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## SHOULD PAROLE DEPARTMENTS HIRE INDIVIDUALS WITH A CRIMINAL RECORD?

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### INTRODUCTION

Even as heated debates persist about who should be sent to prison and for how long, few disagree that society has a vested interest in ensuring that an incarcerated individual does not return to prison after his<sup>1</sup> release. Despite this shared goal of reintegration, however, our criminal justice system continues to suffer from high rates of recidivism with as many as two-thirds of prisoners rearrested within three years.<sup>2</sup> The gap between our rehabilitative intent and this recidivistic result suggests that new reentry strategies are necessary.

Beyond the formerly incarcerated individual, perhaps no single person has a greater influence on creating positive

1. For simplicity's sake, this paper refers to individuals using solely male pronouns. The choice reflects the massive overrepresentation of men within the criminal justice system, but it should not be viewed as any kind of indication that the proposals under consideration by this paper should not extend equally to women.

2. Matthew R. Durose et al., "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010," Bureau of Justice Statistics, April 2014. <https://www.nij.gov/topics/corrections/recidivism/Pages/welcome.aspx>.

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recidivism outcomes than a parole officer.<sup>3</sup> Indeed, the associated responsibilities of these officials are varied: in any given case, a parole specialist may be expected to create an individualized plan for the parolee based on criminogenic need, to monitor him to ensure compliance with his conditions of release, to conduct drug and alcohol screenings and to assist his search for employment—to name only a few of many potential duties.<sup>4</sup> In a system beset by human foibles and failures, a good parole officer truly can be the difference between a parolee landing a job or entering school rather than ending up back in a prison cell.<sup>5</sup>

In light of the incredible responsibility entrusted to parole officials, it may seem common sense to require—as many jurisdictions do—a clean criminal record or institute other similar bars for candidates with more complicated legal histories. Certainly, it is indisputable that such individuals must have integrity. However, it is important not to simply conflate a clean record with integrity, particularly given that the parole system itself is premised on the notion that people can be rehabilitated.

While there would be a number of risks associated with removing these occupational restrictions, such a leap of faith may still provide dividends to a parole department. If allowed the opportunity to serve, individuals with a criminal record can have an outsized impact on our reentry system. As role models for rehabilitation, they can incentivize parolees and provide proof positive to potential employers of the value of hiring such individuals. They could also help bridge the divide between parolee and parole officer, allowing the two groups to work more cooperatively toward a shared rehabilitative goal. At the same time, concerns that they would abuse this position of authority are likely overblown, and the risks are susceptible to substantial mitigation.

3. As a shorthand, the term "parole" is used throughout this paper to describe the work done by departments and individuals responsible for supervised release programs. Depending on the jurisdiction and the nature of an individual's sentence, this work may be done by a parole department, a probation department, some combination of the two or an alternatively named entity.

4. Oklahoma Office of Personnel Management, "Probation and Parole Officer," State of Oklahoma, 2018. <https://www.ok.gov/opm/jfd/i-specs/i40.htm>.

5. See, e.g., Mark Jones and John J. Krebs, "Probation and Parole Officers and Discretionary Decision-Making: Responses to Technical and Criminal Violations," *Federal Probation* 71:1 (June 2007) pp. 16-17. [http://www.uscourts.gov/sites/default/files/fed\\_probation\\_june\\_2007.pdf](http://www.uscourts.gov/sites/default/files/fed_probation_june_2007.pdf).

## EMPLOYMENT BARRIERS FOR INDIVIDUALS WITH A CRIMINAL RECORD

Of the many employment-related barriers facing individuals with a criminal record, some of the most prevalent and pernicious are occupational licensing restrictions and other employment prohibitions. Today, roughly a quarter of U.S. workers are covered by an occupational license or certification.<sup>6</sup> Thousands of criminal-history-based restrictions either inhibit or prohibit individuals from participating in various professions across the country.<sup>7</sup> They govern entrance into professions as varied as hairdressing<sup>8</sup> and real estate brokerage.<sup>9</sup> These regulations have serious consequences, with one study finding that states with high occupational licensing burdens experienced an average 9.4% increase in recidivism from 1997-2007 versus a 4.2% decrease for those states with low occupational licensing burdens.<sup>10</sup>

The public safety,<sup>11</sup> health<sup>12</sup> and legal<sup>13</sup> professions all make frequent appearances on lists of occupational restrictions based on criminal history. This likely stems from the special trust that society places in these professions, as those who work within them often have access to very private information and may even be placed in positions that require life and death decision-making. Because of these factors, our risk tolerance remains justifiably low when considering eligibility requirements to enter these fields.

Perhaps unsurprisingly, since some aspects of their job touch on each of these sensitive areas, parole officials are bound by many of these occupational restrictions. Indeed, many jurisdictions have outright prohibitions on the employment of any individual with a conviction for one or more of a list of enumerated offenses, which usually includes all felonies as well as many misdemeanors involving violence or dishones-

ty.<sup>14</sup> Those that allow individuals with certain misdemeanors to serve often still direct the hiring authority to consider the conviction in question<sup>15</sup> or otherwise call attention to it through requirements for “good moral character.”<sup>16</sup>

Even these milder restrictions that only allow for the consideration of criminal history as part of a decision regarding an individual’s “moral character” can prove problematic and prohibitive. For example, in a case about admission to the legal bar, the Supreme Court noted that: “Such a vague qualification, which is easily adapted to fit personal views and predilections, can be a dangerous instrument for arbitrary and discriminatory denial of the right to practice law.”<sup>17</sup> Given the susceptibility of law enforcement personnel to an “us versus them” mindset,<sup>18</sup> these kinds of prejudices may be particularly common and powerful in related fields. As such, explicit legal hurdles only present the first obstacle for individuals with a criminal record to overcome on the path toward many parole department jobs.

## SCOPE OF PAROLE WORK

Parole departments occupy a special and crucial role in the criminal justice system and a correspondingly large footprint across it. At the end of 2015, the U.S. Department of Justice estimated that 4,650,900 adults were under community supervision; a number that represents one in every fifty-three adults in the United States.<sup>19</sup> This number includes the vast majority of individuals leaving prison, with 78% subjected to some period of supervision following their release.<sup>20</sup> Depending on the jurisdiction, the responsibility for these programs may be housed in the judicial or executive branch.<sup>21</sup> These differing placements reflect the hybrid role of supervised release, as it requires the supervisory author-

6. Bureau of Labor Statistics, “Labor Force Statistics from the Current Population Survey,” U.S. Dept. of Labor, Feb. 8, 2018. <https://www.bls.gov/cps/cpsaat49.htm>.

7. Justice Center, “The National Inventory of Collateral Consequences of Conviction,” The Council of State Governments, 2018. <https://niccc.csjusticecenter.org/search/>. As of March 2018, a search of restrictions for individuals with a criminal record in the category of “Occupational and professional license and certification” creates 16,772 entries across all U.S. jurisdictions.

8. Ibid. <https://niccc.csjusticecenter.org/consequences/161852>.

9. Ibid. <https://niccc.csjusticecenter.org/consequences/94910>.

10. Stephen Sliwinski, “Turning Shackles Into Bootstraps,” Center for the Study of Economic Liberty at Arizona State University, Nov. 7, 2016. <https://research.wpcarey.asu.edu/economic-liberty/wp-content/uploads/2016/11/CSEL-Policy-Report-2016-01-Turning-Shackles-into-Bootstraps.pdf>.

11. As of March 2018, a search for “law enforcement” turns up 2,132 entries for either “employment” or “occupational and professional license or certification” across all U.S. jurisdictions. See Justice Center. <https://niccc.csjusticecenter.org/search/>.

12. As of March 2018, a search for “health care” turns up 5,570 entries for either “employment” or “occupational and professional license or certification” across all U.S. jurisdictions. See Ibid. <https://niccc.csjusticecenter.org/search/>.

13. As of March 2018, a search for “lawyer” turns up 110 entries for either “employment” or “occupational and professional license or certification” across all U.S. jurisdictions. See Ibid. <https://niccc.csjusticecenter.org/search/>.

14. See, e.g., “Basic Employment Standards for Probation, Parole, and Correctional Officers,” 13 A.A.C. 85.210 (Alaska); “Disqualifications for Office or Employment,” 1 Cal. Gov. Code 1029 (California); and “Fingerprints and Criminal Record Checks,” N.H. Admin. Rules, Pol 301.02 (New Hampshire).

15. See, e.g., “Rules of the Idaho Peace Officer Standards and Training Council,” 11.11.01 (Idaho).

16. See, e.g., “Minimum Standards for Certification of Correctional Officers, Probation/Parole Officers, and Probation/Parole Officers-Surveillance,” 12 N.C.A.C. 09G.0200 (North Carolina).

17. *Konigsberg v. State Bar of California*, 353 U.S. 252 (1957).

18. Mary Eleanor Wickersham, “Spotlight on Police Culture,” International City/County Management Association, Feb. 16, 2016. <https://icma.org/articles/pm-magazine/spotlight-police-culture>; and Mary Stohr et al., *Corrections: A Text/Reader* (SAGE Publications, 2013), p. 339.

19. Bureau of Justice Statistics, “Probation and Parole in the United States, 2015,” U.S. Dept. of Justice, Feb. 2, 2017, p. 1. <https://www.bis.gov/content/pub/pdf/ppus15.pdf>.

20. “Max Out: The Rise in Prison Inmates Released Without Supervision,” The Pew Charitable Trusts, June 2014, p. 1. [http://www.pewtrusts.org/-/media/assets/2014/06/04/maxout\\_report.pdf](http://www.pewtrusts.org/-/media/assets/2014/06/04/maxout_report.pdf).

21. Michelle S. Phelps and Caitlin Curry, “Supervision in the Community: Probation and Parole,” *Oxford Research Encyclopedias: Criminology and Criminal Justice*, April 2017. <http://criminology.oxfordre.com/view/10.1093/acrefore/9780190264079.001.0001/acrefore-9780190264079-e-239>.

ity both to enforce and implement a court's sentencing decisions and also to work with a parolee to prevent future violations of the law.<sup>22</sup>

The goals of post-release supervision are “the execution of the sentence and the protection of the community by reducing the risk and recurrence of crime and maximizing defendant success during the period of supervision and beyond.”<sup>23</sup> These diverse demands on parole departments help to ensure that the work of parole officials is multi-faceted and particularly challenging.<sup>24</sup> Officers effectively quarterback a parolee's reentry into law-abiding society and are expected to have “the investigative skills of law enforcement,” as well as the “treatment and service-delivery skills of social workers.”<sup>25</sup> For the period of supervision, the parole officer has to be aware of the important relationships and activities in a parolee's life, anticipate areas in which he might be tempted to deviate from a rehabilitative plan and “control and correct” his behavior.<sup>26</sup> Corrective actions can range from a verbal reprimand to the revocation of an individual's release and the renewal of his incarceration.<sup>27</sup> Given the myriad barriers to reentry, the responsibilities placed on parole officials can amount to a heavy burden even in the best of situations.<sup>28</sup>

While the power to revoke parole will ensure there is always some adversarial tension, the forward-looking nature of parole creates an unusual opportunity for officials to work more cooperatively with parolees to tackle these reentry challenges. Prior to this point, the only government officials a parolee has likely interacted with include the law enforcement officers who arrested him, a prosecutor who argued for his conviction and a judge who sentenced him to incarceration. Conversely, a parole officer, whose “goal in all cases is the successful completion of the term of supervision” represents an individual with whom, at least putatively, a parolee's interests align.<sup>29</sup> This places a premium on a parole official's

ability to relate to and build rapport with a parolee.<sup>30</sup> It also creates an opening for collaboration that does not exist elsewhere in the criminal justice system.

## BENEFITS OF FORMER PAROLEES TO PAROLE OFFICES

Parolees are likely to return to areas in which positive influences are in short supply. Prisoner reentry is incredibly geographically concentrated, with new parolees clustered not just within a relatively small number of cities and counties, but even within particular neighborhoods.<sup>31</sup> As a result of social ties and parole policies or regulations, often this is the same community in which the parolee lived prior to his incarceration or where he was convicted.<sup>32</sup> In such instances, returning parolees may renew their past associations with the same individuals who aided or encouraged their original criminal activities.<sup>33</sup> As a result, a parolee may find himself in a group that “inundate[s] individual members with motives and rationalizations conducive to crime, thereby increasing the probability that individual members will engage in criminal conduct.”<sup>34</sup> Ultimately, concentrating parolees in this manner creates hotspots with significantly higher rates of recidivism.<sup>35</sup>

The hiring and promotion of individuals with a criminal record by a parole office could go a long way in countering the impact of this negative environment by providing strong role models for new parolees. As most people intuit and social learning theory research has long argued,<sup>36</sup> individuals are susceptible to external influencers. In particular, they are drawn to others with whom they have something in common<sup>37</sup> and display competence or otherwise hold relatively

22. “Find Out What Probation Officers Do,” Office of the Commissioner of Probation, 2018. <https://www.mass.gov/service-details/find-out-what-probation-officers-do>.

23. Probation and Pretrial Services Office, “Overview of Probation and Supervised Release Conditions,” Administrative Office of the U.S. Courts, November 2016, p. 5. [http://www.uscourts.gov/sites/default/files/overview\\_of\\_probation\\_and\\_supervised\\_release\\_conditions\\_0.pdf](http://www.uscourts.gov/sites/default/files/overview_of_probation_and_supervised_release_conditions_0.pdf).

24. *Ibid.*, p. 6.

25. *Ibid.*

26. *Ibid.*, pp. 5-7.

27. See, e.g., “RTV Parole Violation Severity Scale,” South Dakota Department of Corrections, March 6, 2017, p. 3. <https://www.interstatecompact.org/sites/interstatecompact.org/files/pdf/states/SD/SD-Parole-Violation-Severity-Scale.pdf>.

28. Justice Lab, “Too Big to Succeed: The Impact of the Growth of Community Corrections and What Should be Done About It,” Columbia University, Jan. 29, 2018, p. 5. [http://justicelab.iserp.columbia.edu/img/Too\\_Big\\_to\\_Succeed\\_Report\\_FINAL.pdf](http://justicelab.iserp.columbia.edu/img/Too_Big_to_Succeed_Report_FINAL.pdf).

29. Probation and Pretrial Services Office, p. 5. [http://www.uscourts.gov/sites/default/files/overview\\_of\\_probation\\_and\\_supervised\\_release\\_conditions\\_0.pdf](http://www.uscourts.gov/sites/default/files/overview_of_probation_and_supervised_release_conditions_0.pdf).

30. Jason Clark-Miller et al., “Effective Supervision Strategies: Do Frequent Changes of Supervision Officers Affect Probationer Outcomes?,” *Federal Probation* 75:3 (Dec. 2011), p. 17. [http://www.uscourts.gov/sites/default/files/federal\\_probation\\_journal\\_december\\_2011.pdf](http://www.uscourts.gov/sites/default/files/federal_probation_journal_december_2011.pdf).

31. Jeffrey D. Morenoff and David J. Harding, “Incarceration, Prisoner Reentry, and Communities,” *Annual Review of Sociology* 40 (July 2014), pp. 411-29. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4231529>.

32. David S. Kirk, “A Natural Experiment of the Consequences of Concentrating Former Prisoners in the Same Neighborhoods,” *Proceedings of the National Academy of Sciences of the U.S.A.*, April 23, 2015, p. 1. <http://www.pnas.org/content/pnas/early/2015/05/14/1501987112.full.pdf>.

33. Morenoff and Harding, pp. 411-29. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4231529>. (citing David S. Kirk, “A Natural Experiment on Residential Change and Recidivism: Lessons from Hurricane Katrina,” *American Sociological Review* 74 (June 2009), p. 484. [https://liberalarts.utexas.edu/files/kirkds/Kirk\\_ASR2009\\_Published.pdf](https://liberalarts.utexas.edu/files/kirkds/Kirk_ASR2009_Published.pdf); and David S. Kirk, “Residential Change as a Turning Point in the Life Course of Crime: Desistance or Temporary Cessation?,” *Criminology* 50: 2 (2012), p. 329-58, <https://pdfs.semanticscholar.org/18ac/1ff799f45a17211e979b76bd39ebac5a2d0.pdf>).

34. “A Natural Experiment of the Consequences of Concentrating Former Prisoners in the Same Neighborhoods,” p. 2. <http://www.pnas.org/content/pnas/early/2015/05/14/1501987112.full.pdf>.

35. *Ibid.*, p. 1.

36. See, e.g., Albert Bandura, *Social Learning Theory*, (General Learning Press, 1971). [http://www.asecib.ase.ro/mps/Bandura\\_SocialLearningTheory.pdf](http://www.asecib.ase.ro/mps/Bandura_SocialLearningTheory.pdf).

37. *Ibid.*, p. 29.

high status within their peer group.<sup>38</sup> Especially important in role model selection are the goals of an individual at the time of selection and how closely a potential role model resembles an individual's desired future self.<sup>39</sup> All of this suggests that a parole officer who has a criminal record may be particularly well suited to serve as a role model for parolees. While all parole officers can model law abiding behavior, only one with a criminal past serves as an example of successful rehabilitation. Further, he is more likely to share peer characteristics and be viewed as a viable and desired future self for a parolee than a parole officer who has never experienced incarceration or had to struggle with reentry.

In addition to modeling positive behaviors, a parole officer with a criminal record can provide motivation by showcasing what is possible and how it can be accomplished. High parole revocation rates in most jurisdictions<sup>40</sup> can make a return to prison appear all but inevitable to many parolees. Given that people are more likely to work toward goals that appear achievable,<sup>41</sup> a defeatist mindset can become a self-fulfilling prophecy. Likewise, attainability is key to role model success because "they personify plausible desired selves that people can realistically aspire to become and illustrate the means for achieving these desired selves."<sup>42</sup> Only a parole officer who has himself successfully completed a term of supervised release is able to fill this role and provide an example of a path forward that proves failure is not inescapable.

The quality of rapport between parole officer and parolee has been shown to be negatively correlated with recidivism,<sup>43</sup> which suggests that there is value in a parole officer who is perceived as an ally rather than antagonist. A parole officer who has a criminal record himself may be able to leverage his experiences with the criminal justice system to engage with his probationary charges much as a peer might. This

could help reduce the adversarial nature of the parole officer-parolee relationship and enhance his ability to effectively reach those for whom he is responsible.

An ability to relate to parolees on a peer basis may also provide additional benefits. Peer education programs have had success promoting positive outcomes among groups as varied as prisoners,<sup>44</sup> medical students<sup>45</sup> and recovering substance abusers.<sup>46</sup> In the substance abuse context, peers have been found to be "the primary influence for change" because they have "sustained recovery."<sup>47</sup> While some of these peer benefits may be lost to a parole officer due to his official position and relationship with a parolee, the retention of any would certainly be a boon.

Moreover, the simple act of employing individuals with a criminal record in a parole department would signal to private employers that such individuals can be a valuable addition to an organization. Whether in response to concerns about liability<sup>48</sup> or simply the stigma associated with a criminal record, private employers remain hesitant to hire these individuals<sup>49</sup> and a criminal record can reduce an applicant's odds of receiving even a callback interview by 50%.<sup>50</sup> In view of this, a parole office that employs such individuals casts a very public vote of confidence in the ability of the parole system to rehabilitate offenders and likely can serve as a more credible advocate for the merits of hiring individuals with a criminal record more broadly. Trusting such individuals to complete such a sensitive job could also help ease private employer concerns and perhaps reduce at least some of the stigma associated with a criminal record.

From an employment perspective, parole departments and parolees alike would benefit from the inclusion of individuals with a criminal record within the ranks of parole officers. Relatively low pay at some parole departments can

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38. G. Turner and J. Shepherd, "A Method in Search of a Theory: Peer Education and Health Promotion," *Health Education Research* 14:2 (1999) p. 237-38. <https://academic.oup.com/her/article/14/2/235/790316>.

39. Penelope Lockwood et al., "Motivation by Positive or Negative Role Models: Regulatory Focus Determines Who Will Best Inspire Us," *Journal of Personality and Social Psychology* 83:4 (November 2002) pp. 854-55. <http://www.psych.utoronto.ca/users/lockwood/PDF/Lockwood%202002%20Motivation.pdf>.

40. Mariel E. Alper, "By the Numbers: Parole Release and Revocation Across 50 States," Robina Institute of Criminal Law and Criminal Justice, April 27, 2016. <https://robinainstitute.umn.edu/publications/numbers-parole-release-and-revocation-across-50-states>.

41. Amy L. Solomon et al., "Putting Public Safety First," The Urban Institute, December 2008, p. 27. <https://www.urban.org/sites/default/files/publication/32156/411791-Putting-Public-Safety-First--Parole-Supervision-Strategies-to-Enhance-Reentry-Outcomes-Paper-PDF> (citing B. Duncan et al. eds., *The Heroic Client: A Revolutionary Way to Improve Effectiveness Through Client-Directed Outcome-Informed Therapy* [John Wiley & Sons, 2004]).

42. Lockwood et al., p. 855. <http://www.psych.utoronto.ca/users/lockwood/PDF/Lockwood%202002%20Motivation.pdf>.

43. Alyssa W. Chamberlain et al., "Parolee-Parole Officer Rapport: Does It Impact Recidivism?", *International Journal of Offender Therapy and Comparative Criminology* (Nov. 30, 2017), pp. 15-16. <http://journals.sagepub.com/doi/abs/10.1177/0306624X17741593>.

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44. See, e.g., Anne-Marie Bagnall et al., "A Systematic Review of the Effectiveness and Cost-Effectiveness of Peer Education and Peer Support in Prisons," *BMC Public Health* (2015). <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-015-1584-x>.

45. Sara de Menezes and Daphne Premnath, "Near-Peer Education: A Novel Teaching Program," *International Journal of Medical Education* 7 (2016), pp. 160-67. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4885635>.

46. Rosemary A. Boisvert et al., "Effectiveness of a Peer-Support Community in Addiction Recovery: Participation as Intervention," *Occupational Therapy International* 15:4 (2008), pp. 205-20. <http://onlinelibrary.wiley.com/doi/10.1002/oti.257/epdf>.

47. Ibid, p. 207. <http://onlinelibrary.wiley.com/doi/10.1002/oti.257/epdf>.

48. See, "Background Checking – The Use of Criminal Background Checks in Hiring Decisions," Society for Human Resource Management, July 19, 2012. <https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/Pages/criminal-backgroundcheck.aspx>.

49. Bruce Western and Becky Pettit, "Incarceration & Social Inequality," *Daedalus* (Summer 2010), pp. 13-14. [https://www.mitpressjournals.org/doi/pdf/10.1162/DAED\\_a\\_00019%20](https://www.mitpressjournals.org/doi/pdf/10.1162/DAED_a_00019%20).

50. Devah Pager, "The Mark of a Criminal Record," *American Journal of Sociology* 108:5 (March 2003), pp. 955-56. [http://scholar.harvard.edu/files/pager/files/pager\\_ajs.pdf](http://scholar.harvard.edu/files/pager/files/pager_ajs.pdf).

cause them to struggle to recruit and retain candidates.<sup>51</sup> By opening a pathway to former parolees, they would not only expand the applicant pool, but potentially do so with individuals they have known for years and with whom they are already intimately familiar. For former parolees, it would represent a welcome additional job opportunity in a field in which they already have experience and for which they may harbor particular passion.

## POTENTIAL RISKS AND MITIGATING FACTORS

The primary risks of employing individuals with a criminal record as parole officers derive from concerns over the sincerity and longevity of an individual's rehabilitation. Parole officers play a critical role in controlling and correcting potentially criminal or other antisocial behavior by the people under their supervision.<sup>52</sup> A parole officer who fails to adequately monitor his parolees or enforce violations can create a public safety hazard by effectively nullifying the "supervised" portion of "supervised release." This could facilitate crime and lead the public to question the integrity of its parole system writ large. To the extent that a parole officer is directly committing his own crimes, the crisis of confidence would only be magnified.

While the consequences of a parole officer abetting or personally reverting to criminal behavior may be significant, the likelihood remains relatively low. The rate of re-offense is highest in the year immediately following release from a correctional institution and decreases significantly thereafter.<sup>53</sup> Depending on the age and offense, an individual's risk of re-arrest may even begin to approach that of the general population in as little as 3.2 years.<sup>54</sup> By the time a formerly incarcerated individual is actually hired as a parole officer, he is unlikely to still be in the high risk window. Further, such positions generally require the completion of a bachelor's degree.<sup>55</sup> Given that only 14.4% of inmates have any kind of postsecondary education (as compared to 51% of the general population),<sup>56</sup> most formerly incarcerated individuals will

likely require years of additional schooling before they are qualified to hold a parole officer position. Training, as well as a requirement to serve as a trainee for a period of time may further delay an individual's entry into a position as an unsupervised parole officer by as much as a year.<sup>57</sup>

In light of the aforementioned susceptibility of individuals to external influencers, one might also worry about the potential impact of spending so much time around other individuals with criminal histories. At least partially, however, the parole officer's role may actually help to inoculate him from this kind of negative influence. For example, in the substance abuse arena, research has found that helping others work toward recovery can better enable individuals to maintain their own sobriety.<sup>58</sup> Additionally, in the parole context, a parole officer will generally be surrounded and encouraged by coworkers who can provide further positive reinforcement. While these effects are difficult to quantify, they may well mean that an individual with a criminal record who serves as a parole officer would be particularly resistant to recidivistic pressures.

The strongest argument against including individuals with a criminal record in parole officer positions is perhaps, counterintuitively, that they might be too hard on their parolees. A common assumption may be that an individual's own experience with the criminal justice system would predispose them to leniency in enforcement matters. Research has shown, however, that people are actually less likely to display empathy for other people going through a hardship that they themselves have successfully completed.<sup>59</sup> As problematic as the manifestation of this empathy gap would be in a parole officer, the very basis of the gap makes it less likely. Such a gap largely stems from our inability to remember just how painful an experience was and to underestimate how difficult it may have been based on our own successful completion of the ordeal.<sup>60</sup> However, one might also presume that individuals with a criminal record who affirmatively chose to become parole officers did so because the pain and difficulty of reentry remain fresh. Further, to the extent they remain susceptible to the empathy gap, mindful parole officers who are made aware of this possible bias could take steps to coun-

51. See, e.g., Miranda Combs, "WKYT Investigates: Low Pay, High Turnover for Probation and Parole Officers 'Danger to Public Safety,'" *WKYT*, Oct. 26, 2017. <http://www.wkyt.com/content/news/High-demand-low-pay-for-state-probation-and-parole-officers-453438683.html>; and Mark Ballard, "Louisiana House Approves Pay Raise for Parole Officers," *The Advocate*, May 10, 2017. [http://www.theadvocate.com/baton-rouge/news/politics/legislature/article\\_5515e794-35d2-11e7-bdce-6f7074610f13.html](http://www.theadvocate.com/baton-rouge/news/politics/legislature/article_5515e794-35d2-11e7-bdce-6f7074610f13.html).

52. Probation and Pretrial Services Office, p. 5. [http://www.uscourts.gov/sites/default/files/overview\\_of\\_probation\\_and\\_supervised\\_release\\_conditions\\_0.pdf](http://www.uscourts.gov/sites/default/files/overview_of_probation_and_supervised_release_conditions_0.pdf).

53. See, e.g., Durose et al. <https://www.nij.gov/topics/corrections/recidivism/Pages/welcome.aspx>.

54. Alfred Blumstein and Kiminori Nakamura, "Redemption in the Presence of Widespread Criminal Background Checks," *Criminology* 47:2 (2009), p. 339. [http://www.search.org/files/pdf/Redemption\\_Blumstein\\_Nakamura\\_2009Criminology.pdf](http://www.search.org/files/pdf/Redemption_Blumstein_Nakamura_2009Criminology.pdf).

55. Bureau of Labor Statistics, "Probation Officers and Correctional Treatment Specialists," U.S. Dept. of Labor, Jan. 30, 2018. <https://www.bls.gov/ooh/community-and-social-service/probation-officers-and-correctional-treatment-specialists.htm#tab-4>.

56. Lois M. Davis et al., "Evaluating the Effectiveness of Correctional Education," Rand Corporation, 2013, pp. 2-3. [https://www.rand.org/pubs/research\\_reports/RR266.html](https://www.rand.org/pubs/research_reports/RR266.html).

57. "Probation Officers and Correctional Treatment Specialists." <https://www.bls.gov/ooh/community-and-social-service/probation-officers-and-correctional-treatment-specialists.htm#tab-4>.

58. See Jane Witbrodt et al., "Does Sponsorship Improve Outcomes Above Alcoholics Anonymous Attendance? A Latent Class Growth Curve Analysis," *Addiction* 107:2 (Feb. 2012), pp. 301-11. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3260344>; and Maria Pagano et al., "Helping Other Alcoholics in Alcoholics Anonymous and Drinking Outcomes: Findings from Project MATCH," *Journal of Studies on Alcohol and Drugs* 65:6 (November 2004), pp. 766-73. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3008319>.

59. Rachel Ruttan et al., "It's Harder to Empathize with People If You've Been in Their Shoes," *Harvard Business Review*, Oct. 20, 2015. <https://hbr.org/2015/10/its-harder-to-empathize-with-people-if-youve-been-in-their-shoes>.

60. Ibid.

terbalance it and parole departments could also implement training accordingly.

## INSTITUTING REFORM

In light of the sensitivity of the position and the relative novelty of including individuals with a criminal record, parole officer eligibility reform could be gradually introduced to jurisdictions. Of course, the first step would be to repeal many of the employment bans and other restrictions that legally prohibit such individuals from entering the profession. Individual departments could then experiment with individuals in different roles within their department. Those especially concerned about introducing these individuals to the supervisory aspects of the job could begin by allowing them to serve in auxiliary staff roles, which center on counseling and other non-supervisory responsibilities. As departments become comfortable with particular individuals and with working alongside those with a criminal record more generally, they can begin to transition well-suited candidates to more hands-on, enforcement-based positions.

Once the culture shift has been underway for some time and parole officers have acclimated to colleagues with a criminal record, parole departments could even actively cultivate and recruit from within their own supervised populations. This would serve a dual purpose. It would reduce the risks involved in hiring such individuals by subjecting potential recruits to a lengthy period of extensive supervision. It would also create a recruitment pipeline through which a department could guide and eventually employ certain successful candidates. Drawing applicants in this manner could further boost many of the aforementioned benefits, since the parallels between the lives of parole officer and parolee would be that much stronger and the model for rehabilitation even clearer.

## CONCLUSION

High recidivism rates require creative thinking and innovative new approaches to reentry and reintegration policy. Though not unprecedented, the introduction of individuals with a criminal record into parole departments represents one such strategy. Such individuals would have an unparalleled ability to serve as role models to parolees and as ambassadors to employers and other members of the community. The risks involved, while notable, appear eminently capable of mitigation and do not appear to outweigh the potential benefits. For these reasons, jurisdictions would be well served to consider how they might incorporate successfully rehabilitated individuals into the ranks of their parole officials. If they truly believe that their parole systems are capable of rehabilitation, there is no better way to prove it.

## ABOUT THE AUTHOR

**Lars Trautman** is a Senior Fellow at R Street Institute. He received his B.A. in Political Science from Johns Hopkins University, his M.A. in International Studies from Uppsala University in Sweden and his J.D. from the University of Virginia School of Law. Following graduation from law school, he served as an assistant district attorney in Essex County, Massachusetts, where he prosecuted hundreds of felonies and misdemeanors. Prior to joining R Street, he worked as counsel for the Homeland Security Committee in the U.S. House of Representatives.