

The Criminal Population in New England: Records, Convictions, and Barriers to Employment

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Table of Contents

I. Introduction.....	3
II. A Broad Overview of Crime and Punishment in the United States.....	4
III. A Profile of Individuals with Criminal Records in New England.....	7
IV. A Profile of the Corrections Population in New England.....	10
V. The Economic Consequences of Having a Criminal Record.....	14
VI. Recidivism.....	16
VII. Conclusion.....	19

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I. Introduction

The portion of the U.S. population with a criminal record has been receiving mounting attention in recent years. Policymakers across the ideological spectrum have worked to propose policies that could improve employment outcomes for these individuals, and limit what in many cases are the long-term negative consequences that a criminal record imposes on these people, their families, and society at large. The collateral consequences of having a criminal record impact very clearly on employment outcomes, but the negative impact of a criminal record can affect many other life outcomes, ranging from limited transportation access to housing instability (Rodriguez and Brown 2003). It is important to understand who has a criminal record, what is known about this population, and what barriers they face when transitioning back into their communities and the labor market. There is a significant amount of data about the criminal population under supervision, but there is very limited linked data identifying how most individuals move through the criminal justice system and what happens to them after serving their sentences. By analyzing multiple national and state data sources, this report aims to identify the size of the New England population with a criminal record and to describe the broad demographic characteristics of this population.

Due to cross-state crime, migration, and deaths, it is difficult to accurately estimate the amount of people in New England who have a criminal record, but there are 5.3 million individuals in criminal record databases in New England and over 107 million records in state criminal databases nationwide (Bureau of Justice Statistics 2015). The vast majority of these people are charged with committing misdemeanors, not felonies. Unlike felons, misdemeanants usually avoid incarceration, but having a criminal record may significantly impact their ability to gain employment, which often determines how well they transition back into society. Most formal analyses of the U.S. population with a criminal record concentrate on the outcomes of felons who have served time in prison. Through its use of broader data relating to arrests, court cases, probation, and repeat offenders, this report attempts to help bridge the gap in knowledge about the entire population in New England with a criminal record.

Due to limitations and gaps in the data available, it is impossible to concretely determine exactly how many individuals in New England have criminal records and to compile detailed demographic information about this group, but through using a combination of state and national data, this report showcases the trends in each state. Through this analysis, it is apparent that the size of the New England population with a criminal record is significant, and that having such a record means these individuals face multiple barriers, particularly in the labor market, to achieving a better life once they have exited the criminal justice system. Key findings relevant to policymakers at the state and national level include the following:

Though available state data does not provide a complete picture, we know that a significant number of people in New England have a criminal record

- Young men between 20 and 24 years of age account for a disproportionate number of arrests and convictions.
- Most of the people who have a criminal record committed a misdemeanor, not a felony.
- There are adverse collateral consequences for all types of criminal convictions, including low-level misdemeanors.
- Ex-offenders are on community supervision across New England, but the concentration varies greatly across cities and towns. Mid-sized cities often host a disproportionately larger share of ex-offenders.
- Policies aimed at removing the barriers ex-offenders face, such as ban the box initiatives, have been growing in popularity across the United States.
- There is a lack of linked data showing how individuals progress through the criminal justice system and the outcomes that ex-offenders experience after exiting the system. This absence of information hinders the ability to analyze and devise effective policies to help this sizable population living in New England and the United States.

These key findings underscore the need for a broad reconsideration of how the portion of the U.S. population with a criminal record is treated after completing their sentences. The concentration of people with criminal records living in certain areas could have very significant adverse impacts on their cities and towns if these individuals are impeded from fully participating in and contributing to their communities (Sampson, Raudenbush, and Earls 1997). After ex-offenders have served their sentences, reducing the collateral consequences they experience as a result of having a criminal record and promoting their successful reintegration into mainstream society should be a priority for policy-makers. This issue poses a continuing challenge that requires a multi-pronged approach, as no single policy can solve all the difficulties ex-offenders encounter after exiting the criminal justice system.

II. A Broad Overview of Crime and Punishment in the United States

The size of the U.S. population interacting with the criminal justice system is large, and individuals face myriad barriers after receiving a criminal record. The initial point of contact begins with an arrest. Being arrested does not necessarily mean that a crime was committed. If there is enough evidence of a crime to warrant charges, an individual is arraigned, meaning he or she is formally charged with a crime. Generally, being charged with a crime is how an individual receives a criminal record, though U.S. jurisprudence holds that someone is considered innocent until proven guilty. Figure 1 outlines what can happen after an arrest is made, the two main types of crime, and the three general types of sentencing that can occur if one is found guilty.

Criminal activity is divided into two broad categories: misdemeanors and felonies. Misdemeanors tend to be the less serious crimes that have less severe penalties compared to felonies. Even within these two categories, there is a great deal of variation in terms of the crime's severity and the types of sentences received upon conviction. Some examples of misdemeanors include petty theft, vandalism, trespassing, and simple assault, which most often does not involve physical harm. Felonies constitute a wide category, ranging from fourth-degree felonies like burglary up to first-degree felonies like murder. Various violent crimes such as sexual offenses, severe property crimes, and many drug-related crimes, whether violent or nonviolent, are considered felonies.

In general, misdemeanors are less serious crimes for which the maximum punishment does not entail a prison sentence. In New England, state prisons house felons who are serving sentences longer than one year. However, it is possible that a misdemeanor conviction may result in probation or a jail sentence. Jails are used to house prisoners serving shorter sentences and are generally

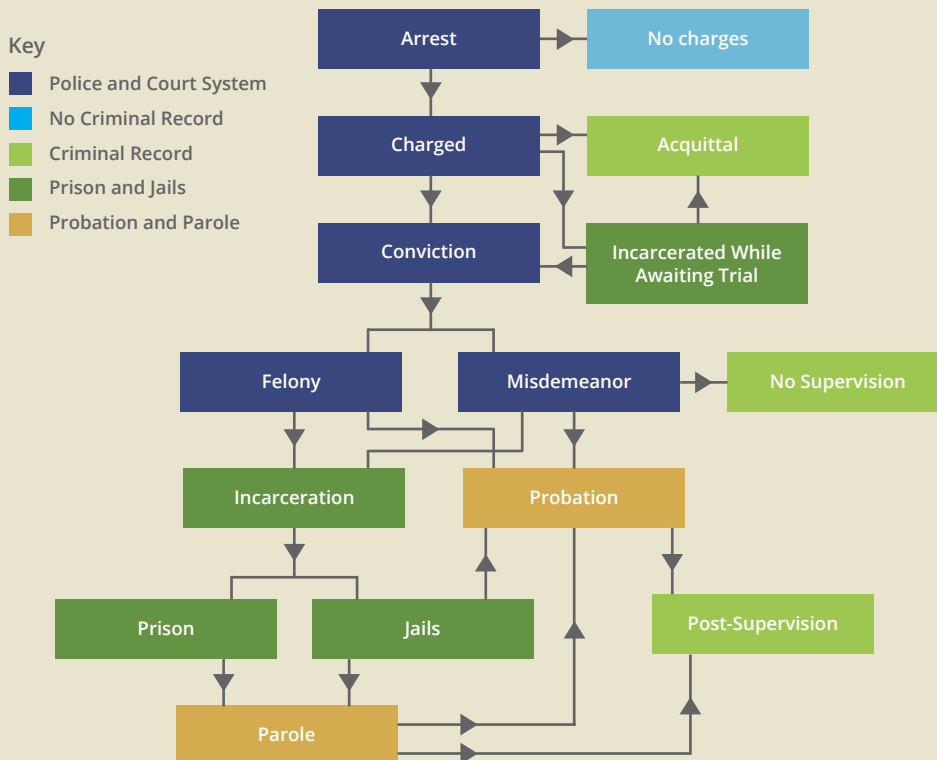
operated more locally, typically at the county level. However, there are some jurisdictional differences across the various New England states; if a state has a unified system, its jails and prisons are both operated by the state, which is the case in Connecticut, Rhode Island, and Vermont. Many individuals are incarcerated while awaiting trial, which means they have not been convicted. This can happen if a judge deems the individual to be a threat to society, if a judge believes there is a risk that the defendant will avoid attending future court dates, or if an individual is not able to post bail. The inability to post bail disproportionately impacts individuals from poor backgrounds, and the incarcerated population is even larger as a result.

Property crimes, violent crimes, and drug-related crimes are the main three types of offenses discussed in criminal data. For all three categories, reoffenders receive increasingly severe penalties with each successive offense. There has been a trend toward imposing less punitive and more therapeutic sentences for those individuals who commit low-level nonviolent drug crimes, but this is only a recent development. For decades, repeat drug users have received long felony convictions as a result of mandatory minimum sentencing laws. Within New England and elsewhere in the United States, the opioid epidemic has prompted the start of a movement to reduce such harsh penalties in favor of more compassionate treatment for addiction—which is increasingly viewed more as a public health issue, not a criminal offense.

Beyond jail and prison sentences, probation and parole account for the remainder and the majority of the criminal justice system's supervisory methods. Parole is used after an offender exits prison or jail. The parole terms vary according to the individual case, but generally involve regular meetings with a parole officer, drug tests, and other offender-specific requirements. Violating these terms usually results in the offender being incarcerated for an additional term. Probation is often used in lieu of

Figure 1

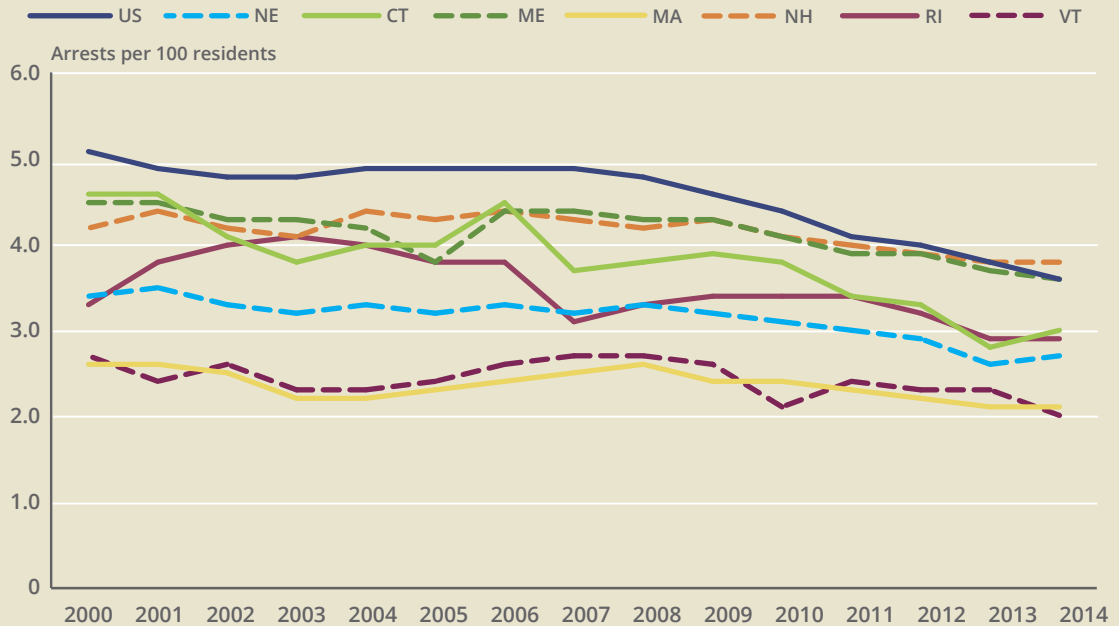
Typical Paths Through the U.S. Criminal Justice System



Source: Authors' illustration.

Figure 2

Arrests in New England and the United States Per 100 Residents, 2000–2014



Source: Authors' calculation using the Federal Bureau of Investigation Uniform Crime Report Arrests and Population Data.

Notes: FBI arrest data is not reported by all agencies so measures of all state residents create volatile per number of resident measures if an entire state population count is used. The FBI creates population estimates of the jurisdictions of the reporting agencies to give an adjusted population count to use when creating per resident measures. Further ranking or direct comparison of state measures is not recommended.

incarceration for first-time offenders who committed lower-level criminal acts, usually misdemeanors. Split sentences, where offenders are sentenced to a shorter period of incarceration that is combined with a longer probation period, are common. Probation, which lets the offender remain living in the community, typically does not involve as much structured supervision and requirements as parole, but a probation officer is still assigned and periodic check-in meetings are required to ensure that the individual is complying with specific behavioral mandates that cannot be violated without repercussions.

III. A Profile of Individuals with Criminal Records in New England

Ideally, the clearest way to identify the size of the New England population with a criminal record would be to look at how many people are arrested for criminal offenses, how many of them are charged, and how many of those individuals are convicted of committing a crime. However, due to a lack of data at the local, county, and state levels, it is very difficult to calculate the precise rate at which arrests result in criminal convictions. The Federal Bureau of Investigation (FBI) estimates that in 2014 there were 11.2 million arrests in the United States (Bureau of Justice Statistics 2015).¹ The arrest rate per population is significantly lower in New England than the national arrest rate, but varies widely throughout the region, as shown in Figure 2.² In general, regional and national arrest rates have declined since the mid-

1 The FBI calculated arrest rates using data from all U.S. law enforcement agencies that submitted a complete year of arrest data (i.e., complete reports), then multiplied this complete-response arrest rate by the total U.S. population (including those from agencies that do not have complete reports) in each arrest offense and population group.

2 At the state level, this data is somewhat less reliable as the reporting of these statistics is voluntary and the FBI does not produce an adjusted estimate comparable to the national total. Of the agencies that reported data in the six New England states, there were over 369,000 arrests in 2014. The jurisdiction of the agencies represented 93 percent of the region's population, so

2000s and are well below the highs reached in the late 1980s and early 1990s. This decrease in arrest rates has largely occurred across most types of criminal activity, with the most marked decline involving property crimes. This latter fact may help explain New England's significantly lower arrest rates when compared to the rest of the nation, since a larger portion of the region's criminal activity is concentrated in property crimes. Over the 2000–2014 period considered in this report, the total arrest rates across all major types of crime are consistently lower in most of the New England states than in other regions of the United States.

One reason that arrests rates in New England are lower than the national rate may be due to the region's demographic profile, which is older and less diverse than the demographic makeup of the United States. Numerous studies have shown that in all U.S. regions, risky behavior and criminal activity are highest among young adults, particularly males (Snyder 2012). Brame et al. (2014) have shown that 30 percent of black men have experienced at least one arrest by their 18th birthday (compared to about 22 percent for white men); by the time they are 23 years old, about 49 percent of black men have been arrested (compared to about 38 percent for white men). If arrests are highly correlated with a population's demographic composition, then New England would be expected to have a lower arrest rate given that its population is older and is less racially diverse than the nation as a whole. Table 1 illustrates that for all racial groups in the region, arrest rates are lower than the national average. In addition to varying practices in policing across jurisdictions, this differential may be explained by different policing policies across jurisdictions, and by unobserved differences in the characteristics of the populations that experience disproportionate arrest rates—such as better labor market opportunities or higher rates of educational attainment among the same populations living in New England.

Demographics may contribute to most New England state's lower arrest rates

However, Table 1 also shows that in New England, arrests are highly concentrated among young adult males and the arrest rates for minorities are disproportionately high compared to their population share (United States Department of Justice 2016). Individuals who are 20–24 years of age account for 20 percent of all arrests, a disproportionately large share relative to this cohort's 7 percent share of the overall adult population. Men in the 20–24 year age cohort account for close to one in seven arrests in New England despite this cohort accounting for less than 4 percent of the populace. Similarly, blacks account for a disproportionate share of arrests relative to their share of the New England population, and blacks experience the highest arrest rate among all races living in New England. Unfortunately, the state-level arrest data are not reported by both age and race, so it is impossible to calculate how many young black men are arrested. However, due to the concentration of young men and black men in the data, young black men plausibly appear to have the highest arrest rate among all the demographic groups in New England.

Being arrested does not necessarily mean that the individual committed a crime or is going to be convicted of a criminal offense. In Massachusetts, the Criminal Offender Record Information (CORI) database creates a record for any individual whom the state charges with a crime, even someone who later had the charges dropped or who was acquitted. This means that in Massachusetts, as in many other states, merely being charged with a crime results in someone having a criminal record, even if the person is not convicted. Of course, many people who are arrested and charged with a crime are ultimately found guilty. Nationally there is limited state-level information available regarding the disposition of criminal cases, meaning the types of charges made, and what proportion of charges result in a misdemeanor or felony conviction. In New England, only Connecticut, Rhode Island, and Vermont

a simple population adjustment puts the 2014 arrest total slightly above 390,000 in New England.

Table 1 Selected Demographic Characteristics for 2013 Arrests
as Share of Total Population
In the United States and New England

	United States			New England		
	Arrests	Population	Per 100 Residents	Arrests	Population	Per 100 Residents
Total Arrests	10,750,595	296,897,220	3.6	388,555	14,639,742	2.7
	Percent Share:			Percent Share:		
Adult (18 years+)	89.8	73.8	4.4	91.5	76.1	3.2
Age 20–24 years	19.7	7.3	9.8	20.4	7.0	7.8
Male	73.8	49.2	5.4	73	48.7	4.0
Age 20–24 years	14.6	3.7	14.3	15	3.5	11.2
White	70.3	77.6	3.3	81.3	85.5	2.5
Black	27.1	12.9	7.6	17.6	7.4	6.3
Asian & Native American	2.6	9.5	1.0	1.1	7.1	0.4

Sources: Federal Bureau of Investigation Uniform Crime Reports and U.S. Census Bureau Decennial Population Estimates.

Note: The U.S. totals exclude Florida. The per 100 resident measures are not directly comparable with the measures that use FBI population counts. Unfortunately, the FBI does not provide demographic breakdowns of their jurisdiction populations counts, so calculating per resident arrest rates by demographic characteristics is not possible using the source data. The measures here use state-wide demographic populations counts.

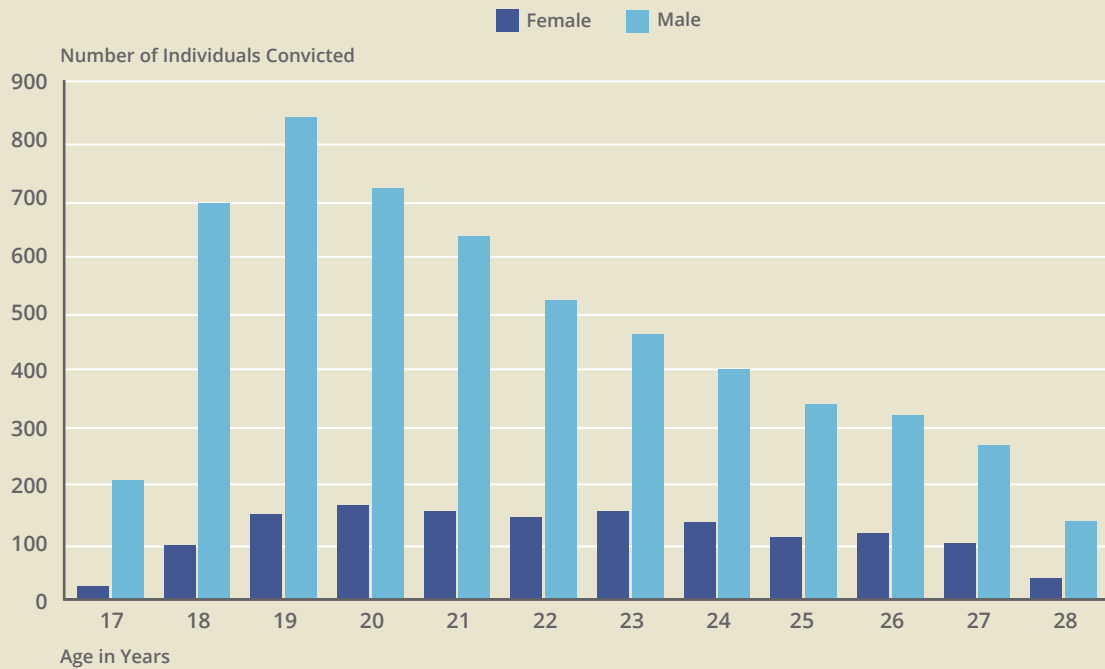
report the type of criminal charge. In these three states, the criminal case load is about 80 percent misdemeanor and 20 percent felony. This information shortage is not unique to New England, as the exact number of misdemeanor cases prosecuted each year in the United States is unknown and the majority of attention is paid to the more serious cases involving felonies (Boruchowitz, Brink, and Dimino 2009). Since the majority of criminal records result from misdemeanor convictions, this means that researchers and policymakers lack a great deal of precise information about the largest segment of the criminal population living in the United States.

More importantly, in nearly all fifty states, information on the conviction rates for all misdemeanor and felony cases is not published. This is true of all the states in New England except Massachusetts. The limited data that is available can be used to create a rough calculation which indicates that New England appears to have about a 50–60 percent conviction rate for misdemeanors and about an 80–90 percent conviction rate for felonies. But even these estimated rates are suspect, as it is unclear the extent to which a felony case ending in a conviction truly reflects a felony conviction or resulted in a lesser misdemeanor conviction due to a plea agreement with the prosecutor.³ Since court records focus on case load management and only provide the broad facts on the outcomes of individual cases, the lack of detailed information makes it nearly impossible to measure the true annual rate of criminal convictions in New England.

3 We asked each court in New England to provide information on their clearance rates, methods of disposition, and conviction data. Only Connecticut, Rhode Island, and Vermont were able to provide information on conviction rates, or the rate at which a felony or misdemeanor charge ended in some type of guilty plea. A plea of guilt can occur if the conviction is for a lower-level offense than the original charge. For example, a defendant may be offered a plea bargain—if s/he agrees to plead guilty, this person is convicted of a misdemeanor rather than a felony.

Figure 3

Age of First Conviction in Connecticut 1987 Birth Cohort



Source: Authors' calculation using data provided by Connecticut Court Support Services Division.

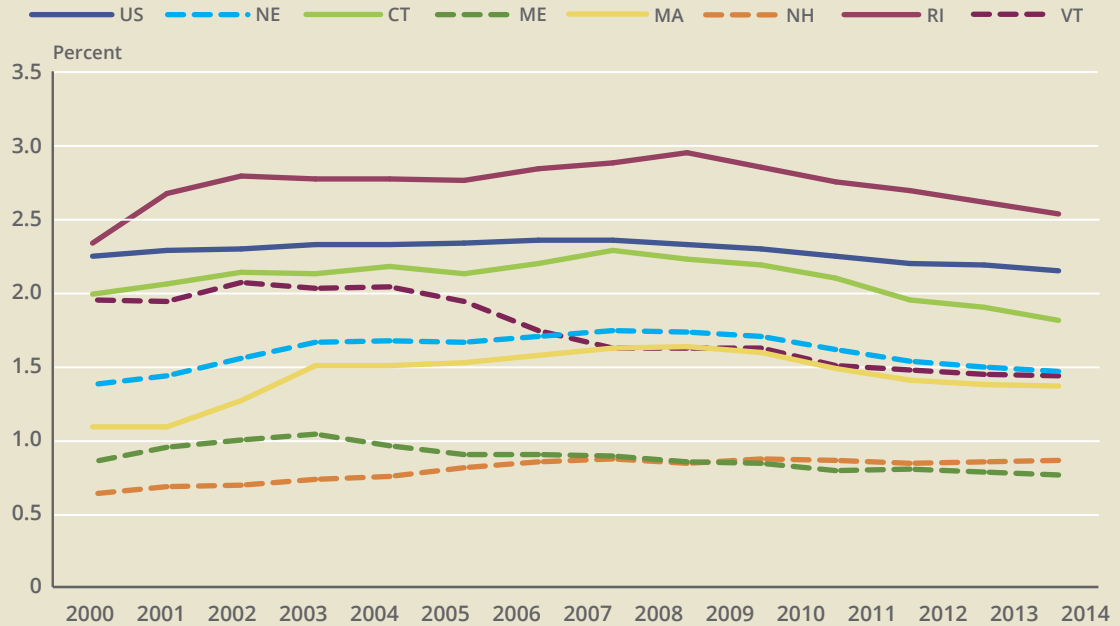
State commissions provide guidelines on sentencing practices, which yield additional information about convictions. The Massachusetts State Sentencing Commission's 2014 report finds that of all 2013 cases ending in conviction, 40 percent resulted in a sentence of incarceration and 41 percent resulted in a sentence of probation (Massachusetts Sentencing Commission 2014). Of those imprisoned, 53 percent were convicted of felonies, which often resulted in longer sentences served in state prisons rather than jails. The 47 percent of individuals who were convicted of misdemeanors often served shorter sentences of less than a year in county jails. However, the extent to which these conviction and sentencing rates in Massachusetts are comparable to other states is unknown. For example, a study of 300 randomly selected state courts across the United States found that 69 percent of all persons convicted of a felony were incarcerated: 41 percent in state prisons and 28 percent in jails (Rosenmerkel, Durose, and Farole 2009). This difference is likely the result of less strict sentencing guidelines and increased use of probation over incarceration in Massachusetts compared to other states across the country.

Considering data from the Connecticut Department of Justice Court Support Services Division (CSSD) that includes all felony convictions (including those who are not sent to prison) and all misdemeanor convictions, we are able to more discreetly explore trends regarding those individuals who incur a criminal conviction in that state.⁴ Though this Connecticut dataset has more limited applications than the Massachusetts Criminal Offender Record Information (CORI) database used in the companion research report by Jackson, Sullivan, and Zhao (2017), it is possible to gain important provisional insights into which individuals in another New England state, outside of Massachusetts, earn criminal convictions. Figure 3 shows how first convictions for misdemeanors

⁴ From 2005 through 2015 the CSSD provided data on all adult convictions in Connecticut. In total, there were just over 1.1 million court convictions that involved 575,000 individuals.

Figure 4

Corrections Population in New England and the United States As a Percent of Total Population, 2000–2013



Source: Authors' calculations. U.S. Bureau of Justice Statistics, Annual Survey of Prisons, Census of Jails, Deaths in Custody Reporting Program, Annual Survey of Parole, and Annual Survey of Probation.

Notes: Incarcerated populations are based on population estimates on December 31st of each respective year. Parole and probation populations are those under supervision as of January 1st in the following year (i.e. 2013 data is reported on January 1, 2014).

and felonies spike for men during their late teens and early twenties, and then steadily decline through their late twenties. In the Connecticut sample, young women never experience the same age-related spike in first convictions; instead, the same level of convictions is roughly maintained throughout their twenties.⁵ Analysis of the same birth cohort in the Massachusetts CORI data produces a nearly identical pattern of first convictions based on age and gender.

Despite these two data sources, there is still a large gap in our knowledge about the annual rates of arrests and criminal convictions throughout New England and beyond. The arrest data we have from the FBI confirms the findings in the existing literature that a large number of individuals are arrested every year, and disproportionate shares of these individuals are minorities and young men (United States Department of Justice 2016). Yet the specific outcomes of these arrests remain largely opaque. What is clear is that the individuals who are charged with a crime and hence have a criminal record—regardless of the details about their guilt, innocence, and/or conviction—experience lasting consequences that impair their chances to obtain employment and housing after serving their sentences (Rodriguez and Brown 2003; Uggen, Manza, and Thompson 2006).

IV. A Profile of the Corrections Population in New England

When individuals are convicted of a crime, they are usually added to a state's corrections population, which consists of all individuals incarcerated in county jails and state prisons, as well as those on

5 Due to the data's time window, we are only able to look at those born in 1987 to get insight into adult convictions; if the analysis included people born earlier, many of the first offenses committed at younger ages would not be included in the analysis and would bias the results

community supervision such as parole (after being incarcerated) and probation. As shown in Figure 4 and Table 2, the corrections population in New England is smaller as a share of the resident population than the national average. The region's one exception is Rhode Island, which results from that state's very large probation population—the second highest in the nation per capita. Overall, incarceration rates are low in New England; the rates of incarceration in Connecticut and New Hampshire are the closest to the national rate.

Nationally, there are 5 million individuals on community supervision, and 2.2 million individuals who are incarcerated. Despite falling crime rates, the share of the corrections population in New England has remained fairly steady throughout the last decade. Researchers who have more deeply examined the national sample of state courts argue that convictions for broader criminal categories like substance abuse and alcohol-related offenses have increased, and contend that rising rates of prison sentences have offset falling crime rates (Raphael and Stoll 2013). Unfortunately, due to limited state data we cannot decompose this trend for the New England region.

Significant attention is paid to the incarcerated and ex-prisoner populations, in part because there is more demographic information available on this portion of the corrections population compared to those sentenced to community supervision. Within the United States, it is estimated that 20 million individuals are either currently or formerly incarcerated (Shannon et al. 2011; Uggen, Manza, and Thompson 2006). Individuals who receive felony convictions are more apt to be incarcerated than those who receive misdemeanor convictions. The prison population is very different from the

Table 2

2013 Corrections Population in New England and the United States Total Corrections Population Per 100 Residents and Type of Supervision

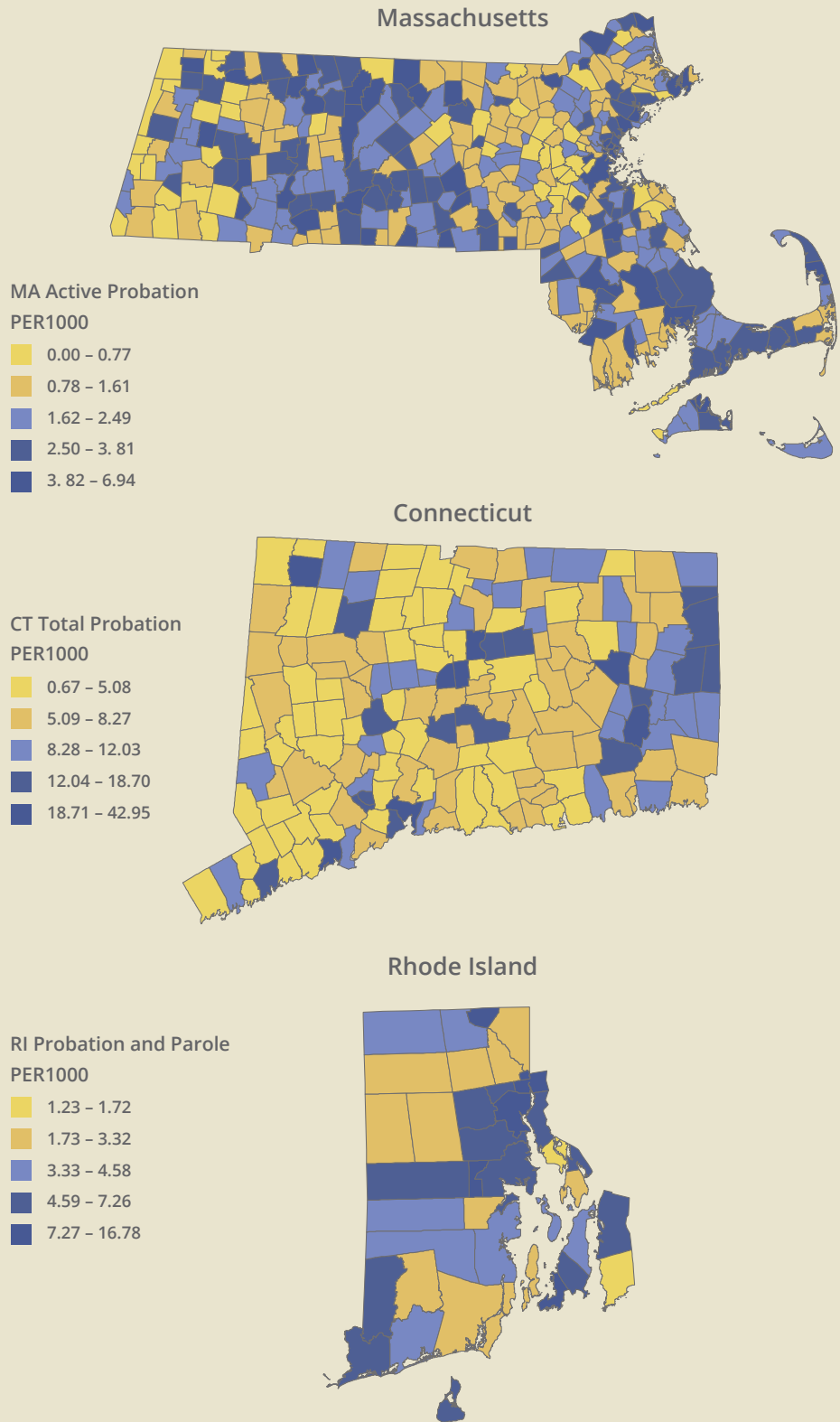
	US	NE	CT	ME	MA	NH	RI	VT
Corrections								
Per 100 Residents	2.2	1.5	1.8	0.7	1.4	0.8	2.5	1.4
Rank	-	9	25	49	40	48	9	38
Prison								
Per 100 Residents	0.5	0.3	0.5	0.2	0.2	0.2	0.3	0.3
Rank	-	9	11	49	50	45	35	34
Jail								
Per 100 Residents	0.2	0.1	-	0.1	0.2	0.2	-	-
Rank	-	9	-	44	36	38	-	-
Parole								
Per 100 Residents	0.2	0.1	0.1	0.0	0.0	0.2	0.0	0.2
Rank	-	9	40.0	49	46	24	45	23
Probation								
Per 100 Residents	1.2	1.0	1.3	0.5	1.0	0.3	2.2	0.9
Rank	-	6	15	45	21	49	2	28

Sources: U.S. Bureau of Justice Statistics, Annual Survey of Prisons, Census of Jails, Deaths in Custody Reporting Program, Annual Survey of Parole, and Annual Survey of Probation, and U.S. Census Bureau Population Estimates.

Notes: New England ranks last among the nine U.S. census divisions in terms of its corrections population. Incarcerated populations are based on population estimates ending each year on December 31. Parole and probation populations are those under community supervision as of January 1 in the following year (i.e. 2013 data is reported on January 1, 2014). Connecticut, Rhode Island, and Vermont report all information on prison and jail systems combined in the Annual Survey of Prisons.

Figure 5

Cities and Towns Hosting Probationers in 2015
Southern New England



Sources: Authors' calculations. Massachusetts Department of Probation, Connecticut Court Support Services Division, Rhode Island Department of Probation and Parole, and U.S. Census.

Note: Calculated using 2010 Census data and 2015 probation and parole data.

general population, as nine out of ten prisoners are men (Papagiorgakis 2015). The data show that there are a disproportionate amount of minority prisoners compared to the general U.S. population. In New England, minorities comprise over 50 percent of all prisoners, but this average ranges widely, as Maine's prison population is 13 percent minority and Connecticut's is 66 percent minority. In New England, the black male incarceration rate is 8.2 times higher than the white male incarceration rate. The largest age group of incarcerated individuals tends to be 20–29 years old (Bureau of Justice Statistics 2015).

The incarcerated disproportionately come from poor backgrounds and have high rates of mental illness and substance abuse, which will strongly impact outcomes once they are released (Western et al. 2015). The incarcerated population within the United States has low education levels, with a third of all those incarcerated possessing less than a high school education (Pew 2010). Even without the burden of a criminal record, this population's low educational attainment would limit their job opportunities. For this portion of the corrections population, possessing a criminal record is amplified by the time these individuals spend behind bars and the resulting gaps in their work history, making it even more difficult to obtain employment after they exit prison or jail. For a broader overview of this problem, see Eberstadt (2016).

As an alternative to incarceration, probation is used throughout the U.S. criminal justice system as a significantly less severe means of sentencing and monitoring offenders, largely those who committed misdemeanors, not felonies. However, while the majority of those with a criminal record receive misdemeanor convictions, there is a great lack of detailed information about their outcomes, as well as the outcomes of convicted felons who are not incarcerated, once they exit the criminal justice system. Connecticut, Massachusetts, and Rhode Island provided data which has enabled an analysis of which communities in southern New England disproportionately host offenders on probation. The results are shown in Figure 5. Of the 20 towns in Massachusetts with the highest number of individuals on probation per capita, all but three are in the bottom quarter of per capita income in the state. This concentration of offenders and ex-offenders in poorer communities could exacerbate their already low employment prospects.

The collateral consequences of receiving a misdemeanor conviction are rarely discussed. While the corrections population that is sentenced to community supervision may face fewer barriers to employment than the population sentenced to jail or prison, given the size of the group that is sentenced to probation, the impact of having a criminal record entails large consequences for these individuals, their families, their communities, and society at large. The following section gives an overview of what many ex-offenders face after exiting the criminal justice system once their sentences are completed.

V. The Economic Consequences of Having a Criminal Record

In New England, about 5.3 million individuals have a criminal record, and nationally there are over 107 million individuals with records in state criminal databases (Bureau of Justice Statistics 2015). In terms of population shares, these raw numbers represent about 36 percent of the New England population and 33 percent of the U.S. population. Within New England, the criminal population shares range from 25 percent of the Massachusetts population to 40 percent in Maine. Due to migration, deaths, and criminality across state borders, factors which are difficult to accurately track, these raw shares likely overstate the size of the population in New England and the United States that has a criminal record. The CSSD data reveal that 91 percent of the state's convictions for misdemeanors and felonies are incurred by Connecticut residents, but the remaining 9 percent of convictions are incurred by residents of other states. The FBI master criminal record database has 77.7 million records, which is likely closer to the actual number of individuals with criminal records nationally, but this data does not allow

for individual state or regional observations.⁶ While the actual numbers are probably closer to the FBI estimate of 77.7 rather than the 107 million figure, it is fair to conclude that the portion of the U.S. population with a criminal record remains significant.

A key reason that criminal record reforms have received bipartisan attention is the widespread impact that the deployment of such information can exert on the individual ex-offender and on society. The ability to achieve a successful adult life crucially depends on an individual's ability to get and keep a job, as being able to support one's self and one's family rests on the ability to earn an income. The public and social costs of corrections and incarceration are exacerbated if, after exiting the criminal justice system, these individuals are unable to obtain a solid foothold in their communities. As already discussed, in many cases the ex-offenders committed their crimes when in their late teens or early twenties, but they bear the cost of the offense for years, if not decades, after exiting the criminal justice system (American Bar Association 2016; Eberstadt 2016; Pew 2010; Rodriguez and Brown 2003; Uggen, Manza, and Thompson 2006). How to help ex-offenders re-enter the labor market is an important and difficult policy question. There has been a recent bipartisan push both in New England and the United States to craft policies to combat this group's chronic unemployment and to promote self-sufficiency among ex-offenders. Gaining a job confers many positive benefits to ex-offenders, their families, and their communities as well as reducing the costs of social welfare programs (Aos, Miller, and Drake 2006). As discussed in the next section, the inability to obtain employment causes some ex-offenders to revert to criminal activity, thereby perpetuating the cycle rather than solving the problem.

Individuals with a criminal record experience lasting economic consequences

Due to the sheer size of the U.S. population with a criminal record, any negative consequence that impairs the ability of these individuals to obtain employment may have a large effect on the labor market. Despite the recent decrease in crime, some of the barriers to employment have actually increased. Compared to the 1990s, nearly double the amount of employers now conduct criminal background checks as part of the hiring process, with over 70 percent now engaging in the practice (Council of Economic Advisers 2016). In addition to this stigmatization, there are almost 1,000 mandatory exclusions for professional and occupational licenses for those with misdemeanor convictions and over 3,000 exclusions for felony convictions (American Bar Association 2016). Under most current practices, job applicants with criminal records do not have the same likelihood of achieving gainful employment as do applicants without criminal records. This lower probability of getting a job is particularly true for those who committed felonies. Fears of dishonesty, lower productivity, and the threat of lawsuits for negligent hiring contribute to the stigmatization of formerly incarcerated individuals (Raphael 2011). It has been shown that job prospects are dramatically affected by the presence of a criminal record: among nearly identical applicants, those with a criminal record are 50 percent less likely to receive an interview request or job offer than their counterparts without records, and the impact on black applicants is even more severe (Pager, Western, and Sugie 2009). Those ex-offenders who do gain employment have lower wages on average; the formerly incarcerated who are able to find jobs earn 10 to 40 percent less compared to individuals without criminal records working at comparable jobs (Pew 2010). The combination of fewer prospects and lower wages significantly impact an ex-offender's earning potential long after serving the sentence for a criminal offense (Western 2002).

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

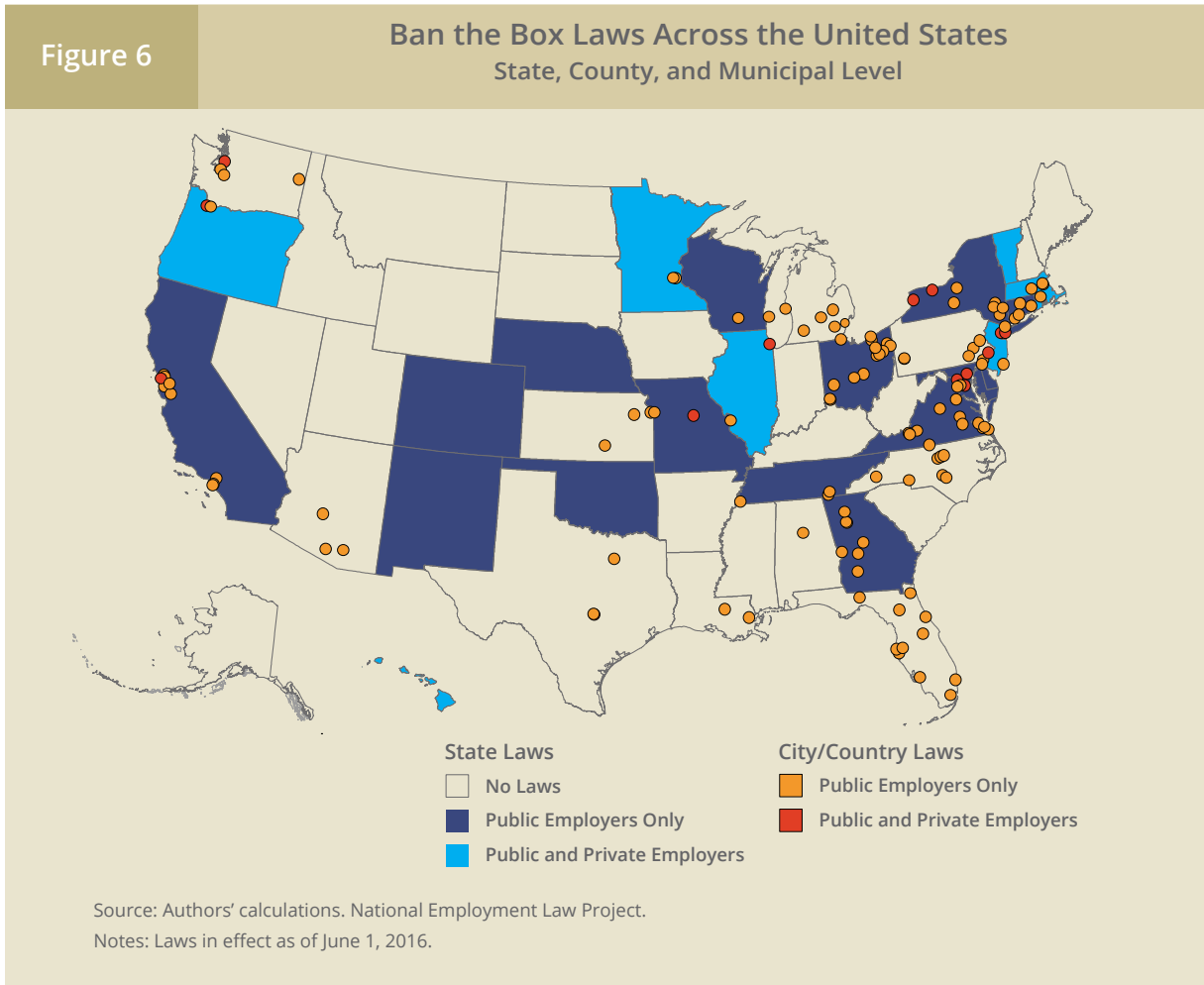
Throughout the United States, there are 181 various state rules and statutes to suspend or revoke a driver's license for a non-driving offense (American Bar Association 2016). Forty-six states suspend driver's licenses for failure to pay child support, which an incarcerated person is still expected to pay. Losing one's driver's license can increase the difficulty ex-offenders encounter in finding and keeping a job (Council of Economic Advisers 2016). Limited transportation options can reduce employment opportunities, and may disproportionately affect residents living in areas with low economic activity, as demonstrated by the concentration of individuals on probation living in lower-income communities (Glaeser, Kahn, and Rappaport 2008). Massachusetts was the last New England state to stop automatic suspensions of driver's licenses for non-driving drug offenses, but 13 states, mainly in the southern United States, continue to suspend licenses for controlled substance violations unrelated to driving (Clemency Report 2014).

Access to affordable housing is critical to supporting the employment of ex-offenders and their reintegration into the community, yet many public housing authorities prohibit certain types of ex-offenders from living in public housing. The Boston Housing Authority (BHA) considers an applicant's prior criminal record as signaling a history of disruptive activity, and the BHA permanently bans former sex offenders and drug manufacturers (Boston Housing Authority 2014). The Hartford Housing Authority requires a disclosure of criminal records and even considers arrests not leading to convictions in their admission process (Bansal 2016). The lack of stable housing becomes an issue when someone has no address to put on a job application, and a tenuous housing situation plausibly affects an employee's punctuality, reliability, and performance if it is uncertain where he or she will be staying each night. There is evidence that housing restrictions based on criminal records can lead to homelessness among ex-prisoners (Rodriguez and Brown 2003). In New England, a study of ex-prisoners in Boston found that those with mental illness and substance abuse issues were 50 percent more likely to have temporary or marginal housing situations after their release, further harming an already vulnerable population (Western et al. 2015). The difficulty that ex-offenders must surmount to obtain housing has a collateral impact on their families, particularly school-age children, whose ability to attend school and learn are negatively impacted by an unstable living situation (Lacour and Tissington 2011).

The premise of the ban the box initiative is to remove a barrier between ex-offenders and opportunities for employment. By not allowing employers to ask about criminal background history in the first stage of the job application process, ban the box attempts to help ex-offenders to overcome some of the stigmatization around their criminal records and assist them to attain a job based on their professional credentials and merits. Ban the box has been growing in popularity and is currently implemented in states, counties, and municipalities throughout the country (Figure 6). The law affects different employers depending on how it is implemented in a state or local jurisdiction. In some jurisdictions all employers must abide by the rule, while in other locales only public employers are forbidden to ask about an individual's criminal history in the first stage of the application process.

The existence of these external barriers to employment do not suggest that these ex-offenders would have an easy time finding a job if they did not have a criminal record. There are multiple ways in which the ex-offender population, particularly the formerly incarcerated, differs from the general population. Lower educational attainment is the most obvious internal barrier, but higher rates of substance abuse, mental illness, and a lack of soft skills like those gained through prior work experience all contribute to the challenges this group faces in the labor market. The removal of external barriers like certificate and license bans and the attempts of policies like ban the box to mitigate the stigma of having a criminal record are hardly complete solutions for reintegrating ex-offenders in civil society.

**How to help
ex-offenders reenter
the labor market is an
important and difficult
policy question**



VI. Recidivism

If ex-offenders lose their jobs or have difficulty finding employment, many will resort to engaging in criminal activity in order to earn money (Uggen, Manza, and Thompson 2006). The lack of attachment to the formal labor market can lead to increased criminal activity, which can result in these individuals again being put under some form of supervision (Bushway, Stoll, and Weiman 2007). Recidivism rates measure the percentage of ex-offenders who, after committing their first crime, are either convicted of a new offense or violate the terms of their community supervision.

The effectiveness of the U.S. criminal justice system at reintegrating ex-offenders can be partly evaluated by examining recidivism rates. Policies like ban the box aim to improve the job prospects of individuals with a criminal record, and such interventions are expected to lower recidivism rates. Each state in New England has a slightly different criterion for calculating its recidivism rate, and each state cautions against making direct comparisons to other states given these differences. Reducing recidivism in each state is, in effect, a regional and national policy issue, as studies have shown at least 25 percent of U.S. prisoners have committed crimes in multiple states and one out of nine released prisoners will recidivate in a different state. These estimates are in line with the numbers of out-of-state offenders in the Connecticut conviction data that was discussed in Section V (Durose, Cooper, and Snyder 2014).

The recidivism rates published by each New England state reflects the recidivism of ex-prisoners rather than ex-offenders in general, which could include those in jail or those who did not receive a prison sentence as a penalty for their crimes. In Massachusetts, the most populous state in New

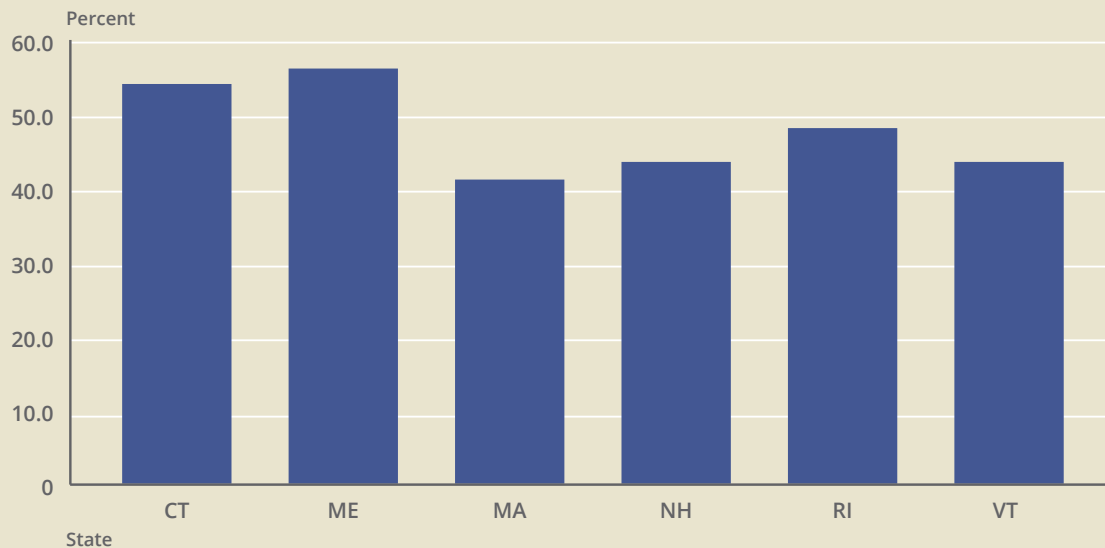
England, the reported prisoner recidivism rate is based on less than 3,000 prisoners (Papagiorgakis 2015). The measure for recidivism that allows comparison across the New England states is the cohort that was released from prison in 2009. In Maine, the observed sample is even smaller, as this rate is based solely on paroled ex-prisoners.

The published three-year recidivism rates for each New England state, shown in Figure 7, are for any return to prison, which can be for a violation of probation or parole, and hence may not be evidence that an individual committed a new crime. Some states provide supplemental information that can support how to interpret the three-year recidivism rates for cohorts released in a given year. Massachusetts also publishes a rate that excludes returns to prison due to technical violations. Examples of technical violations include missing a meeting with a community supervision officer or failing to meet some other obligation of an ex-prisoner's parole or probation terms, such as not producing a clean drug test. When such technical violations are excluded, the Massachusetts recidivism rate for ex-prisoners falls to 30 percent (Papagiorgakis 2015). Connecticut and Rhode Island report the number of months after release before a prisoner returns to prison. While prisoners return throughout the three-year period, the likelihood of returning to prison is highest in the initial months after release (Connecticut Office of Policy Management 2015; O'Connor 2013). Despite the flaws inherent in these cross-state comparisons, these raw three-year recidivism rates, ranging from a high of 56 percent in Maine to a low of 41 percent in Massachusetts, illustrate the incredibly high rates at which ex-prisoners in New England are re-incarcerated.

Analyzing Connecticut's CSSD data allows us to calculate a five-year recidivism rate that differs from the state's officially published three-year recidivism rate of 54 percent. Like the other states, Connecticut's official measure is the rate at which the formerly incarcerated return to prison or jail within three years. The CSSD data has a much larger and broader sample of the state's criminal population due to its inclusion of felons who do not go to prison, and the inclusion of all misdemeanants

Figure 7

Three-Year Recidivism Rates in New England Cohort of Released Prisoners, 2009

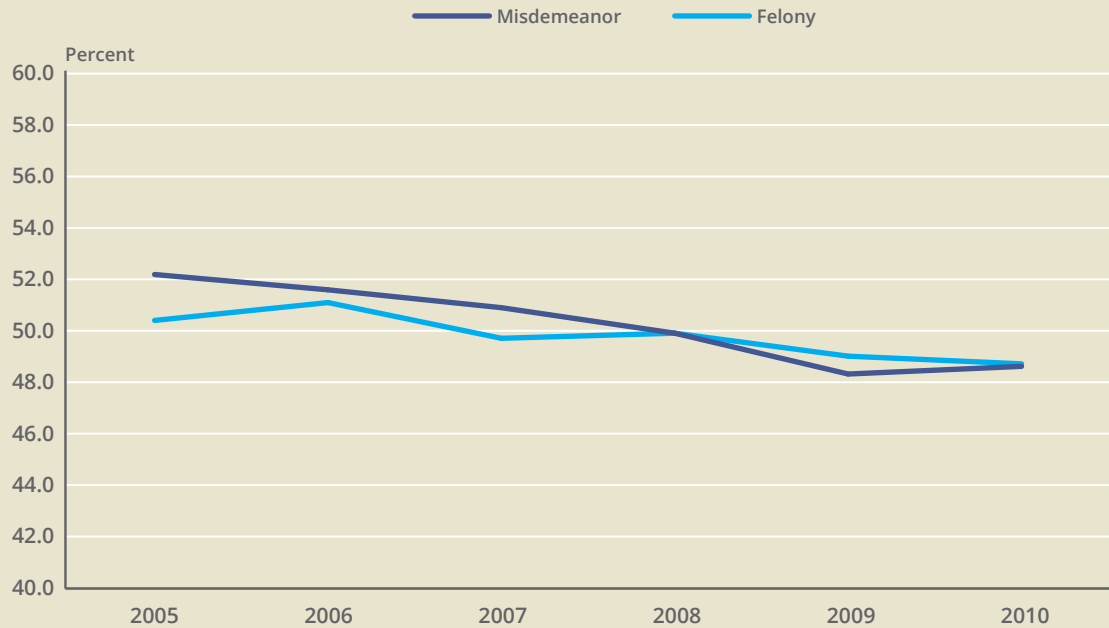


Sources: Authors' calculations. Connecticut Department of Correction, Maine Department of Correction, Massachusetts Department of Correction, New Hampshire Department of Correction, and Vermont Department of Corrections.

Notes: Recidivism is defined as those who reoffend within three years of release from prison and return to jail. Connecticut's recidivism rate is calculated using the 2008 cohort.

Figure 8

Connecticut Five-Year Recidivism Rates Based on Misdemeanor or Felony First Conviction



Source: Authors' calculations using data provided by Connecticut Court Support Services Division.

Note: Cohorts are calculated by separating first appearance in the dataset by year. If an individual's first crime in the dataset was in 2008, they are in the 2008 cohort. If that individual is convicted of an additional misdemeanor or felony within five years of the initial conviction, that individual is included as a recidivist. Groupings into misdemeanor and felony are based on the first conviction type.

who for the most part would not be included in the original analysis.⁷ Despite being excluded from the official recidivism rate, these individuals still have criminal records as a result of their convictions, and experience varying degrees of collateral consequences as a result of these convictions. This more inclusive recidivism rate, measured five years after the original conviction, hovers around 50 percent throughout the cohorts, with a slight downward trend as seen in Figure 8.

Age and gender are major predictive factors of the likelihood that an ex-offender will return to prison within three years after being released. In Massachusetts, the female three-year recidivism rates were 2 to 8 percentage points lower than the male rate for the 2007 through 2011 cohorts. Likewise, the recidivism rate is highest for 18–24 year-olds and steadily declines as age increases (Papagiorgakis 2015). Despite applying to a very specific subsample of the criminal population, this decline aligns with the declining ratio of arrests to increasing age that was discussed earlier in Section III. If someone is caught in a cycle of recidivism, these setbacks further delay attempts to successfully reintegrate into their communities. As outlined in the previous section, gaining employment and housing are two effective ways to help an ex-offender find a better future.

VII. Conclusion

The effects of tough crime policies from the late twentieth century are still impacting the U.S. criminal justice system today. The harsh penalties imposed over the last several decades resulted in the U.S. prison population becoming the largest in the world (Walmsley 2016). More recently, the prevailing

⁷ Between 2005 and 2015 there are 128,198 individuals in the dataset who received misdemeanor convictions but no felony convictions.

attitudes of both liberal and conservative policymakers have shifted to considering the merits of adopting more compassionate and rehabilitative approaches to treat criminal offenders, and contemplating whether some nonviolent drug-related offenses are better dealt with as health issues rather than as crimes. There have been new policies enacted aiming to improve the long-term life outcomes for individuals with criminal records, but it is clear that more needs to be done in order to effectively remove the lasting negative consequences of having a criminal record. One general point that many lawmakers seem to agree on is that low-level crimes committed in early adulthood should not cause lifelong harm to ex-offenders. Sentencing offenders to probation and ordering substance abuse treatment instead of incarceration for some nonviolent drug crimes are more cost-effective and efficacious methods. Probation is much less disruptive to a household and community than incarceration, and individuals on probation could plausibly keep their existing jobs, not an option open to those sent to jail or prison (Kleiman 2011). Improving how the criminal justice system handles substance abuse addiction is a particularly important issue in New England, as the region is currently faced with mounting challenges and costs related to the opioid epidemic.

In order to shape these new policies, it is crucial to gain a greater understanding of the effect of existing policies and the individuals who interact with the criminal justice system. A repeated finding in this policy report is the lack of sufficient data and the need for better data systems. Without better information, it is much more difficult to find better solutions. An example of what analytical improvements can offer is illustrated in Jackson, Sullivan, and Zhao (2017), the research report that is a companion piece to this policy report. The research report's unique approach of linking wage record data to criminal record data is able to identify the actual impact that a ban the box initiative undertaken in Massachusetts has had on ex-offenders' earnings and recidivism rates. This study finds that despite the logic behind the ban the box policy initiative described in Section V, the reform did not have the desired positive impact on wages for individuals with criminal records. This lesson from the Massachusetts experience with ban the box shows the need for additional policy actions to improve employment outcomes for individuals with criminal records. Further studies linking data across the criminal justice system should yield significant benefits. For instance, by linking data on arrests and following individual cases through the entire criminal justice process—from charges, convictions, sentencing, and beyond—it would be possible to understand the true costs that having a criminal history imposes upon a person and on society. The creation of such state, regional, and national data systems would allow for criminal justice policies to be informed through rigorous analysis, so it would be possible to see the actual impacts of reforms and better identify and support the affected communities.

Other policies such as the Second Chance Act, a bipartisan bill signed into law in 2008 by George W. Bush, are driven by the idea that individuals with criminal records should be able to pay their debt to society by serving their sentences, and through gainful employment be given the chance to attain economic stability and improve their lives while abiding by the law. These programs expand education and training opportunities for incarcerated individuals, many of whom have internal barriers to overcome, such as low educational attainment, a lack of work experience, mental health challenges, and substance abuse issues, in addition to the impediments that a criminal record has on their attachment to the labor market (see Eberstadt 2016, especially chapter 9). Programs that significantly reduce recidivism have been proven to save costs over the life of an ex-offender by reducing future criminal justice costs due to the high price of incarcerating individuals (Durose, Cooper, and Snyder 2014). However, a majority of the U.S. population with a criminal record was never incarcerated, but these people would very

Better state data systems are needed to develop and support policies that can improve ex-offenders' outcomes

likely benefit from being included in programs like the ones promoted by the Second Chance Act. An expansion of such training and education programs and improved data systems could lead to specific cost analyses regarding the economic and social benefits conferred by providing this type of support to ex-offenders. In turn, better data and improved analysis should lead to policies and programs that are better informed, more efficient, and more socially and economically effective.

While the lack of coordinated data means that many characteristics of the criminal population in New England and the United States are currently unknown, there are promising avenues by which policymakers and researchers can learn more. Policymakers seem eager to better address these widespread problems associated with ex-offenders. The creation of data systems to more accurately examine the flow through the criminal justice system and the outcomes of all ex-offenders would be incredibly useful for forming and evaluating future policies. In order to limit the collateral consequences of a criminal record, a combination of policies are necessary as no single law can fix this complex problem. What is clear is that a significant portion of the U.S. population incurs a criminal record, often before their mid-twenties, which can permanently impair their life outcomes and harms the nation's economic well-being. Under practices and policies, some decades-old that are rooted in previous eras, many people with a criminal record in the United States do not generally get a second chance in life. Given the demographic challenges in New England and in the United States, including lower birth rates, longer life spans, and the aging and retirement of the postwar baby boom generation, we cannot afford to let a significant portion of our human capital remain marginalized and underutilized by continuing to adhere to criminal justice policies that have been shown to be expensive and ineffective.

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