS recidivism data, is that the impact of some collateral consequence laws may be more pronounced for some groups than others. For instance, women may be more vulnerable to restrictions on government assistance or public

housing, as women are more likely to rely on these services prior to entering prison, and because women are more likely to have custody of their children. While minorities may be more likely to be impacted by these laws given their disproportionate levels of contact with the criminal justice system, potentially collateral consequence could be less pronounced for racial minorities, given that they already face significant discrimination in the workforce, and may face statistical discrimination, whether or not they have a criminal record (Holzer et al 2006, Pager 2007).

Another avenue worth exploring in this area is the impact of collateral consequence laws on overall crime rates. To the extent that these laws affect communities, they may affect the overall crime rates of an area. In addition, these laws could have a differential impact on type of crime rates, such as violent or property crime rates (as reported to the police) or on drug arrests.

It may also be of value to look at the impact of these laws on additional outcomes. For instance, whether restrictions on drivers' licenses have had an impact on traffic fatalities. If restrictions on drivers' licenses are effective in targeting people that are more likely to engage in risky driving behaviors, and if they are able to effectively reduce the amount of time these people spend on the road, then potentially these laws could reduce the number of traffic fatalities in a state. All states implemented some restrictions on drivers' licenses based on the 1992 federal legislation, so a time series analysis on this event would be appropriate. This could be supplemented with a fixed effects analysis to determine whether the variations in the laws, as measured in this study, have an impact on traffic fatalities.

One final area of study worth mentioning is looking into the differential impact of these laws on minorities based upon their geographic placement. While scholars have mentioned the disproportionate impact of these laws on minorities due to the disproportionate involvement of minorities with the criminal justice system, as well as due to higher rates of drug offenses which some of these laws target specifically, an aspect that has not been explored is that laws may be harsher in states with higher percentages of minorities. A preliminary look at the data suggests that states with harsher laws are also tend to have higher percentages of minorities. Thus minorities may be disproportionately impacted simply based upon where they reside.

Collateral consequence laws have been called "invisible" in that they take place largely outside the public view and that generally offenders are unaware of them until after they have been sentenced (Travis 2002). Another way in which they can be regarded as "invisible" is that to date there has been a dearth of research on the impact of these laws on former offenders as well as communities. Given the increasing number of individuals facing collateral consequences, and the potential impact of these laws, this dissertation supports the need for additional research in this area.

Appendix

Appendix 1: Excluded States in Models Predicting Percent of Prison Admissions that are Violations

State	Percent of Prison Admissions that are Parole Violators	Percent of Prison Releases that are Conditional	Parolee Race Percent Black	Percent Parolees Violent/ Property/ Drug	**Total Excluded**
Alabama				*Excluded*	*Excluded*
Alaska	*Excluded*				*Excluded*
Arizona					
Arkansas					
California					
Colorado					
Connecticut					
Delaware					
Florida	*Excluded*				*Excluded*
Georgia	*Excluded*				*Excluded*
Hawaii			*Excluded*	*Excluded*	*Excluded*
Idaho					
Illinois					
Indiana					
Iowa					
Kansas					
Kentucky					
Louisiana					
Maine			*Excluded*	*Excluded*	*Excluded*
Maryland		*Excluded*			*Excluded*
Massachusetts				*Excluded*	*Excluded*
Michigan					
Minnesota					
Mississippi					
Missouri					
Montana					
Nebraska					
Nevada			*Excluded*	*Excluded*	*Excluded*
New Hampshire				*Excluded*	*Excluded*
New Jersey					

State					
New Mexico				*Excluded*	*Excluded*
New York					
North Carolina	*Excluded*				*Excluded*
North Dakota				*Excluded*	*Excluded*
Ohio					
Oklahoma					
Oregon					
Pennsylvania					
Rhode Island		*Excluded*			*Excluded*
South Carolina		*Excluded*			*Excluded*
South Dakota					
Tennessee					
Texas					
Utah					
Vermont					
Virginia	*Excluded*	*Excluded*			*Excluded*
Washington					
West Virginia					
Wisconsin				*Excluded*	*Excluded*
Wyoming		*Excluded*			*Excluded*
Excluded States	5	5	3	9	18

Appendix 2: Excluded States in Models Predicting Percent of Parole Exits that are Returned to Incarceration

State	Parole completions that are returned to incarceration	Parolee Race Percent Black	Percent Parolees Violent/ Property/ Drug	**Total Excluded**
Alabama			*Excluded*	*Excluded*
Alaska				
Arizona				
Arkansas				
California				
Colorado				
Connecticut				
Delaware	*Excluded*			*Excluded*
Florida				
Georgia				
Hawaii		*Excluded*	*Excluded*	*Excluded*
Idaho				
Illinois				
Indiana				
Iowa				
Kansas				
Kentucky				
Louisiana				
Maine	*Excluded*	*Excluded*	*Excluded*	*Excluded*
Maryland				
Massachusetts			*Excluded*	*Excluded*
Michigan				
Minnesota				
Mississippi				
Missouri				
Montana				
Nebraska				
Nevada		*Excluded*	*Excluded*	*Excluded*
New Hampshire			*Excluded*	*Excluded*
New Jersey				
New Mexico	*Excluded*		*Excluded*	*Excluded*
New York				
North				

Carolina				
North Dakota			*Excluded*	*Excluded*
Ohio				
Oklahoma				
Oregon				
Pennsylvania				
Rhode Island				
South				
Carolina				
South Dakota				
Tennessee				
Texas				
Utah				
Vermont				
Virginia				
Washington	*Excluded*			*Excluded*
West Virginia				
Wisconsin			*Excluded*	*Excluded*
Wyoming				
Excluded States	4	3	9	11

145

Appendix 3: Excluded States in Models Predicting Percent of Prison Admissions that are Returned for New Sentences Only or for Technical Violations Only

State	Parole completions returned for New Sentence only	Parole completions returned for Revocation only	Parolee Race Percent Black	Percent Parolees Violent/ Property/ Drug	**Total Excluded**
Alabama				*Excluded*	*Excluded*
Alaska					
Arizona					
Arkansas					
California					
Colorado					
Connecticut	*Excluded*	*Excluded*			*Excluded*
Delaware	*Excluded*	*Excluded*			*Excluded*
Florida					
Georgia					
Hawaii			*Excluded*	*Excluded*	*Excluded*
Idaho					
Illinois					
Indiana					
Iowa	*Excluded*	*Excluded*			*Excluded*
Kansas					
Kentucky					
Louisiana					
Maine	*Excluded*	*Excluded*	*Excluded*	*Excluded*	*Excluded*
Maryland					
Massachusetts				*Excluded*	*Excluded*
Michigan					
Minnesota					
Mississippi	*Excluded*	*Excluded*			*Excluded*
Missouri					
Montana					
Nebraska					
Nevada			*Excluded*	*Excluded*	*Excluded*
New Hampshire	*Excluded*	*Excluded*		*Excluded*	*Excluded*
New Jersey					
New Mexico	*Excluded*	*Excluded*		*Excluded*	*Excluded*
New York					

North Carolina					
North Dakota				*Excluded*	*Excluded*
Ohio					
Oklahoma					
Oregon					
Pennsylvania					
Rhode Island					
South Carolina					
South Dakota					
Tennessee					
Texas					
Utah					
Vermont					
Virginia					
Washington	*Excluded*	*Excluded*			*Excluded*
West Virginia					
Wisconsin				*Excluded*	*Excluded*
Wyoming					
Excluded States	8	8	3	9	14

Appendix 4: Summary Statistics for Control Variables in Models Predicting Percent of Prison Admissions that are Violations

	N	Min	Max	Mean	Median
Prison Data - Controls 2009					
Percent of Prison Releases that are Conditional	32	48%	98%	76%	78%
Imprisonment rate	32	189	881	426	423
Parole Data - Controls 2009					
Parolee Race - Percent Black	32	2%	66%	30%	31%
Percent Parolees - Violent	32	8%	68%	30%	25%
Percent Parolees - Property	32	7%	55%	23%	24%
Percent Parolees - Drug	32	11%	63%	32%	31%
State Level - Controls 2009					
Unemployment as a percent of the civilian workforce	32	5%	13%	8%	8%
Percent of kids living in single-parent homes	32	16%	39%	27%	27%

Appendix 5: Summary Statistics for Control Variables in Models Predicting Percent of Parole Exits that are Returned to Incarceration

	N	Min	Max	Mean	Median
Prison Data - Controls 2009					
Percent of Prison Releases that are Conditional	34	11%	98%	71%	75%
Imprisonment rate	39	189	881	428	420
Parole Data - Controls 2009					
Parolee Race - Percent Black	39	2%	72%	33%	33%
Percent Parolees - Violent	39	8%	67%	33%	31%
Percent Parolees - Property	39	7%	55%	23%	24%
Percent Parolees - Drug	39	3%	63%	30%	29%
State Level - Controls 2009					
Unemployment as a percent of the civilian workforce	39	5%	13%	9%	8%
Percent of kids living in single-parent homes	39	16%	39%	27%	27%

Appendix 6: Summary Statistics for Control Variables in Models Predicting Percent of Prison Admissions that are Returned for New Sentences Only or for Technical Violations					
	N	Min	Max	Mean	Median
Prison Data - Controls 2009					
Percent of Prison Releases that are Conditional	31	11%	98%	71%	77%
Imprisonment rate	36	189	881	425	423
Parole Data - Controls 2009					
Parolee Race - Percent Black	36	2%	72%	33%	33%
Percent Parolees - Violent	36	8%	67%	35%	33%
Percent Parolees - Property	36	7%	55%	23%	24%
Percent Parolees - Drug	36	3%	62%	28%	29%
State Level - Controls 2009					
Unemployment as a percent of the civilian workforce	36	5%	13%	9%	8%
Percent of kids living in single-parent homes	36	16%	37%	27%	27%

Appendix 7: Scatter Plot of Percent of Prison Admissions that are Violations and Cumulative Collateral Consequence Score (with laws weighed equally)
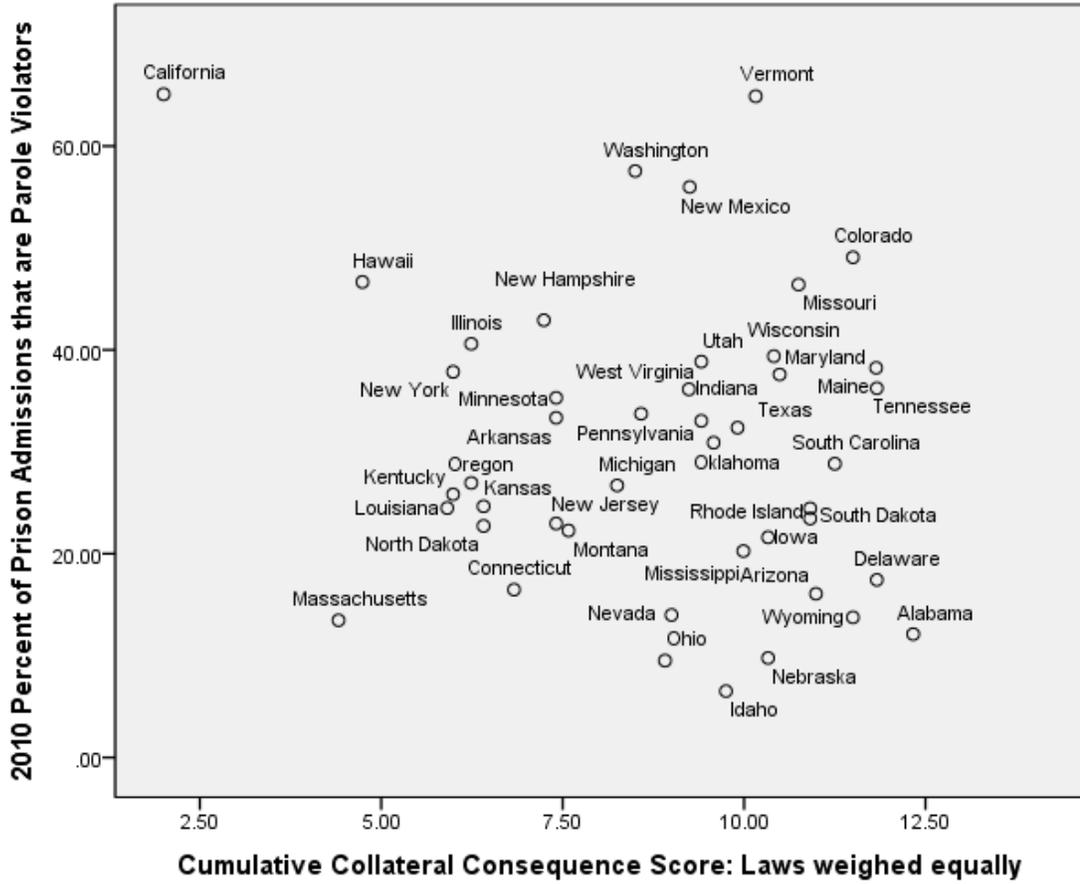
Appendix 8: Scatter Plot of Percent of Prison Admissions that are Violations and Cumulative Collateral Consequence Score (with categories weighed equally)
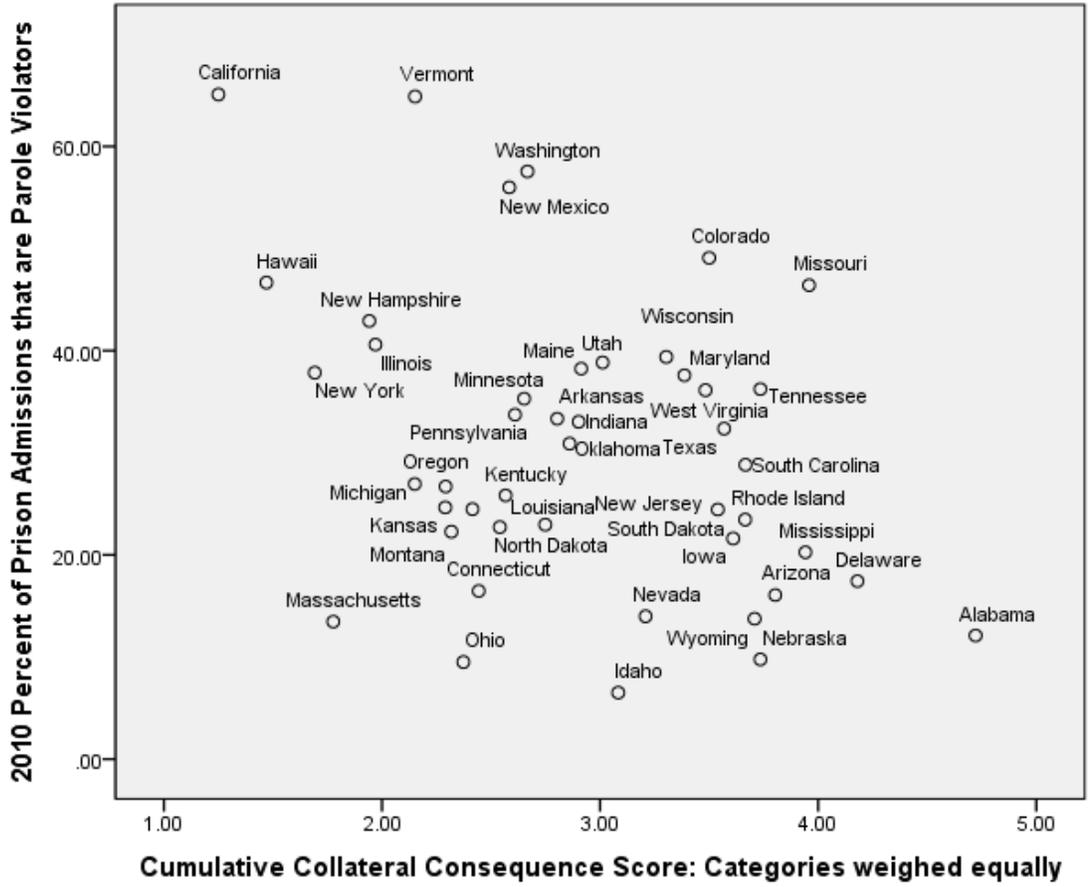
Appendix 9: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration and Cumulative Collateral Consequence Score (with laws weighed equally)
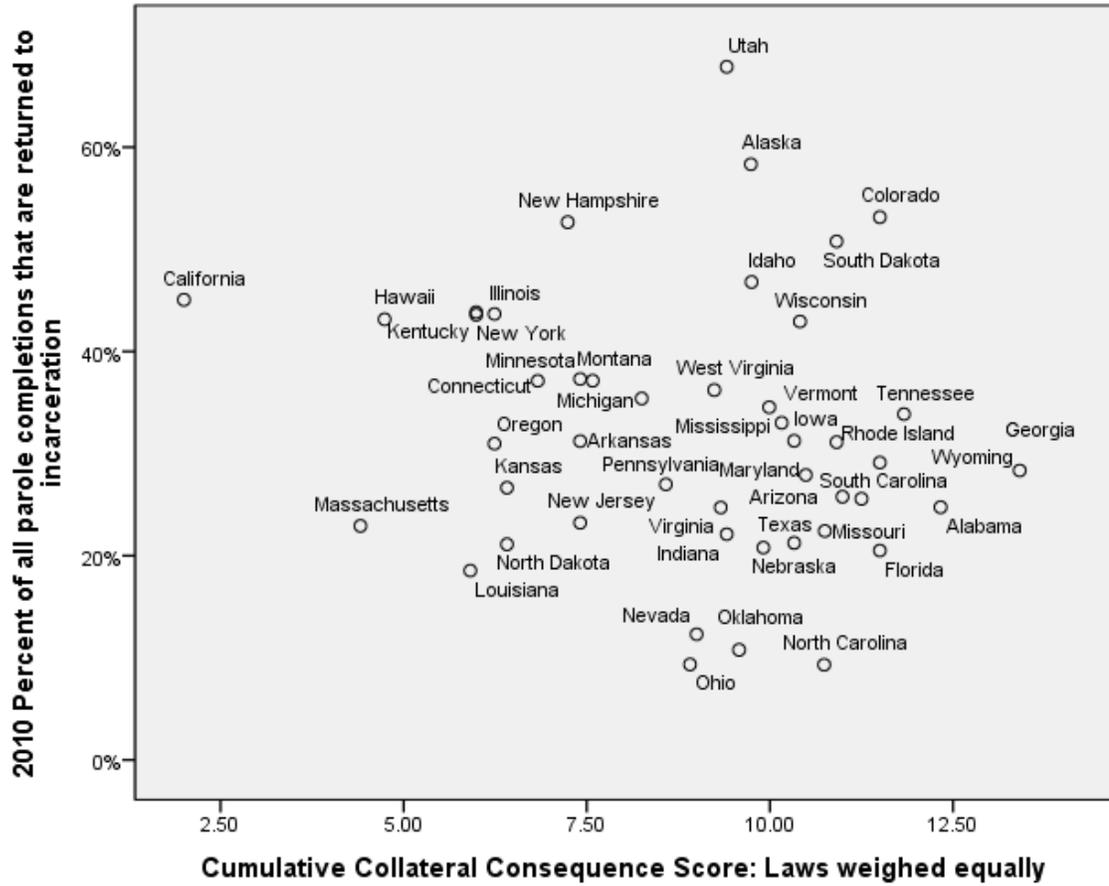
Appendix 10: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration and Cumulative Collateral Consequence Score (with categories weighed equally)
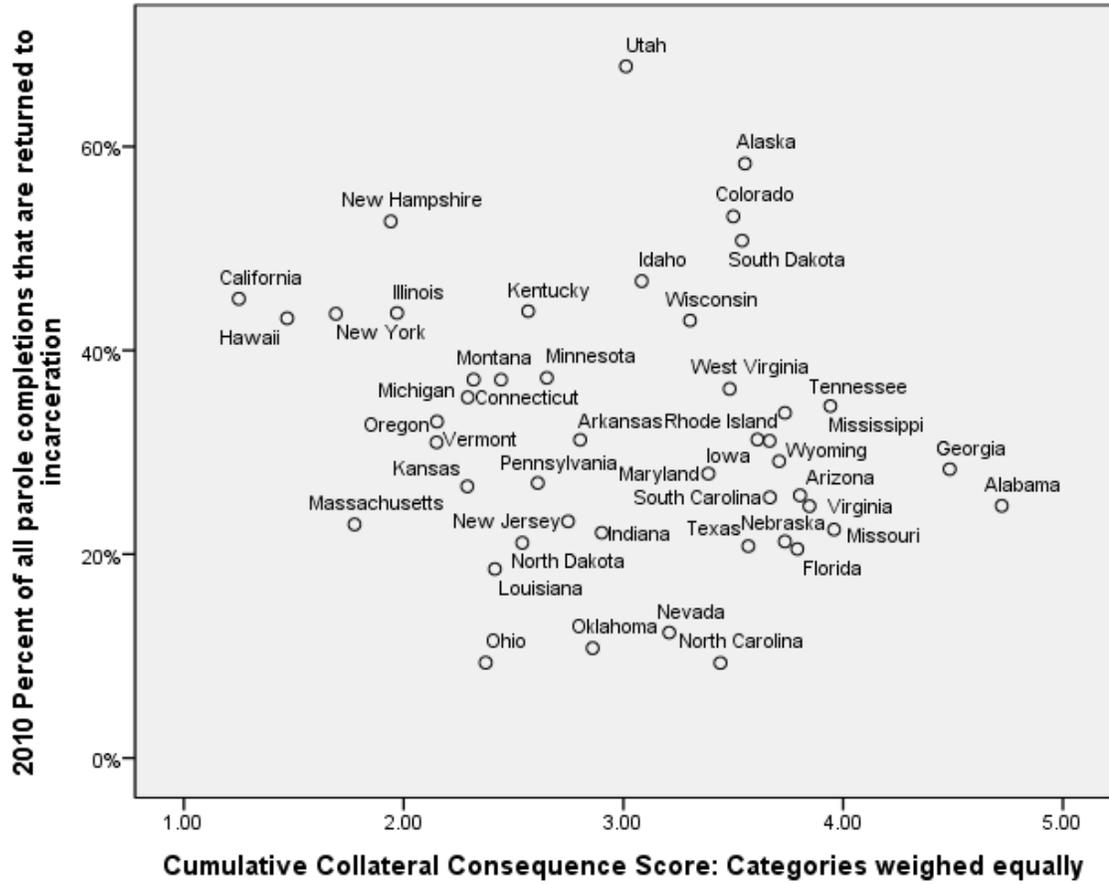
Appendix 11: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration for New Sentence Only and Cumulative Collateral Consequence Score (with laws weighed equally)
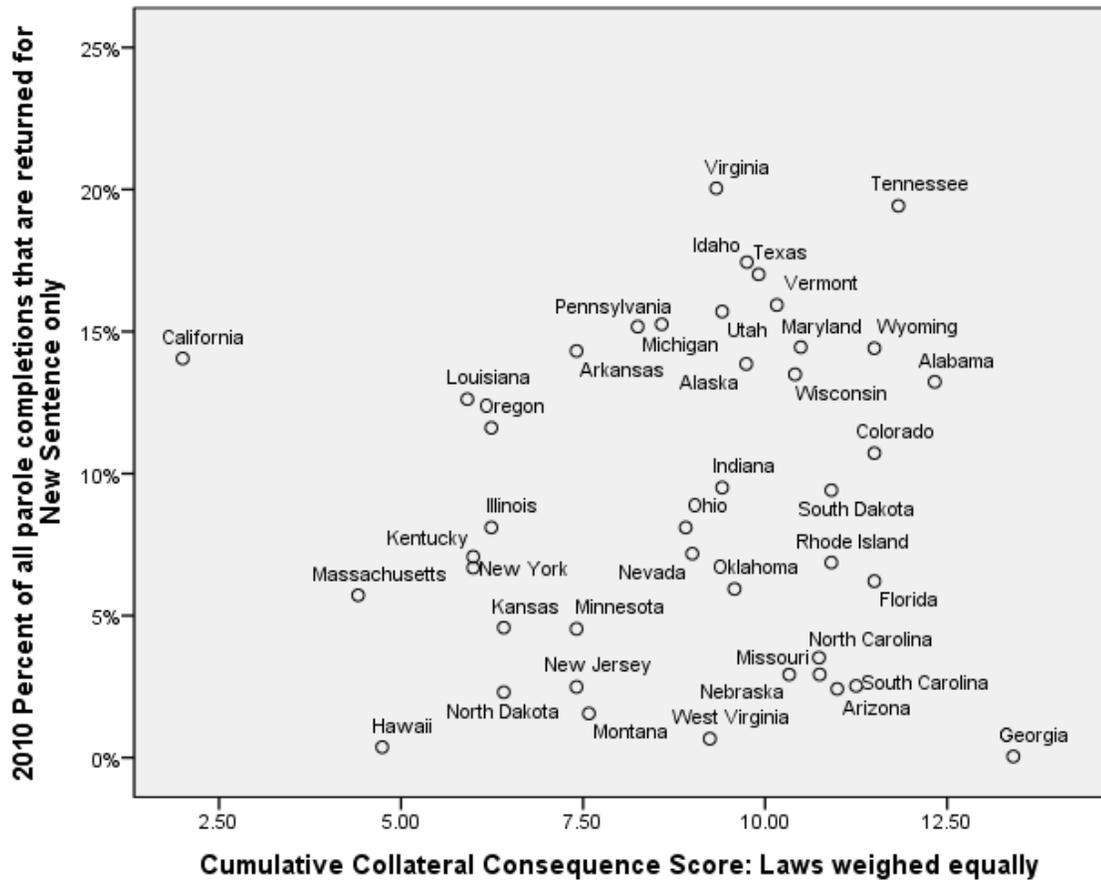
Appendix 12: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration for New Sentence Only and Cumulative Collateral Consequence Score (with categories weighed equally)
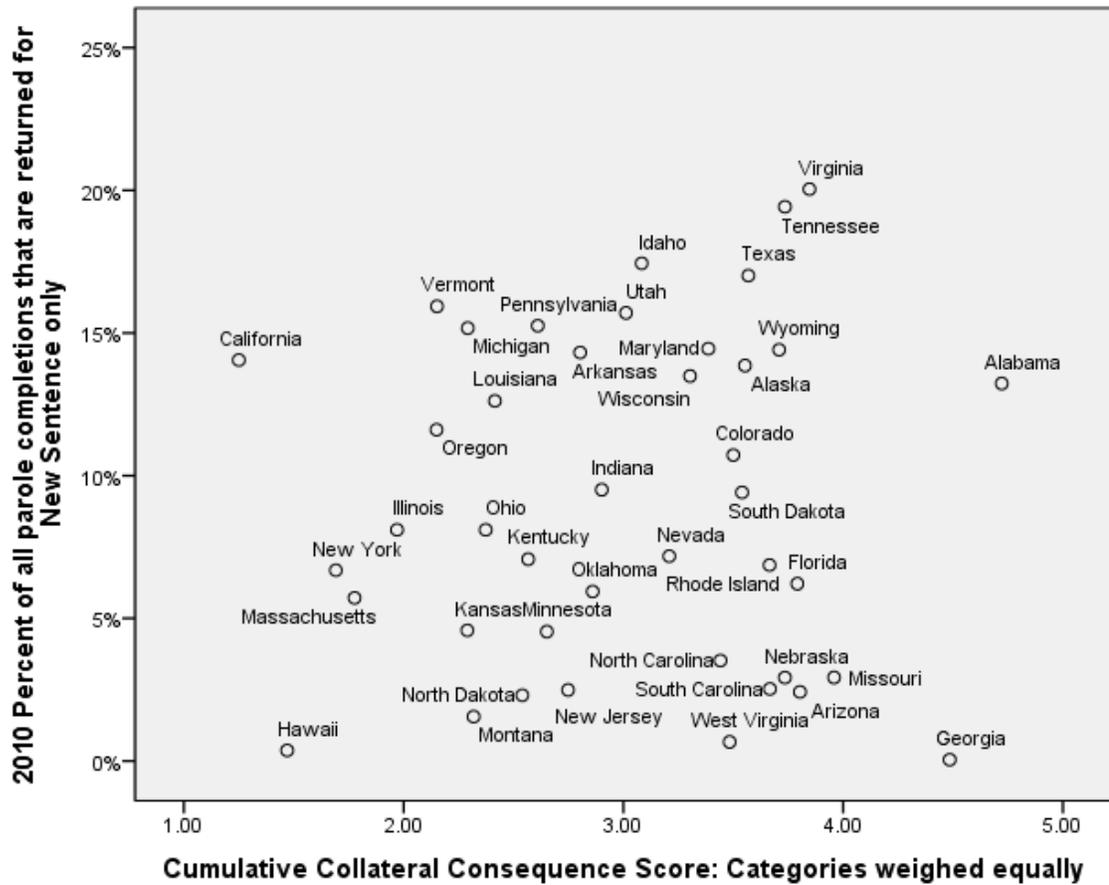
Appendix 13: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration for Technical Revocation Only and Cumulative Collateral Consequence Score (with laws weighed equally)
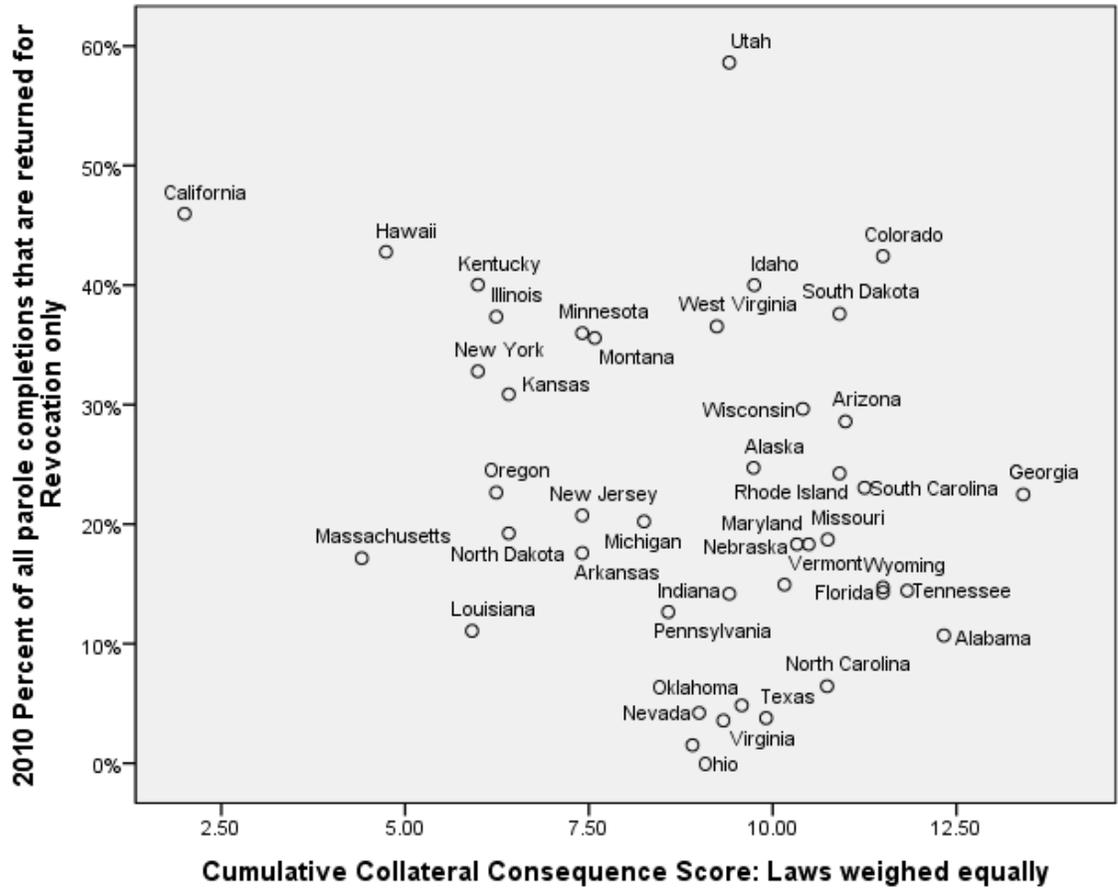
Appendix 14: Scatter Plot of Percent of all Parole Completions that are Returned to Incarceration for Technical Revocation Only and Cumulative Collateral Consequence Score (with categories weighed equally)
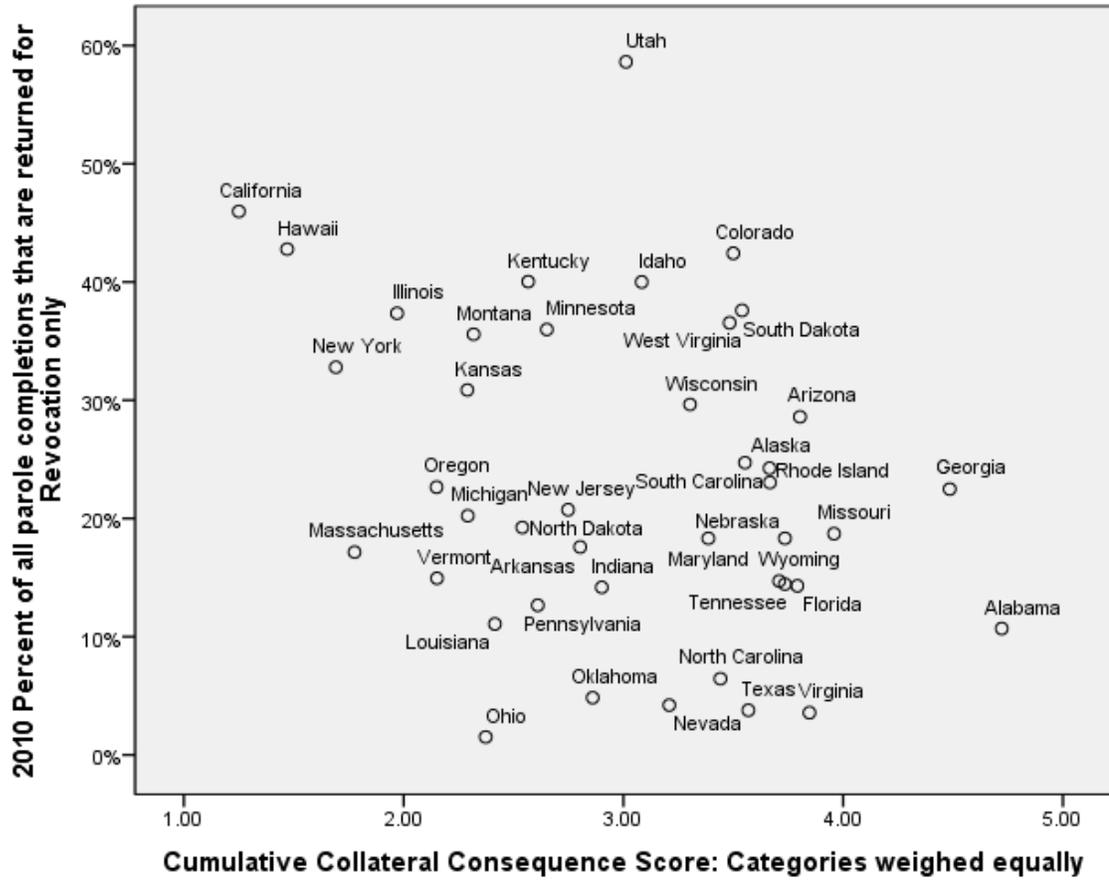
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