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Views

The Bias of Background Checks

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By [Marsha Weissman](#)

[A recent survey](#) of college and university officials found that 66 percent of institutions now collect criminal justice information about would-be students, usually through self-disclosure on the application. The survey revealed that a wide range of offenses can get an applicant additional screening that can lead to rejection, and that less than half of the colleges that use this approach have written policies to guide admissions officers or train those employees.

As the head of the Center for Community Alternatives, the organization that asked the American Association of Collegiate Registrars and Admissions Officers to conduct the survey, I am troubled by the survey's findings. CCA's core mission is removing the barriers to employment, education and full community reintegration faced by individuals who have been involved in the criminal justice system, and we know, from both the research literature and from our own experience, that access to a higher education can have a profound effect on individual lives. If past criminal convictions are preventing significant numbers of young people from going to college, then we all lose out.

That's why these colleges' policies concern us. Seventy-five percent of schools consider any drug or alcohol conviction negatively in spite of how common those offenses are among the college-age population. And one-third of schools consider pending misdemeanors or even misdemeanor arrests in a negative light.

Also disturbing is the *ad hoc* quality of the procedures used by many of the schools that collect this sensitive information. At the 40 percent of colleges that train staff on how to interpret criminal records, the training is most often provided by campus security or "other staff." The lack of in depth-training is troubling because criminal records are often inaccurate and almost always more complicated than they may seem at first blush.

A major complication in interpreting criminal records is that state laws vary so greatly that two college applicants from different states, convicted of the same offense at age 15, could end up with entirely different criminal history records. One may end up with an adult record while the other will have no adult record whatsoever. In some states anyone older than 16 can be prosecuted as an adult and end up with a permanent record. In other states the cut-off age is 18, and those who are younger will be processed in the juvenile system, which protects them from a permanent conviction. Without training, admissions officers will not be aware of the vagaries of state criminal records and will be more likely to make arbitrary decisions based on inaccurate facts.

There are important public policy reasons to eschew the collection of criminal history information from college applicants. The fact that African Americans and Latinos are overrepresented in the criminal justice population is no longer open to question. Racial profiling and the heavy concentration of police in low-income, urban neighborhoods have led to high rates of arrest, prosecution and conviction among communities of color. An African American in the city of Los Angeles is seven times as likely to be arrested for marijuana possession, a misdemeanor, as a white person is. A Latino in the same city is twice as likely to be arrested for that offense as a white person. Yet government studies show that whites use marijuana more than either blacks or Latinos. Based on these facts, screening for criminal records cannot be a race-neutral practice.

Are there serious risks involved in *not* conducting criminal background checks? There is no empirical evidence that students with criminal records present a threat to campus safety. Only one study has investigated the link between criminal history screening and improved safety on campus; no statistical difference in campus crime was found between schools that screen and schools that don't.

The U.S. Department of Education [has concluded](#) that "students on the campuses of post-secondary institutions are significantly safer than the nation as a whole." The most horrific campus crimes, like the

Virginia Tech and Northern Illinois University shootings, are committed by students who don't have criminal records. Rape and sexual assault are the only crimes showing no statistical differences between college students and non-students, and those offenses are most often committed by inebriated students who have no prior criminal records. Thirty-eight percent of the respondents in our survey reported that they did not use criminal justice information in their admissions processes, and none of them indicated that they believed their campuses were less safe as a result.

Colleges and universities can responsibly refrain from collecting criminal background information about applicants, and by doing so will be able to attract a diverse student body *and* maintain a safe and secure campus. But if criminal history screening is done, it should be done according to reasonable, fair and written policies and procedures:

- Remove the disclosure requirement from initial application for admission and ask for criminal justice information only *after* conditional admission.
- Limit the disclosure requirement to convictions for felonies (not misdemeanors or infractions) that were committed within the past five years and that were committed after the applicant's 19th birthday.
- Establish admissions criteria that are fair and evidence-based, e.g., remove barriers to admission of individuals who are under some form of community supervision and provide an opportunity to document personal growth and rehabilitation.
- Base admissions decisions on assessments that are well-informed and unbiased by developing in-house expertise and performing an assessment and multi-factor analysis to determine whether a past criminal offense justifies rejection.
- Establish written procedures that are transparent and consistent with due process. Applicants should be informed in writing of the reason for the withdrawal of an offer of admission and should be afforded the right of appeal.
- Offer support and advocacy including on-campus support services for students who have criminal records.
- Evaluate the policy periodically to determine whether it is justified.

There are great social benefits associated with a more educated citizenry — more informed voters, better parents, and a more skilled workforce, to name a few. A college education is a crime prevention tool: colleges and universities promote public safety in the larger community when they open their doors to people with criminal records who demonstrate the commitment and qualifications to pursue higher education.

Marsha Weissman is executive director of the Center for Community Alternatives. The organization's full report, "The Use of Criminal History Records in College Admissions Reconsidered," can be [downloaded from its website](#).