

U.S. DEPARTMENT OF COMMERCE
National Technical Information Service

PB80-132376

Examination of the Federal Targeted
Job Tax Credit for Employers Hiring
Disadvantaged Ex-Convicts and Ex-Felons

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Prepared for

Assistant Secretary for Policy, Evaluation, and Research (Labor), Washington,
DC

Jul 79

74954

ASPER/PUR-79/3850/A

EXAMINATION OF THE FEDERAL TARGETED JOB
TAX CREDIT FOR EMPLOYERS HIRING
DISADVANTAGED EX-CONVICTS AND EX-FELONS

NCJRS

JAN 19 1981

ACQUISITIONS

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July 1979

This report was prepared under contract/purchase order No. B9M93850 from the Office of the Assistant Secretary for Policy, Evaluation, and Research, U.S. Department of Labor. Since contractors conducting research and development projects under government sponsorship are encouraged to express their own judgment freely, this report does not necessarily represent the official opinion or policy of the Labor Department. The author is responsible for the contents of this report.

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U. S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA. 22161

REPORT DOCUMENTATION PAGE		1. REPORT NO. AS PFR/PUR-79/3850/A	2.	3. Recipient's Accession No.								
6. Title and Subtitle Examination of the Targeted Job Tax Credit for Employers Hiring Disadvantaged Ex-Convicts and Ex-Felons		5. Report Date July 1979		6.								
7. Author(s) Neal Miller		8. Performing Organization Report No.		9.								
8. Performing Organization Name and Address Neal Miller 11410 Cam Court Kensington, Maryland 20795		10. Project/Task/Work Unit No.		11. Contract/Grant No. (c) B-9-M-9-3850 (P.O.) (C)								
12. Sponsoring Organization Name and Address U.S. Department of Labor/ASPER 200 Constitution Avenue, N.W. Washington, D.C. 20210		13. Type of Report & Period Covered Final 5-79 to 7-79		14.								
15. Supplementary Notes												
<p>16. Abstract (Limit: 200 words) The objective of this report is to review the preliminary steps taken to implement the Targeted Jobs Tax Credit (TJTC) program for employers hiring eligible ex-convicts and ex-felons. A second objective is to develop guidelines for an impact evaluation of the program. In addition, estimates are made as to the number of eligible ex-felons that will potentially use the tax credit. Data are from interviews with employer representatives, U.S. Department of Labor (DOL) staff responsible for the implementation of the TJTC, state Employment Service staff, offender employment assistance program staff, as well as a limited literature review. The process evaluation noted that (1) the DOL implementation effort has been limited to local responsibilities in the certification process, rather than program features (e.g., staff training, coordination to other offender employment assistance efforts, etc.); (2) several states had developed significant expertise in TJTC implementation that might be shared with other states; and (3) problems exist with respect to the signing of eligibility determination sub-agreements between the Employment Service agencies, the CETA prime sponsors, and state and federal correctional agencies. The impact evaluation guidelines recommend use of a time series study as a preliminary evaluation procedure but noted the problem of developing a comparative basis for judging the significance of statistical measures of ex-felon employment and unemployment. For long term impact evaluation, the alternative use of either the experimental evaluation technique of a causal model of change or the use of econometric models of employment looking to significant demographic and environmental variables affecting ex-felon employment was proposed.</p>												
<p>17. Document Analysis a. Descriptors</p> <table border="0"> <tr> <td>Crime</td> <td>Evaluation</td> </tr> <tr> <td>Discrimination</td> <td>Unemployment</td> </tr> <tr> <td>Effectiveness</td> <td>Taxes</td> </tr> <tr> <td>Employment</td> <td></td> </tr> </table> <p>b. Identifiers/Open-Ended Terms Targeted Jobs Tax Credit</p>					Crime	Evaluation	Discrimination	Unemployment	Effectiveness	Taxes	Employment	
Crime	Evaluation											
Discrimination	Unemployment											
Effectiveness	Taxes											
Employment												
c. COSATI Field/Group 5C Economics												
18. Availability Statement Release unlimited. Available from National Technical Information Service, Springfield, Va. 22161		19. Security Class (This Report) UNCLASSIFIED		20. Security Class (This Page) UNCLASSIFIED								
		21. No. of Pages 64		22. Price A04 - A01								

ABSTRACT

Objective: To review the preliminary steps taken to implement the Targeted Jobs Tax Credit (TJTC) for employers hiring eligible ex-convicts and ex-felons and to develop guidelines for an impact evaluation. Additionally, estimates were made as to the numbers of eligible ex-felons potentially using the tax credit.

Methodology: Information gathering was accomplished through interviews with employer representatives, staff of the U.S. Department of Labor responsible for TJTC implementation, state Employment Service staff and offender employment assistance program staff, as well as some limited literature review.

Findings: The process evaluation noted that (1) the DOL implementation effort has been limited to local responsibilities in the certification process, rather than program features such as staff training or coordination to other offender employment assistance efforts, (2) several states had developed significant expertise in TJTC implementation that might be shared with other states, including the use of state economic development funds as added economic inducements for employers, (3) problems exist with respect to the signing of eligibility determination sub-agreements between the E.S. agencies, the CETA-prime sponsors, and state and federal correctional agencies. The impact evaluation guidelines recommending use of a time series study as a preliminary evaluation procedure but noted the problem of developing a comparative basis for judging the significance of statistical measures of ex-felon employment and unemployment. For long-term impact evaluation, the study proposed the alternative use of either the experimental evaluation technique of a causal model of change or the use of econometric models of employment looking to significant demographic and environmental variables affecting ex-felon employment.

Policy Implications: An analysis of the factors affecting employer policies and practices towards ex-felons reinforces the process evaluation findings emphasizing the need for coordination of TJTC efforts with other programs to aid offender employment. DOL needs to broaden the mandate of its national office staff managing the TJTC program to include program coordination, training of field staff, and technology transfer. The tentative nature of this recommendation highlights, however, the lack of comprehensive research on employer policies and practices.

TABLE OF CONTENTS

Abstract	1
Table of Contents	2
Introduction	3
The Legislative Mandate	
- Context	5
- Eligibility Ambiguities	7
Estimating Potential Use of TJTC Among Ex-Felons	
- Universe of Ex-Felons	10
- Likely Maximum Use	15
Process Evaluation	
- Tax Credit Mechanism and Limitations	19
- Implementation Responsibilities/Procedures	22
- Process Evaluation Findings	25
- Employer Responses to TJTC	32
- Overall Impressions	36
Guidelines for an Impact Evaluation Plan	
- Evaluation Approach	39
- Preliminary Test of Impact	45
- Full Impact Evaluation	49
- Changes in Employer Practices and Policies	50
- Causal Model Data Needs	53
- Ex-Felon Employment Effects	54
A Final Word	59
Charts	
- Causal Model of TJTC Impact	46
- Employer/Ex-Felon Inset	47

INTRODUCTION

The new Targeted Jobs Tax Credit (TJTC) established in the Revenue Act of 1978 is intended to increase the employment levels of target group members, who are assumed to face artificial barriers to employment. While previous efforts to reduce other barriers to employment, such as equal employment opportunity laws, may have had a tangential effect upon these groups, more help is thought to be needed. For, unemployment among these groups' members remains high. Positive economic inducements for employers to hire them seem required.

One of the seven target groups included in the tax credit program is economically disadvantaged ex-convicts and other ex-felons within five years of conviction or release from prison.¹ While not much is known about other groups of ex-felons, U.S. Department of Labor and state correctional agency studies testify to the parolee's often high level of unemployment. Many other studies show that one cause of their unemployment problems is the artificial barrier to employment from employer policies and practices against hiring persons with criminal records.²

1. This paper will use the term ex-felon to encompass both ex-convicts and other ex-felons, including probationers and those receiving suspended sentences, since it is inclusive of the former.

2. See Neal Miller, Employer-Barriers to the Employment of Persons with Records of Arrest or Conviction (1979). Note that this review found that employer stereotypes of ex-convicts which lead to "statistical discrimination" against ex-convicts is often generalized to all holders of criminal records, including persons with records of arrest without convictions or having served prison terms.

The help offered by the TJTC to parolees, other ex-felons and ex-convicts is the economic inducement offered by the tax credit provision for employers to reduce their labor costs by applying the tax credit against their federal tax liability in the amount of one-half of the newly hired ex-felon's first year salary and one-quarter of the second year salary, up to \$6,000 of each year's salary. For the first year this averages about \$1,800 gain to the employer per each qualifying employee.¹

The purpose of this paper is twofold. First, it will attempt to determine if the implementation of the targeted jobs tax credit is effective in promoting employment of the target groups in general and specifically, as it is directed at ex-felon employment. Second, it will attempt to develop an evaluation plan for measuring empirically the changes in ex-felon employment that have resulted from the tax credit. To these ends, the paper will:

- examine the legislative mandate,
- estimate the potential number of ex-felons to be helped,
- conduct a preliminary process evaluation of the procedures by which the tax credit program is managed and publicized,
- develop guidelines for an impact evaluation plan, and
- review the policy implications of the findings.

1. The tax credit replaces the wage deduction to the employer's gross profits before taxes, so that not all of the maximum tax credit of \$3,000 is a savings. For a taxpayer in the 40% bracket, the net gain is \$1,800 ($\$3,000 \times 60\%$ [100-40]). This does not take into account the effect of the tax credit upon state tax liability of the employer. See below.

I. The Legislation

The Revenue Act of 1978 under Section 321, Targeted Jobs Credit for Business,¹ provides for a tax credit of fifty percent of the qualified first year wages and twenty-five percent of the qualified second year wages, up to \$6,000 per year, for employers hiring, after September 1978, an individual who has been certified by a DOL-designated agency as:

- "A) having been convicted of a felony under any statute of the United States or any state,
- B) being a member of an economically disadvantaged family..., and
- C) having a hiring date which is not more than five years after the last date on which such individual was so convicted or was released from prison."

The tax credit may be applied to up to ninety percent of the employer's tax liability and may be applied against the tax liability for three years preceding the year of hire or for seven years subsequent to the year of hire.

Legislative Context

The tax credit for employers hiring ex-felons is not the sole employment tax credit under the Targeted Jobs Tax Credit (TJTC), nor are the several TJTC tax credits the sole tax credit available to businesses.

1. Section 51, Internal Revenue Code of 1954, 26 U.S.C. 51.

The principle non-TJTC tax credits available to businesses are the WIN employment credit and investment credits for (1) companies purchasing new equipment, plants, etc.; (2) pollution control facilities, (3) rehabilitation of buildings twenty years old or more. In addition, there is a tax credit for payment of foreign taxes. The investment tax credit for new equipment is applicable in 1979 up to sixty percent of the tax liability, rising in ten percent increments to ninety percent in 1982 or thereafter. Employers may use the WIN (work incentive) tax credit when hiring welfare recipients; the WIN credit can be applied against the employer's total tax liability for fifty percent of the first year's wages and twenty-five percent of second year wages, up to \$6,000 each year.

The other targeted job tax credit categories include: referrals from vocational rehabilitation agencies, economically disadvantaged youth (between ages 18 and 25), Vietnam Veterans under the age of 35 who are members of economically disadvantaged families, recipients of supplemental security income benefits under Title XVI of the Social Security Act, recipients of General Assistance (Welfare) payments, and youth participating in a qualified cooperative education program. Ex-felons may be included in one or more of these other TJTC categories leading to the possibility of double counting of the same individuals in the planning or evaluation of the TJTC program, an issue that will be discussed below on page ____.

Eligibility Ambiguities: Before analysis of the TJTC can begin, we need to know who is intended to be helped by the tax credit. The key definitional element for the tax credit is that of being convicted of a felony. One commonly accepted definition of felony is a crime for which one may be sentenced to prison for a term of one year and one day or more.¹

While the United States penal code, Title 18, follows this definition, many state penal codes do not. One state, New Jersey, does not even have the category "felony," using instead the term "high misdemeanor." Many other states (at least a dozen) provide for misdemeanors, maximum sentences of incarceration for periods of more than one year, and sometimes having the sentences served in prison rather than jail. Conversely, at least one state, Minnesota, defines a felony as a crime for which one has been imprisoned for a year or more, rather than having a potential maximum sentence over one year in term.² In this light, it is likely that if Congress had an intent when using the term felony, it was to adopt the federal criminal code rule rather than accepting the various state definitions.

A second definitional ambiguity is the meaning of the term "ex-convict" as it might be construed to exclude

1. Crimes for which the maximum sentence possible is one year or less, include misdemeanors and violations (the latter generally not exceeding a three-month maximum jail sentence).

2. Personal communication from staff at the state Criminal Justice Statistical Center.

individuals serving prison sentences, such as work releasees or persons in halfway houses, who are able to work in the community. The DOL's Solicitor's Office has, however, issued an interpretation that permits convicts, as well as ex-convicts to be eligible for the TJTC credit. A related problem that is not dealt with in the Solicitor's memorandum is the data on which the five-year period following release from prison begins to run for these ex-convicts. No national guideline is possible since the answer depends upon state law. In some states the law may permit the prison correctional authority to retain legal control of the convict, even where the convict is physically outside the prison, such as residing in a halfway house and working in the community. Release from convict status does not occur until jurisdictional control over the individual is transferred to the parole agency or an unconditional release is granted. In other states, an individual is not released to a halfway house until release from prison and the grant of parole. It is even possible that in some states, both systems are in use and halfway house residents are a mix of "convicts" and parolees. It is also likely that some states definition of convict may have changed in the past five years so that historical information will be needed to apply the five year from release eligibility test.

A third, non-definitional source of potential confusion over "record" eligibility lies in the practice of perhaps a dozen states of transferring convicted misdemeanants with sentences over a certain period (e.g., three months) to state prison. In most states, misdemeanants serve sentences in local jails rather than state prisons. And, even in the dozen or so states not following this practice, it is often a new practice for misdemeanants to serve their sentence in prisons. It is not inconceivable that these incarcerated may be inadvertently declared eligible by certifying agents who assume that releasees from prison have felony convictions.¹

1. Such an action, while not authorized, would seem consistent with the legislative intent to aid the transition of ex-felons back into the labor force. Reentry problems are probably as significant for misdemeanor incarcerated as for felony incarcerated.

II. The Ex-Felon Target Population: Estimating the Maximum Potential Use of TJTC Among Ex-Felons

The starting point for examining the Targeted Jobs Tax Credit (TJTC) for ex-felons is estimating the number of persons potentially subject to the credit's use. This determination involves:

- (a) estimating the number of persons convicted of felonies within the past five years,
- (b) adjusting for differences (if any) between the past five year's prison intake and release of convicted felons,
- (c) estimating the proportion of ex-felons who are economically disadvantaged,
- (d) estimating double counting due to overlap between those eligible for the ex-felon tax credit and for other tax credits for disadvantaged youth, and Vietnam-era veterans, handicapped, etc., and
- (e) estimating likely maximum use of the TJTC from the proportion of eligible, disadvantaged ex-felons (regardless of double counting) who are labor force participants and unemployed within one year's time.

Universe Estimation

National statistics for number of persons convicted of felonies are not available. Indeed, this statistic is not collected by most states.¹

1. Rather, they collect "case" or indictment statistics. Since cases or indictments may include multiple individuals, or one person may face several indictments, these statistics are not useful in the present context.

The procedure used here is to gather "person-count" statistics from selected states where this information is available and extrapolate from this number to a national estimate; the extrapolation being based upon the fraction of the national population or aggregate arrests represented by the combined state's statistics.

Two major sources of error exist for this procedure. First, the states surveyed do not have the information sought for five years. The information available may therefore be unrepresentative of the full five years' felony conviction activity. However, what information there is seems to show a lowering of the felony conviction totals for the period 1974-1978. Thus, use of the later years' figures (the ones available) will result in an underestimate of the number of persons with felony convictions---a conservative direction of error.

The second, more serious source of error is in the likelihood of some persons being convicted twice (or more) for felonies in the five-year period. With most persons being convicted of felonies not receiving prison sentences, and a majority of those receiving prison sentences being incarcerated for three years or less, some felons are likely to have recidivated in the five-year period. To offset this possible source of error, it is estimated that felony recidivism for felony convictees occurs in the range of ten to thirty-three percent.

a) Estimation of number of persons convicted of felonies in the past five years is based on reports from the state court offices in California and New Jersey and from the Statistical Analysis Centers (funded by the Law Enforcement Assistance Administration) in Maryland and Minnesota. These four states report a total of approximately 85,000 felony and felony-equivalent¹ convictions annually. For five years, this would constitute a population of 425,000 ex-felons.

Extrapolating from this figure on the basis of the four states' 17.26% proportion of the total U.S. population (unpublished U.S. Census estimate) or their 19.7% proportion of estimated annual national arrests (from unpublished Uniform Crime Reports data) leads to an estimated range for the number of ex-felons in the United States of between 2,157,000 and 2,462,340 persons.

b) The next step is to remove estimate errors resulting from counting the same persons twice, due to multiple felony convictions. Using a felony recidivism likelihood of between ten to thirty-three percent,² the new estimate of total U.S. ex-felons with less than five-year-old conviction or release from prison is between 1,445,000 and 2,216,000 persons.

1. See discussion above, page 7.

2. No studies exist which report on the national level of felony recidivism among ex-felons. No recent research has addressed this specific question. The Glaser cohort of federal parolees showed 48.5% recidivism for both felony and misdemeanor crimes for a five-year follow-up. D. Glaser, The Effectiveness of a Prison and Parole System (1964). The range of 10 to 33 percent used here is consistent with whatever partial studies do exist.

Other Adjustments

a) The next step is to adjust for the higher ratio of otherwise eligible felons who are now in prison, compared to the number of inmates in 1974. This is done by adjusting for differences in prison intake and release, based upon changes in total prison population for the five-year period.

According to the Law Enforcement Assistance Administration figures, there has been an increase, in this period, of about 75,000 persons, serving felony or felony-equivalent (one-year plus) sentences. In aggregate, this number is nearly de minimus, although in the real world, these felons are most likely to need the help promised by the TJTC. Reducing the estimates above by 75,000 leads to a new range of between 1,370,000 to 2,141,000 ex-felons.

b) Estimating the proportion of ex-felons who meet the statutory income test of economically disadvantaged¹ is not directly possible. No state collects the necessary economic information for persons convicted of felonies. The only data available come from surveys of jail and prison inmates done by the Law Enforcement Assistance Administration in 1972 and 1974.² These studies suggest that sixty to seventy percent of the inmates had income levels meeting the

1. Section 321 of the Revenue Act of 1978 defines economically disadvantaged persons as individuals whose family's income during the six months' preceding hiring was less than seventy percent of the Bureau of Labor Statistic's lower living standard.

2. The Bureau of Census report, Persons in Institutions and Other Group Quarters; 1970 Census of Population (1973), does not differentiate between persons in custody from those not in custody in reporting 1969 income of inmates. Hence the data are not useable here.

statutory criteria. Since probationers, who make up two-thirds of conviction dispositions, are likely to have had higher incomes than inmates (for that time prior to arrest/conviction) the eligibility range is reduced to an estimated fifty to sixty percent. This reduces the estimate to between 685,000 and 1,285,000 disadvantaged felons.

c) It may be thought desirable to distinguish between ex-felons meeting other TJTC criteria and those who do not. For, it may be that where a choice is possible, ex-felons may prefer to use another TJTC category in the expectation that the other category is not as strong an employment barrier as the criminal record.¹ Estimating the extent to which economically disadvantaged ex-felons meet other TJTC categories requires information on the extent to which ex-felons are Vietnam-era veterans (under age 35) or youth under age 25. Those who meet the other TJTC criteria, such as general assistance recipients, or vocational rehabilitation referrals, probably do not include significant numbers of ex-felons (nor is there any way to estimate their numbers).

Significant numbers of ex-felons are, however, disadvantaged Vietnam-era veterans or disadvantaged youth. Based on Law Enforcement Assistance Administration statistics, it is estimated that six percent of all ex-felons are Vietnam-era veterans under the age of 35.² Using a variety of

1. See, note 2, below, page 16.

2. President Carter's Message on Vietnam-Era Veterans Weekly Compilation of Presidential Documents, Vol. 14 (no. 41), pp. 1737-1742 (October 10, 1978). About 12% of the prison population were estimated to be Vietnam-era veterans. Since the median age of this group as a whole is 34 years, this means that slightly more than half are below the 35-year cutoff.

criminal justice reports,¹ it is estimated that youth under age 25 constitute between thirty-three and thirty-nine percent of all felony convictions.²

The extent to which disadvantaged ex-felons meet other TJTC attributes is thus estimated to be in the range of thirty-nine to forty-five percent. The group of ex-felon youth or Vietnam veterans is between 267,000 and 578,000 individuals, while the group of ex-felons with neither attribute is between 377,000 and 784,000 persons.

Likely maximum use of ex-felon TJTC

Not all disadvantaged ex-felons need help in receiving employment since many are already working or not in the labor force. It is assumed that labor force participation rates for ex-felons approximate that for non-felons³ and that felons comprise thirty percent minorities and ninety-

1. These reports include Law Enforcement Assistance Administration Surveys of Inmates of State Correctional Facilities-1974 (1976); Uniform Crime Reports-1977 (1978); and Criminal Justice Profile-1977 (1978) California Bureau of Criminal Statistics.

2. Not all of these will be economically disadvantaged, but if it is assumed that the proportion of economically disadvantaged veterans and youth is the same as that for disadvantaged ex-felons to all ex-felons, no further adjustment need be made for dual-eligibility.

3. One problem with this analysis is that criminal justice agency rules often require probationers and parolees to work. Non-labor force participation is permitted only for reasons such as attending school, illness, or disability. Hence, TJTC-eligible ex-felons might be expected to exceed their non-offender peers in labor force participation.

five percent males.¹ Applying participation rates of 78.5% for white males, 71.0% for black males, and 48.4% for females, between 306,000 and 607,000 ex-felons exclusively are labor force participants. Making no distinction between ex-felons with and without other TJTC attributes² brings the number of all ex-felon labor force participants to a range of 512,000 to 962,000 persons.

No national data exist that show the incidence of unemployment of ex-felons either for one point in time or for one year's time. Existing data for parolees indicate that they have higher rates of unemployment than non-offenders. The duration of unemployment may also be more extended than that for non-offenders.³ Thus, using general population statistics is likely to underestimate, perhaps seriously,

1. Miller, supra note 2, page 3.

2. In the real world there is probably little reason for ex-felons to prefer another TJTC category since primary labor market employers are likely to learn about their criminal records through application form questions, interviews, and background checks. Secondary labor market employers show little concern for the criminal record. Miller, supra note 2, pg. 3. Indeed, employers concerned about the record might react negatively to ex-felons using another TJTC credit if they perceive such use as an attempt to evade the employer's interest in the record. And, as will be discussed below, there is probably little opportunity for the ex-felon to choose another TJTC, where the local agency certifying his/her eligibility is the criminal justice agency or where that agency has referred the applicant to the CETA-prime sponsor for certifying.

3. As discussed above, note 1, ex-felons are not as likely as non-offenders to become non-labor force participants upon leaving a job and, hence, for this reason alone, likely to have longer "unemployment" spells. See, Clark and Summers, Labor Force Transitions and Unemployment (1978), for a discussion of the relative importance of labor force leaving and entering upon unemployment for the general population.

the incidence of ex-felon unemployment. However, no alternative is available other than a few parolee studies showing their unemployment to be three times the national rate for all labor force participants.¹ Nor are data available to show the relative incidence of unemployment among offenders and the general labor force, although it is likely that ex-felons suffer higher levels of unemployment for this measure as they do for unemployment at one point in time. It is conservatively estimated, therefore, that thirty percent of all disadvantaged ex-felons are unemployed in the course of a year.²

This results in the following estimates of potential ex-felon TJTC utilization:

- a minimum of between 89,000 and 168,000 ex-felons exclusively, to
- a maximum of between 154,000 and 289,000 ex-felons, including those eligible for TJTC certification as disadvantaged Vietnam-era veterans under age 35 or disadvantaged youth under age 25.

1. e.g., G. Pownell, Employment Problems of Released Prisoners (1969).

2. Bureau of Labor Statistics, Work Experience of the Population in 1976 (1977), indicates that about 20% of all labor market participants are unemployed in the course of a year, although some of this may be short-term, awaiting a promised job opening rather than a job-seeking period.

III. Preliminary Process Evaluation of Ex-Felon Targeted Jobs Tax Credit: National Program Efforts

The ex-felon targeted jobs tax credit (TJTC) has one primary goal, that of increased employment among eligible ex-felons. This goal may be achieved directly through tax credit utilization or indirectly as a result of the existence of the tax credit, even without employers claiming its tax reduction benefits. For, increased employment implies, in part, employer changes in personnel policies from one of excluding ex-felons, to their acceptance of ex-felons or even affirmatively seeking their hire; this may occur where employers simply consider the use of TJTC, regardless of their decision to use it or not. Increased employment levels may also imply as an alternative to increased ex-felon hiring, a lowering of their quit or employment turnover rates. Other indirect means whereby the tax credit results in increased employment of ex-felons, without use of the credit by an employer, include knowledge of the credit leading to increased ex-felon labor force participation and its stimulating greater efforts for their employment by agencies providing ex-felons employment assistance. A third positive outcome from the TJTC, related to but separate from increased employment, is that of decreased underemployment (from better jobs now being open to ex-felons.

The process evaluation's purpose is to examine the legislative mandate and implementing procedures to see whether they are compatible with the goals above or whether implementation may have unexpected, negative results that hinder ex-felon employment.

The specific intent of the process evaluation is twofold. First, to contribute to the management of the program's operations by noting where changes might help in efficiency or effectiveness. Second, setting the framework for an impact evaluation by establishing the program's evaluability and by examining the causal links between the program's operations and effects. With these goals in mind, it should be noted, however, that this process evaluation is done at an early stage of the TJTC implementation and is largely limited to national implementation efforts. Other DOL evaluations are already examining state implementation of the tax credit program.

The tax credit mechanism and limitations

The mechanism by which the tax credit ostensibly seeks to achieve its goals is through its providing economic incentives to employers to hire ex-felons.¹

The tax credit for employers hiring ex-felons provides for an election by an employer to claim the

1. Note that the National Alliance of Business in Connecticut reports that the state corporate tax structure penalizes the use of the tax credit by increasing the state tax to a degree greater than the credit's reduction of the federal tax. This problem is also true for the pre-existing WIN credit; one manufacturer is reported to explain use of WIN as being part of its corporate social responsibility role.

credit in an amount equal to one-half the wages paid in the first year of employment and one-quarter wages in the second year of employment, up to \$6,000 in wages for either year. The credit can be claimed for an amount up to 90 percent of the employer's tax liability for the tax year of employment; if unused because of a lack of tax liability or other credits meeting the 90% limit, the tax credit may be applied against the tax liabilities of the employer for the three previous or for the next seven tax years. The employment tax credit can be claimed only after all other tax credits have first been claimed. The principal alternative tax credits are the investment credit and foreign tax credit. The tax credit ceiling for the investment credit is less than the 90% ceiling for the TJTC for all years prior to 1982.

The maximum tax credit of \$3,000 for the first year of employment must be subtracted from the employer's wage deduction. The actual reduction in taxes will then vary from \$900/employee to \$2580/employee, with the median saving being \$1800/employee.

Two observations can be made about the tax credit.

First it is important to note that the credit is available only to tax-paying employers. This means that much employment in the private sector, with tax-exempt agencies and in the public sector is not subject to direct tax credit influence.¹ Even for private employers, however,

1. In contrast, a federal wage subsidy could effect these employment areas.

for any single year, most do not have tax liability,¹ and a significant proportion may not have any sufficient degree of tax liability for the entire 11-year carry-back or forward period to warrant their making changes in hiring practices/policies.

Second, the tax credit does not discriminate between employers not needing any incentive, i.e., presently hiring substantial numbers of ex-felons and those who it is wished to effect. This is significant because, as is reported elsewhere, many of the employers who now hire ex-felons, employ them in secondary labor market jobs, which are relatively unattractive and receive near minimum wage salaries.² Since these jobs have high turnover rates, secondary labor market employers have maximum opportunity to utilize the ex-felons tax credit, without this necessarily reflecting any increase in ex-felon employment, nor any diminution of ex-felon underemployment. Indeed, some increase in ex-felon underemployment or sub-employment might even result, limited only by the TJTC restriction that the first-year wages paid to ex-felons (up to the \$5,000 limit) cannot exceed thirty percent of the wages subject to the Federal Unemployment Tax Act for all employees during the same time period.

1. See, Internal Revenue Service, Statistics of Income, 1975, Corporation Income Tax Returns, Preliminary Report (1977).

2. See, Neal Miller, *supra* note 2, page 3.

Implementation Responsibilities and Procedures

The Department of Labor has two responsibilities for the implementation of the TJTC.¹ These are designation of the local agency responsible for certifying individual eligibility as a TJTC group member, including therein a specification of certification procedures, and for publicizing the tax credit among employers.

a) Designation of Local Agency Responsibilities. First, the prime sponsors under the Comprehensive Employment and Training Act of 1973, as amended are assigned responsibility by DOL for certifying eligibility of members of the three groups whose TJTC eligibility is limited to those who are economically disadvantaged. This involves interviewing applicants who are seeking certification and verifying their responses. If the applicant is indeed entitled to certification, the CETA prime sponsor issues a voucher which tells employers of the holder's status as a TJTC-eligible job applicant. (The voucher does not, however, inform the employer into which category the holder fits.) Second, the state employment service (ES) issues a certificate of eligibility for the employer's use in claiming the tax credit, after the TJTC applicant has been hired (as described below, page 24). The ES's responsibility is to check that the individual's eligibility has not expired, and if it has, to have the prime sponsor recheck the individual's eligibility.

1. The Department of the Treasury is responsible for dealing with employers claiming the tax credit, including legal issues unrelated to employee eligibility.

The responsibility of the CETA prime sponsor for determining TJTC eligibility may be delegated to other agencies through the signing of cooperative agreements between the prime and the other agencies. In the case of the ex-felon, delegation to correctional agencies occurs because:

- the criminal justice agency is the source of information as to ex-felon status;
- the criminal justice agency is often in the best position to make determinations of economic disadvantaged status, since it has conducted background investigations of the individual or has the investigation reports available to it;
- such delegation reduces for applicants the number of contacts and processing stages;
- such delegation reduces the burden on prime sponsor staff.

b) The certification process: begins with an individual requesting a voucher of eligibility. This usually occurs in one of three ways: (1) employers refer workers hired after September 27, 1978;¹ (2) employers or, employment assistance agencies serving job seekers refer them; (3) job seekers self-refer themselves as a result of program publicity.

¹. Wages for employees hired after September 27, 1978 that are paid after January 1, 1979 are covered by the TJTC credit.

No referral occurs where a correctional agency provides employment assistance services to its clients and has been sub-designated through a cooperative agreement for issuing eligibility vouchers. It is possible that the agency may routinely issue vouchers for all eligible clients. It may issue a voucher only when asked by a job-seeking ex-felon. A third possibility is that the agency may impose additional¹ job-readiness tests before issuing the voucher.

When the individual is hired, the employer fills out and returns to the Employment Service the "Employer Declaration" portion of the voucher form. The Employer Declaration is a simple form identifying the company, the new employee, starting date of employment, starting wage and job title. If eligibility has not been invalidated or expired (i.e., the hire is more than six month's past the date of original eligibility), the ES staff then completes the Employee Certification Form, which is mailed to the employer.

c) Publicity: responsibility for the TJTC national publicity efforts has been placed with staff in the Office of the Secretary of Labor. As of June 1979, the only plans for publicizing the ex-felon portion of the TJTC was for a news item to be placed in a monthly newsletter issued by the Law Enforcement Assistance Administration in the U.S. Department of Justice.²

1. It is problematical whether a correctional agency has legal authority to deny an individual an eligibility voucher since the law seems to create a federal statutory entitlement.

2. See, below, page 31.

Implementation Process Evaluation Findings

Interviews with Department of Labor staff and telephone discussions with employers, state Employment Service personnel, and staff of employment assistance agencies, including criminal justice agencies, provided information raising a variety of issues relative to TJTC implementation. Some of these relate to the tax credit in general, while others relate to the ex-felon credit specifically.

a) The most noticeable defect of the ex-felon credit is the government agency use of the term "ex-convict." While this is the statutory title, the term ex-convict is (a) incorrect since the ex-felon need not have served any term of incarceration to be eligible and (b) destructive in reinforcing employer stereotypes of ex-felons as being equivalent to ex-convicts in terms of criminal propensities, work habits, experience and skills. This is most certainly not the case, since sentencing decisions of judges look to these factors as helping them distinguish between persons who should be sentenced to incarceration and those who should not. It would be far preferable if the government referred to this credit as either an ex-felon credit or as an ex-convict and ex-felon credit.

(b) The DOL requirement that sub-designation of voucher issuing agencies be done through agreements with CETA prime sponsors is not being followed, in part due to the slow acceptance of CETA primes to their TJTC responsibilities.

In at least three states, Connecticut, Maryland, and New Jersey, the state Employment Service agency has signed agreements, in contravention of DOL guidelines, with the state correctional agency, the state parole agency (where separate) and the United States Probation Service.

The rationale for Employment Service/correctional agency agreements is:

- the agreements are state-wide, being in lieu of multiple local agreements between the CETA primes and a state-wide agency;
- the CETA primes in two of the states had not yet agreed in all instances to cooperate with the TJTC program. Since they had not signed (as of late May, 1979) agreements with the state ES, they could not sub-designate to the local correctional agency, responsibility for issuing eligibility vouchers.

There is much to be said for the correctional agencies undertaking to issue eligibility vouchers for their clients. Such "one-stop" services minimize the normal attrition that accompanies any referral process. Ex-felon perceptions or expectations that they will be refused services by non-criminal justice agencies increase the likelihood of attrition.

Nonetheless, for reasons other than those cited by DOL,¹ there is good reason for ultimately having the CETA prime sponsors and criminal justice agencies sign cooperative agreements. For, the TJTC program is an excellent vehicle around which to build other avenues for program cooperation. Moreover, by the ES superceding the CETA primes' role in signing cooperative agreements, difficulties may later occur with the CETA prime certifying other ex-felons who seek eligibility directly from the CETA prime and who need to have their ex-felon status documented by the criminal justice agencies.

It would seem therefore, that DOL should continue to encourage the CETA prime to establish cooperative agreements with the several local, state, and federal criminal justice agencies in their jurisdictions. At the same time information about the TJTC program should be sent to these public and private criminal justice agencies urging them to seek out cooperative agreements with the CETA primes. CETA primes should not, however, bar by default state-wide correctional agencies signing agreements with the state ES for them to act as issuers of eligibility vouchers. Conversely, the ES should not normally sign agreements with correctional agencies that have only local or regional

1. These reasons lie with the inability of the state ES agencies under the Wagner-Payser Act to perform services which are not paid for under the federal appropriations for the ES. Since the Revenue Act of 1978 did not provide for funding for the ES to determine applicant eligibility, the CETA-prime sponsors were a natural choice to make the necessary checks, particularly as they have experience with making income eligibility determinations.

jurisdiction, since that would infringe upon the primes' local prerogatives and experience.

(c) The potential proliferation of agencies issuing eligibility vouchers may create two problems. The first is the need for training of these agencies' staff in the application of the economically disadvantaged criteria. Correctional agency staff are not familiar with the use of income tests for service eligibility and may even be unsympathetic to it. Hence, the need for training. A second, related problem is the need to ensure that the income tests are being applied correctly. Random sampling by a special review unit could accomplish this, as it does for CETA eligibility.

(d) DOL integration of the TJTC program with other efforts to aid target group employment is lacking. For example, information to employers about the ex-felon TJTC could easily include references about these other programs, especially the federal bonding program, which offers fidelity bonding up to \$10,000 for persons denied commercial bonding because of their status, such as being ex-felons (among other types of status). Reference could also be made to the screening that many employment assistance agencies do for employers to ensure that their ex-felon referree is work-ready and has the requisite skills. Publicity materials like this could best be prepared by the DOL for use by state and local agencies. This suggests that the ex-felon TJTC program should establish linkages with the several offices

in the Employment and Training Administration providing funding or technical assistance to offender programs and with the Woman's Bureau.

Two states, New Jersey and Maryland report they are planning to coordinate TJTC selling efforts with other employment development efforts. Included among these other efforts are Veterans Administration OJT benefits (which are paid to the veteran, not the employer), Basic Educational Opportunities Grant (paid to the student) and state economic development programs which include training subsidies (which assist the employer).

A final example of possible coordination is to have state Employment Service staff taking job orders, ask if the employer would accept a TJTC referral. If such a practice were linked to a staff capable of answering questions about the credit, would maximize publicity about the credit. One state is considering this action.

(e) Integration of the TJTC program with general DOL programs serving the disadvantaged also seems desirable, yet presently lacking. For example, a substantial proportion of disadvantaged ex-felons lack work skills or education. Because of their perceptions of employer bias against criminal record holders, they may not have sought help from CETA or other programs for employment upgrading. Secondly, the disproportionate number of minority group members among ex-felons (at least twice as many as in the general population) suggests that the tax credit would be relevant

to companies' affirmative action programs. Hence the Office of Federal Contract Compliance Programs within DOL and the Equal Employment Opportunity Commission may have a potential role to play in publicizing the TJTC for ex-felons.

The CETA prime sponsors are undoubtedly serving some ex-felons in their regular programs. They may not realize this, however, since probably half of all eligible ex-felons are not under criminal justice custody and the CETA intake often fails to gain offender status information unless the offender is under supervision. Assistance should be provided to the CETA primes in developing methods for integrating the TJTC tax credits with their other activities. Information about the TJTC should be given to regular CETA clients and PSE workers.

(f) A concern that derives from the idea that TJTC should be linked with other existing employment assistance efforts is the need for DOL technology transfer efforts to maximize the use of the most successful of such efforts. The need for this is great, since many employment assistance staff learn their "craft" only through trial and error. Often the scope of their experience is limited to particular segments of the labor market, leaving large gaps in knowledge of employers with other types of jobs. One specific suggestion is for training of employment assistance staff for advocacy activities among employers.

(g) Publicity efforts about the TJTC program from the Department of Labor has been as noted above, relatively unfocused and not widespread. Despite this, most employers and employment assistance agencies that were contacted seem to be aware of the existence of the TJTC, although they may be not fully knowing of how it works. This occurs because several employer associations have publicized the TJTC program and some state and local gencies working with ex-felons or the other target groups have been meeting with employers to discuss it. These agencies, in turn, have been made aware of the TJTC from their professional associations' newsletters (e.g., International Halfway House Association).

No efforts have apparently been made by DOL to systematically utilize these alternative publicity channels. During the process evaluation, it was suggested to the DOL staff handling TJTC publicity that they begin such an effort by contacting:

- National Criminal Justice Reference Service,
- National Institute of Corrections,
- Federal Probation (published by U.S. Probation Service), and
- American Probation and Parole Association.¹

A second problem with the TJTC publicity effort involves the separation of publicity from those responsible for the program itself. Publicity to be most effective

1. This is a minimal list since there are dozens of newsletters directed at the relevant criminal justice agencies helping ex-felons.

should be coordinated with program operations, such as the state and local agency meetings with employers. There do not seem to be plans for any national coordination--or even to merely encourage state or local-level efforts. One state ES official said that he would like to see training made available to teach staff how to "sell" the TJTC.

Employer Responses to TJTC

Information about employer response to the TJTC comes from direct telephone conversations with representatives of eight large employers and indirect reports from twelve employment assistance agencies helping ex-felons.

One of the large employers interviewed dismissed the TJTC as being of little interest because of the "paperwork involved." The employment assistance agencies also reported a few such responses. It is possible that these employers are confusing the TJTC with prior employment tax credits, which did have much more associated paperwork. It is more likely that they recognized that TJTC is a different credit, but assumed that the paperwork requirements of past employment tax credits (e.g., WIN, new jobs) have not changed. In the absence of federal government information, employers learn about the TJTC from newspaper reports, from their professional associations' newsletters or from employment assistance agencies' outreach staff--who may not be aware of the employers' concern. None of these sources are likely to provide TJTC details, such as paperwork requirements.¹

1. See, e.g., American Bankers Association, Urban & Community Economic Development (January 1979).

In the main, however, the large employers were interested in using the TJTC, but had not acted to develop plans to take advantage of it. In only one instance did a company, a bank, say that it had decided that the TJTC was of no interest, in this case, because of a combination of low profits and use of other tax credits diluting the possible benefit of the TJTC.¹ The lack of large employer action suggests that the complex way in which personnel policies are made and implemented, as seen in other studies,² acts as an impediment to corporate use of the TJTC as an element of that policy. The extent to which this will continue to be true is not clear, given the relatively short period of time the credit has been available and the lack of effort by DOL or others to "sell" the credit.³

In contrast to the present lack of large employer use of the tax credits, medium and small employers seem much more receptive, according to employment assistance agencies. In the context of these agencies acting as advocates for ex-felon hiring, small businesses have traditionally been

1. Subsequent conversations with Internal Revenue Service staff indicate for example, that banks take advantage of the investment tax credit to buy airplanes, which they then lease to the airlines (who have already used up all their eligible investment tax credits). Note, however, that the investment tax credit does not reach the 90% limit on tax liability as does the employment tax credit. It is not clear what this might imply as to lack of publicity about these differences or the relative value of the TJTC's economic inducement beyond the investment tax credit level.

2. See, Neal Miller, *supra* note 2, page 3. which reviews the findings of those studies; Institute for Manpower Analysis; Employment Tax Credit Utilization (1978) which reaches similar conclusions in the WIN and Welfare Tax credits context.

3. The writer has been informed that several community groups have begun campaigns in New Orleans, Philadelphia, Pa. and other cities to convince major employers such as Sears Roebuck, to use the TJTC.

most responsive to these agencies' efforts.¹ Thus, it is not surprising that agencies working with ex-felons report that they expect the TJTC to help them in finding new jobs for ex-felons among small businesses with which have not previously worked. It could well be, however, that the real benefit of the TJTC lies in its acting as a catalyst in getting together employers and employment assistance agencies. For, it is likely that many of these employers would have been willing to hire ex-felons, even in the absence of the tax credit, had they been asked.² The effort to sell the tax credit has brought together employment assistance groups not previously helping each other, who jointly are able to effect many more employers than they would separately.³ By providing a reason for this, the TJTC may have begun to build new coalitions for improving employment of ex-felons, and provided entree to employers who are seeking information about the tax credit.

1. Note, however, that because large businesses have complex personnel systems, negotiations by an employment assistance agency with them about ex-felon hiring is a long process. As a result, most agencies feel that placing ex-felons in small businesses is quicker, even in the aggregate. Also, small businesses are more in need in the pre-screening services of these agencies; hence, these agencies have a variety of reasons for expecting small businesses to be more responsive than medium or large businesses to their efforts.

2. Neal Miller, *supra* note 2, page 3.

3. Compare the efforts of the National Alliance of Business to assist local NAB metro centers to develop employment clearinghouses for ex-felons and other offenders. Perhaps a dozen such clearinghouses exist.

Those employment assistance agencies working mainly with medium-sized employers also report great receptivity to the TJTC. Again, the TJTC is tied in with the agencies' ability to screen ex-felons prior to job referral.

Overall, it is too early to say how employers are likely to respond to the TJTC. What signs there are, are favorable--for those states showing imagination and initiative in marketing the TJTC.

Overall Impressions

The Targeted Jobs Tax Credit (TJTC) has been in effect for only six months. Efforts by the Department of Labor began only a short while before its implementation. The unit responsible for implementation is relatively isolated from intra-agency support, lacking information for example, about DOL involvement (if any) in earlier employment tax credit programs.¹

It is not surprising, therefore, to find that program planning has focused on the tax credit certification institutions and process to the exclusion of other needs, such as staff training in verifying client eligibility, or "selling" the tax credit to employers, or the coordination of the tax credit with other employment and training assistance services. Nor does it seem likely that these issues will soon be addressed, since it appears from the telephone interviews that most states are still developing agreements and sub-agreements for CETA primes and other agencies making eligibility determinations. Thus, it is premature to now make absolute statements either about the manner in which the TJTC program is being implemented or the likelihood of increased employment of ex-felons resulting from the TJTC.

The general impression from the process evaluation, given the limits of certainty above, is that some increased employment is likely to occur, but that the present imple-

1. This description is based upon interviews with Department of Labor staff in the Employment and Training Administration.

mentation efforts have not yet maximized the level of increased employment that is potentially achievable. The reasoning for this conclusion is:

- the economic inducement to employers has differential value to employers, depending upon the profitability level, state tax laws, existing employment biases, complexity of their personnel systems, and level of perceived risk to the employer.
- employer biases against hiring ex-felons which work against TJTC effectiveness can be diminished by educational programs directed at employers.
- the economic inducement of the TJTC can be increased in two ways: (a) by tying the TJTC to other inducements such as VA, CETA, economic development, or OJT subsidies; and (b) reducing the employers' risk through tie-in with the federal bonding program or through screening of ex-felon job applicants by employment assistance agencies (this also has a direct economic value to the employer by reducing his/her own screening costs).
- large employers with complex personnel systems are likely to incur costs in changing their systems to accommodate or even favor ex-felon hiring; these costs can be reduced by their gaining technical assistance from DOL or the state E.S agencies to help them develop new procedures and hiring standards.

- employer risk can be further reduced by meeting the ex-felon employee needs for support services while on the job; this can be met by linking agencies now providing these services together in a cooperative effort.

In the absence of DOL efforts to stimulate the actions above, the TJTC appears likely to generate some increased employment of ex-felons among secondary labor market employers and smaller primary labor market employers. This increased employment will be due to both employer hiring in anticipation of tax credit use and to some employers being asked for the first time by employment assistance agencies to hire ex-felons, without any anticipation of tax credit use.

IV. Guidelines for an Impact Evaluation Plan

Impact evaluation of social programs differs from process evaluation by focusing on the changes caused by the subject of the evaluation rather than on the program's management quality. The ultimate concern is for effects, not on how they are achieved. Cause and effect are not mutually exclusive concerns, however, so that an impact evaluation should also look at process variables to ensure that the treatment did cause whatever change is seen. A two-leveled impact evaluation seems most appropriate, when, as with the TJTC, the program being evaluated is a new one, with a need for administrative improvements. The approach taken here is to include evaluation measures designed to stimulate program improvements as well as the basic study of program effect or impact.

Evaluation Approach

a) Goals: The starting point for impact evaluation is the formulation of measurable goals.¹ The process evaluation set several goals in its seeking to learn if TJTC implementation procedures are conducive to attainment of the described goals. These were:

1. Compare, General Accounting Office, Assessing Social Program Impact Evaluations: A Checklist Approach. Exposure Draft (October 1978): "Impact evaluation is the process of appraising the extent to which evaluations are (1) achieving their stated objectives, (2) meeting the performance perceptions and expectations of decision makers, individuals and groups affected by the program, and others with a legitimate interest in it, and (3) producing other significant effects of either a desirable or undesirable character."

(1) increased employment of eligible ex-felons,
coming from:

- more ex-felons with employment,
- longer periods of employment for employed,
eligible ex-felons when employed, and
- shorter periods of unemployment while between
jobs.

(2) these changes in employment of ex-felons being
causally related to the TJTC, through:

- employer easing of artificial barriers to their
hiring of ex-felons,
- employer adoption of measures for affirmative
recruitment of eligible ex-felons, and
- employer efforts to reduce ex-felon employee turnover.

In addition to these explicit goals for the TJTC,
the process evaluation also described (directly or implicitly)
some likely incidental results, which complement these goals.

They are:

- increased employment of all persons with records of
arrest or conviction (coming from employer easing of
artificial barriers to the employment of eligible
ex-felons),
- increased labor force participation of eligible ex-felons
- decreased levels of underemployment among ex-felons
and other persons with criminal records.

The process evaluation also described two possible
outcomes from the TJTC, which add to the likelihood of TJTC

impact by being an element of the causal chain linking TJTC availability to increased employment of ex-felons--even in the absence of TJTC utilization. These are:

- increased advocacy activities by agencies promoting ex-felon hiring among private sector employers, and
- increased utilization of other programs such as the federal bonding of ex-felons unable to gain commercial fidelity bonds which are required to gain employment.

Possible negative, incidental effects of TJTC ex-felon increases in employment include:

- increased concentration of ex-felons in secondary labor market jobs, both short and long-term.
- displacement of non-target group members from employment.
- displacement of other target group members.¹
- long-term reinforcement of employer stereotypes of offenders, resulting from adverse experience with TJTC certified ex-felons.
- long-term reinforcement of ex-felon expectations of employment failure, resulting from unmet need for on-job support and job failure.

b) Determining evaluability: For a social program to be evaluated it must actually be implemented. The process evaluation suggests that TJTC implementation has not yet occurred in all jurisdictions. However, in several jurisdictions, such as New Jersey and Maryland, implementation has

1. It is also possible that if the TJTC has a positive effect upon ex-felon employment that there will be a secondary effect to reduce the criminal behavior of the ex-felons.

proceeded sufficiently to believe that it can be evaluated in those states. TJTC implementation can be expected to follow shortly in the states where it has been lagging, but depending upon the evaluation schedule it may be preferable to limit the evaluation scope to areas where implementation has been more extensive.¹

One external confound related to program evaluability specific to efforts to raise employment levels, is the state of the economy. If few jobs are being generated by the economy, and it is in fact even losing jobs, the impact of the TJTC program may be expected to be affected.

c) Developing an evaluation approach: The premise of evaluation theory is that comparisons are needed to test differences between what occurs when the TJTC is available and when it is not available. At the same time, social experiments, such as the TJTC, that treat whole populations, because of their breadth of scope do not easily permit direct comparisons. No valid comparison can be directly made of TJTC eligible ex-felons since any other population will have different attributes, including differences in the criminal record variable selected by Congress to merit special help. Even if comparative techniques are available (through the use of statistical methods to eliminate most selection bias error), the identification above of goals and related outcomes indicates the necessity to supplement any statistical measures with

1. This conclusion assumes that the evaluation is as much concerned with the likely potential impact as with actual impact.

qualitative information about causal relationships. Both considerations suggest a two-pronged evaluation strategy: one looking at eligible ex-felon employment and one looking at employers' practices.

A variety of techniques can be used to develop a baseline for comparing ex-felon employment following TJTC implementation. These include:

- self controls, using the pre-TJTC experience of these studied as the baseline, making corrections for expected gains in employment from time passage alone. Validity problems with this approach include the difficulty of making the needed corrections to account for the age factors, maturity gains, the effect of incarceration upon employability, or the differences in economic conditions between pre- and post-TJTC implementation.
- Comparison group for the studied ex-felons, matching¹ the ex-felons' major characteristics such as demographic factors, skill levels, and work histories. In order to fully compensate for the effects of ex-felon status, several comparison groups would be needed, including those of economically disadvantaged ex-felons

1. For an application of the use of multivariate analysis for matching control groups on manpower evaluations, see, e.g., Kiefer, "Federally Subsidized Occupational Training and the Employment and Earnings of Male Trainees," Journal of Econometrics, Vol. 8 (1978), pp. 111-125; Ashenfelter "Estimating the Effects of Training Programs on Earnings," Review of Economics and Statistics, Vol. 60 (1978), pp. 47-57.

not eligible for TJTC due to the date of their conviction or release being more than five years ago, ex-felons not economically disadvantaged, economically disadvantaged misdemeanants or arrestees, or economically disadvantaged non-criminal record holders.¹

- Use modeling techniques to develop employment prediction indexes, using the data gathered from analysis of the employment histories of TJTC ex-felons and those comparison groups above. Already developed criminal recidivism indexes (i.e., base expectancy scores), might be used as a basis for developing new employment probability estimating techniques. Note, however, that the existing criminal recidivism indexes do not usually take account of variations in economic conditions.

An alternative to evaluation based on comparison is the causal chain model.¹ The causal chain model might best be described as an effort to observe the actual workings of the experimental treatment upon the treatment population. This approach assumes that treatment has a cause/effect result through the actions of intervening variables. This requires the isolation of each

1. For all comparison groups that might be chosen, the problem of selection bias is inescapable. While statistical measures may help with some groups, for others where the differences in selection relate to motivation, this will not be the case. Examples of this might include comparisons between eligible ex-felons not applying for the TJTC and those applying, or between ex-felons gaining eligibility vouchers but not using them and those using them. The latter comparison also suffers from employer selection bias, since non-use of the tax credit may result from both employer and ex-felon decisions.

2. See, Edward Suchman, Evaluative Research (1967), pp. 169-177, for an early description of the causal model approach.

specific program component, the identification of the direct results flowing from each component and the formulation of measurement criteria for each change. Environmental context is also considered critical insofar as it may impose pre-conditions which must be met for the program treatment to have positive results.

The causal model can be used in two ways: first, as a complement to conventional comparative evaluation measures (see below) or, secondly, as an independent method that approaches this evaluation target as a self-enclosed system wherein all the conditions needed for program impact can be defined and measured. A comprehensive process evaluation is, of course, necessary to ensure that all the variables affecting the expected impact are identified; a preliminary causal model is set forth in Chart 1, pages 46-47 for the purpose of illustrating the complexity of the problem posed. Since it is unclear that sufficient improvements in the model can be accomplished in the immediate future, no recommendation can be made between using the causal model evaluation approach and the comparative evaluation described below.

Preliminary Test of Impact

Before proceeding with a full impact evaluation it may be desirable to undertake a preliminary impact evaluation to test whether more extensive efforts are warranted. The evaluation technique most compatible with this limited evaluation goal is

CHART 1

CAUSAL MODEL OF TJTC IMPACT

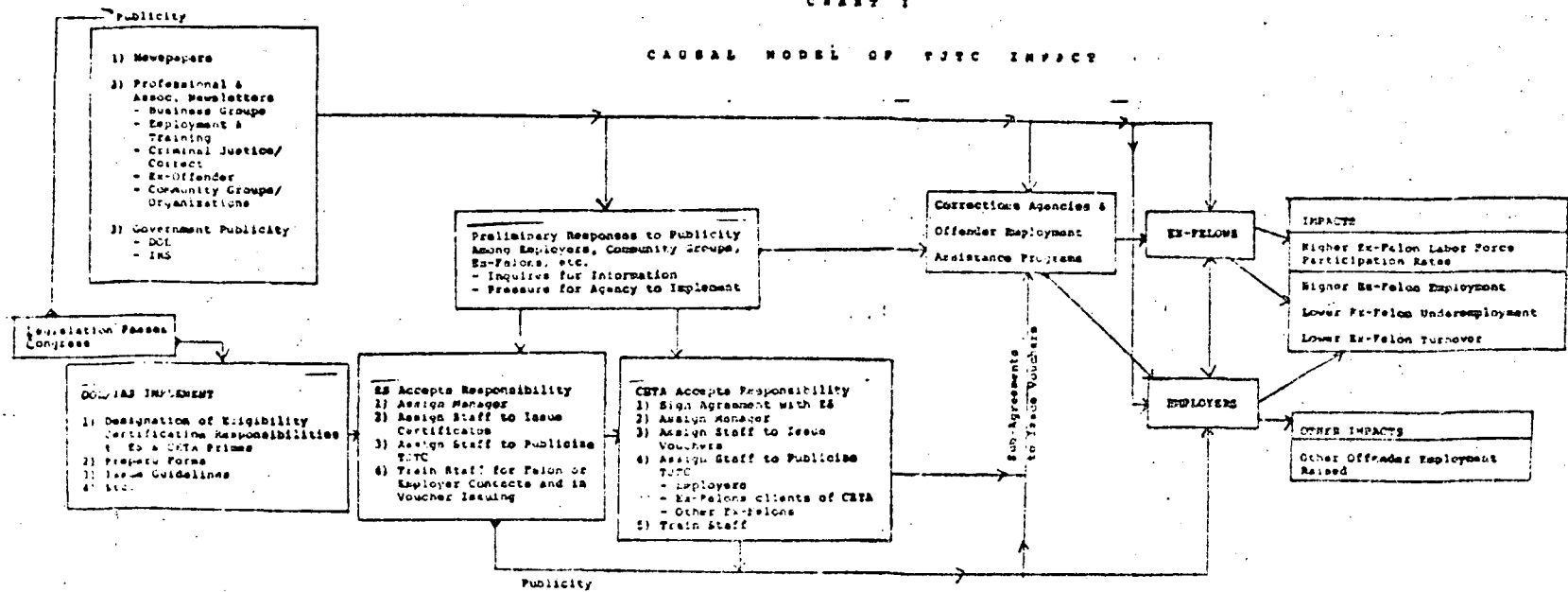
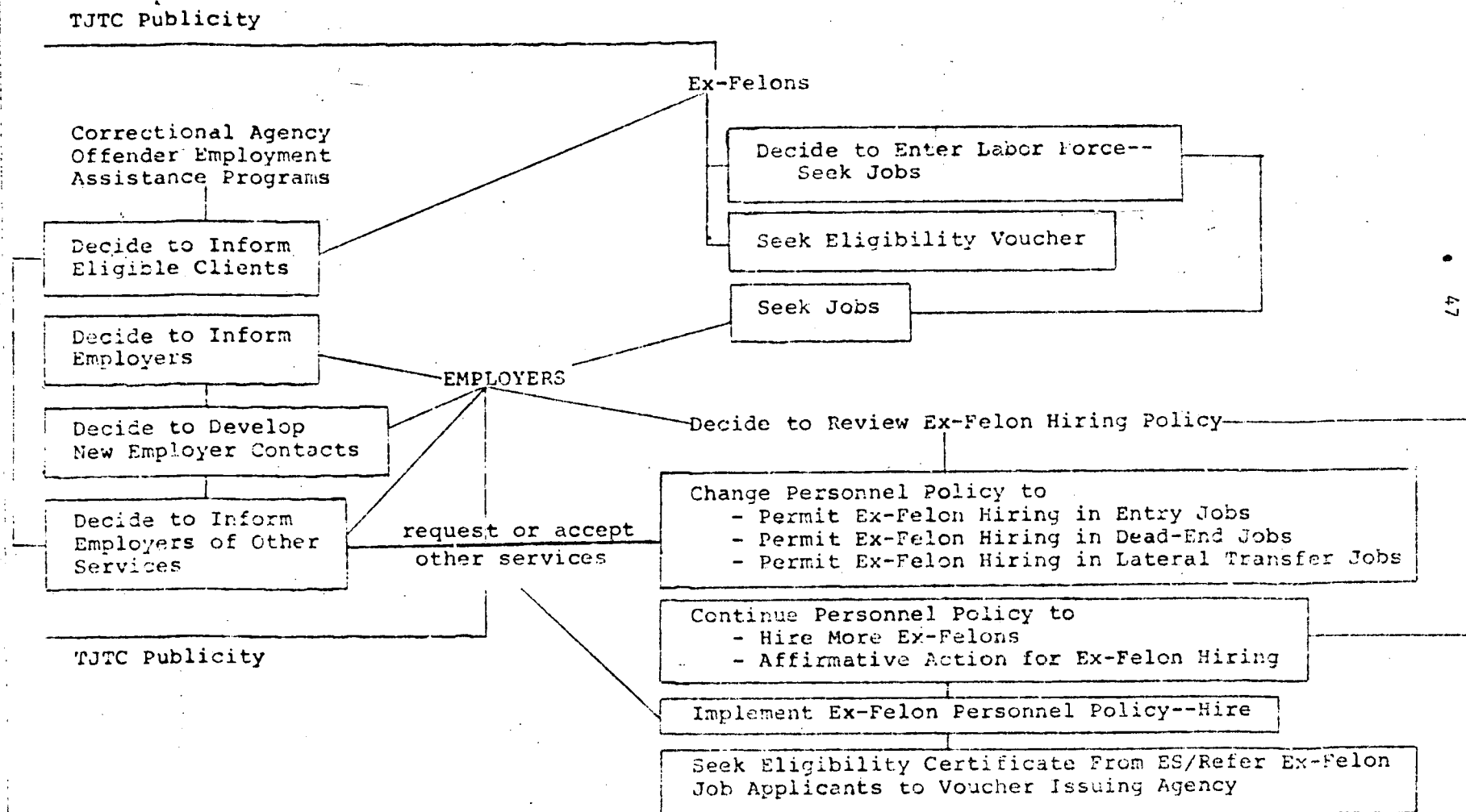


CHART 1 (a)
CAUSAL-CHAIN- INSET



the time series measure, comparing the employment of eligible ex-felons after the TJTC implementation to their employment prior to TJTC implementation. While this approach will not allow us to conclude that TJTC is responsible for any employment gains seen (rather than some other cause),¹ it will show whether any employment gains have occurred, such that a more rigorous evaluation can test the causal link. Even without further experimentation, adjustments can be made to account for some possible other causal factors such as the state of the economy (see discussion below).

The major difficulty in time series analysis is locating a cohort for time series analyses, since obtaining accurate employment data retrospectively is most difficult. Fortunately, a cohort data base does exist in a research study now being done by the U.S. Bureau of Prisons (BOP) on 1100 federal parolees. These parolees were released from BOP custody in the first six months of 1978. A one-year follow-up of their employment and crime actions is now being completed. This will provide employment history information for the period just prior to TJTC implementation and at its implementation. However, because of the delay in TJTC nationally, a further follow-up seems needed for the period July-December 1979. This can probably be done through the U.S. Probation Service for a large part of the cohort, but not all since some of the parolees will have been released from parole supervision. Field interviews will therefore be needed for those no longer

1. See Donald T. Campbell, "Reform As Experiments," in Caro, ed., Readings In Evaluation Research (1971), pp. 233-261, for a discussion of internal validity problems.

under supervision. This should not be too difficult since the U.S. Probation will have "last known addresses" for them.

Some limited process information may also be available from the U.S. Probation Service as to the extent of employment assistance provided the cohort members and their gaining TJTC vouchers. Where the Probation Service can provide information about who the employers are, the state Employment Service agencies can tell whether the employers have asked for TJTC certificates when hiring these parolees. The Probation Service may also know whether the employers had a reputation prior to TJTC of hiring ex-felons or whether the TJTC seemingly had an effect of causing a personnel policy change in favor of now hiring. Direct interviewing of the employers based upon the fact that they have hired parolees from the study cohort may, however, be a violation of the federal Privacy Act. since the employers may not know about their hire's offender status and any interviewing might therefore have unfavorable consequences to the parolees.

Full Impact Evaluation

Assuming the preliminary impact evaluation is sufficiently positive in its findings, a more rigorous test of the TJTC will be warranted. Such a test will proceed, as did the preliminary evaluation, on two levels: employer changes and ex-felon employment changes. This will be true regardless of whether one uses the causal model approach or comparative techniques. As noted below, however, the causal model approach calls for more extensive data collection regarding the oper-

ations of intervening variables impacting upon the decisions of both employers and ex-felons to participate or not in TJTC and any other change in their behavior.

Evaluating Employer Practices: changes due to TJTC

An impact evaluation of the TJTC effect upon employer practices can look for changes among both (1) employers utilizing the tax credit (defined as having sought an eligibility certificate, regardless of ultimate use) and (2) among all other employers.¹

The procedure to check for changes in policies and practices is to determine the sampling universe, draw a sample and conduct interviews with the employers. The number of interviews for each employer will vary according to the complexity of each employer's personnel system for hiring and its relationship to the officers responsible for fiscal matters.

- Determining the two employer universes: the TJTC employer universe may be determined through the records kept by the ES of employers to whom eligibility certificates have been kept. Defining the TJTC employer universe in this way, rather than from companies using the credit seems both desirable (since many factors can go into the non-use of an available credit) and probably necessary, since tax credits earned in 1979 will not be claimed in many instances until the fourth quarter of 1980.

1. The reason for including non-TJTC utilizing employers is that the greater activity among employment assistance agencies serving ex-felons generated by the TJTC may have an effect separate from tax credit utilization in increasing ex-felon employment among non-TJTC utilizers. See above discussion.

The universe of non-TJTC employers may be gained through using the unemployment insurance (UI) lists of companies paying FICA taxes. Other sources of employer listings may also be available at the state level; these may be used to supplement the UI list or even to locate firms for which erroneous addresses appear on the UI list.

- Drawing the sample: the method of drawing a sample of employers to interview is usually by use of a table of random numbers or other random selection procedure. The more difficult problems are:

(1) ensuring representativeness of the sample where some employers refuse to cooperate or are unable to be found and (2) accounting for differences among employers who join the TJTC program late in implementation from those participating early. The late joiners may be thought to be more representative of other potential TJTC participants who, for unknown reasons, have been unable to decide to participate, but who may. Since large firms with complex personnel policy making procedures are likely to be among potential, but not yet, participants in TJTC, this distinction may help in estimating likely future impact, rather than looking only at present impact.

- Conducting interviews: Two types of concerns must be examined in the interviews with TJTC employer participants. The first concern is whether changes have occurred or not in ex-felon hiring policy. Changes are likely

to occur from removing past bars to ex-felon hiring, to their affirmatively seeking to hire eligible ex-felons in greater numbers than before. Where this latter change occurs, other policies leading to the displacement of non-felon workers may result--this displacement should be examined to see which worker subgroups are affected, including holders of other types of criminal records, other TJTC group members, the handicapped and persons with other employment disabilities.¹ In either case, the process by which policy change was affected should be documented, including how it was initiated, by whom, and the role played by different corporate offices (e.g., fiscal, personnel, community relations, etc.). Documentation is also needed for the previous personnel policy (if any). Finally the interviews should look at incremental shifts in policy due to "testing" out of ex-felon employees by employers without prior experience with them.

The second concern is for the extent to which personnel practices reflect the new policy, including determining whether there is a change from past practices (regardless of any policy changes).

Interviews must therefore be held with all major actors in both policy formulation and employee hiring. Interviews should also be conducted with the public and private agencies

1. This concern for ex-felon displacement of other workers should be complemented by examination of any non-demand among TJTC employers for the ex-felon target group versus other target groups. Indeed, the TJTC evaluation should examine why employers evidence or express a disinclination to hire any of the six target groups. This would help document the Congressional assumption behind the TJTC that the target groups need demand-side help in finding employment.

filling job orders from the company to see, at a minimum, if the job orders reflect changes in policy or practices. If the causal model evaluation approach is used, the scope of questions would be expanded to include the agencies' likely contributions to both employer changes in employment policy and to ex-felon interest and use of the TJTC.

The scope of employer interviews should include both hiring and post-hiring policy and practices, since the TJTC goals/effects encompass non-hire concerns such as underemployment or reduction in employee turnover (i.e., less firing or better work conditons that lead to reduced quits). This information should include job quality, wage levels, promotion potential, and the extent to which ex-felons are eligible to apply for all jobs.

Interviews with TJTC non-participating employers should focus on the reasons for non-participation, including, for example, the extent to which they are aware of the TJTC credit, perceived knowledge of how it works, weight of the economic inducement, etc. Information should also be gathered on the extent to which non-participation may turn into participation and the maximum potential impact likely to result. This should include data on existing policies and practices, including the employer's reputation among agencies providing employment assistance to offenders.

Other Causal Model Data Needs

The basis for using a causal model is that it encompasses all significant decision points that impact upon employers'

and ex-felons' employment decisions. This includes both formal decision points as well as the intervening variables that mediate between these decisions, whether intended or otherwise. Thus, the causal model approach would expand the necessary interviewing to include participants removed from the employment decision under study, as well as expanding the questions to be asked of those directly involved. Chart 1 describes many of the additional data needs, even if only in a preliminary fashion. The key to the model involves (1) the flow of information about the TJTC program to employers and ex-felons and (2) the factors causing the decision, either to participate or not in the tax credit. While all of this information can be gained by interviews with employers, for example, the validity of the answers must be checked by cross reference to the antecedent link in the causal chain. To illustrate this: An employer may report that no information has been received about the TJTC, yet other data sources may reveal that the newsletter of the employer's trade association reported this information and copies were sent to the employer-- which should lead to a check of who reads the newsletter among the company's employees, what responsibilities they might have for personnel policies or fiscal matters of the company, etc.

Evaluating Ex-felon Employment Effects

a) Two approaches exist for studying statistical changes in ex-felon employment. These are (1) to study the employment experiences of those ex-felons gaining TJTC certification, and

(2) to study the employment level of all ex-felons eligible for TJTC certification. Because the process evaluation

1. See CETA, Section 301(b)(2) as amended in 1978.

ment assistance and therefore can be studied for distinguishing between the effect of the two services, TJTC and employment help.

If, however, the study seeks to include examination of all eligible ex-felons, the two problems of defining the universe of eligible ex-felons and locating them will be quite expensive to resolve. First, the determination of the ex-felon universe will require information from the courts on conviction information and from the probation and parole agencies as to what jurisdictions the felons were released since many parolees committed crimes in "foreign" jurisdictions, but are released to their home communities under the Inter-State Parole Compact. Once this is done, the ex-felons will have to be located, using correctional agency information on last address, family location, etc. Then, eligibility determinations will have to be made.

Overall, it is difficult to be optimistic about the feasibility of studying all eligible ex-felons rather than those under correctional supervision. For example, it is likely that some local courts will be hesitant about cooperating with the evaluation; while convictions are a matter of public record, it would be quite expensive to go through the files without the court's help. Moreover, the completeness and accuracy of local court files may not be adequate. Similarly, many ex-felons may not wish to be interviewed so that eligibility determinations will not be able to be made. If enough ex-felons were non-cooperative, a valid evaluation might be impossible.

It is recommended therefore that the impact evaluation study the TJTC effect only upon economically disadvantaged ex-felons who are under probation or parole supervision. Further, that the baseline for comparison be taken from employment prediction indexes to be developed from existing criminal recidivism prediction indexes. Alternatively, these same modeling techniques can be used to adjust for known differences between the study group of disadvantaged ex-felons and the comparison group(s) described above. Both approaches are novel in the offender employment context and hence it is not clear which of the two is more feasible.

b) The measurement of whether or not increased employment of economically disadvantaged, ex-felons will include:

For one point in time

- Proportion of ex-felons employed, by skill level, wage level, and entry versus non-promotion possible job (or skill transferable, such as salesman).
- Proportion of ex-felons employed part-time or full-time by the factors above.
- Estimated level of underemployment compared to skill levels shown in employment history.
- Labor force participation rate.
- Proportion of ex-felons participating in education or training programs.

For period of time (i.e., six-month period)

- Proportion of ex-felons employed measured as full-time equivalents by those factors above.
- Duration of unemployment spells by type of job left or sought.
- Duration of employment period among full-time employed ex-felons by type of job and other factors above.
- Labor force participation rate (weighted for period and for participation at any time period).
- Estimated level of underemployment by length of employment and unemployment periods for those ex-felons showing any underemployment.

c) Some of the data needs above can be met by use of information kept in the Unemployment Insurance files. However, much other data, such as labor force participation behavior is obtainable only through interviews. This evaluation plan assumes that such interviews will be a key data collection element and that they can easily be done through limiting the study's subjects to those ex-felons under correctional supervision.

One important consideration in interviews is to reassure the ex-felon subjects of the non-threatening nature of the study. It is recommended that ex-offender groups, such as the Fortune Society in New York City, be involved in the planning of the interviews.

V. A Final Word

The analysis of the Targeted Jobs Tax Credit (TJTC) for disadvantaged ex-convicts and ex-felons implicitly followed from this writer's earlier work on employer-barriers against persons with criminal records.¹ It was found there that such barriers arose from several stereotyped fears of offenders among employers. These include: fear of theft or violence, and/or expectations of poor work habits (statistical discrimination). Thus, employers see offenders as primarily either potential criminals--against the employers, or as poor workers.

The paper also reported that different types of employers hold different stereotypes of offenders, with employers having jobs in the primary labor market being more concerned with repeat crime, while employers having jobs in the secondary labor market being more concerned with work habits. Small employers were found to also be more concerned with recidivism than with work habits of offenders, regardless of market sector. Governmental regulation of business was also found to be a serious impediment to private sector hiring of offenders, notwithstanding governmental equal employment laws which forbid much employer bias against offenders.

It is in this context that the TJTC initiative was examined. What is needed now is to make explicit the reasoning behind the earlier comments and to fill in those omissions flowing from the paper's structure.

1. Miller, *supra* note 2, page 3.

(a) The TJTC attempts to provide an economic inducement to employers to hire ex-felons. It seems likely that this inducement will be most effective with employers concerned about ex-felons' work habits, rather than with those concerned about criminal acts against themselves, other employees or clients of the firm. Thus, it may be expected that much of the TJTC effect will be to encourage secondary labor market employers to hire ex-felons in greater numbers than they do today. A second effect will be small businesses' increased hiring of ex-felons. The magnitude of this effect will be dependent upon the efforts of employment assistance agencies helping offenders (including probation and parole agencies), since the agencies' screening of ex-felons for employers will be a major additional selling point for these employers. The Department of Labor can help these employment assistance agencies through providing training and publicity materials for them to use that focus on the ex-felon population. Authority for such efforts exists in Section 311 of CETA.

(b) Large employers will have difficulty in using the TJTC, to the extent that their existing personnel policies or practices restrict the hiring of ex-felons. The complex nature of their personnel systems combined with the usual absence of a management system to initiate and implement personnel policy changes creates a substantial inertia in changing the status quo. This problem is not unknown to the DOL, having been seen, for example, in the HIRE program to gain jobs for veterans.

But, as the report notes, employment assistance agencies do not normally seek to gain jobs for their clients from large employers. DOL must therefore find other avenues to achieve the desired changes if the TJTC is to realize its potential. One avenue is through the National Alliance of Business, although client advocacy of this sort, which should include technical assistance to employers, has not been among NAB's past activities. An alternative avenue would be for the DOL to establish a unit within the Employment Service or other branch of the Employment Service or other branch of the Employment and Training Administration to work with employers encouraging and aiding employers to change personnel policies and practices.

(c) This perspective suggests that the TJTC effort will not reach its potential unless the DOL takes some positive steps to act to assist state and local agencies in working with employers in TJTC implementation. Indeed, failure to act to ensure coordination with other assistance efforts may even worsen the employment opportunities of ex-felons among employers, who are concerned with employee work habits rather than repeat crime. For, ex-felons who gain jobs because of the TJTC may fail on the job for lack of other services to them or to their employers. These employers, who are new to ex-felon hiring are likely to have doubts about the ex-felons, which may become a self-fulfilling prophecy when it combines with some ex-felons' own doubts and fears of the workplace. Although such failure can be prevented by appropriate services, indications at present are that it is likely to occur in many

instances where TJTC hiring of ex-felons occur. And it may be further expected that the employers experiencing such failure are likely to generalize from such experiences to stereotype all offenders, regardless of differences in skill levels, crime records or disadvantaged/non-disadvantaged status. This generalization may also occur among employers not involved in the TJTC program who know or hear about the TJTC employers' negative experiences.

* * *

In summary, one cannot be sanguine about the TJTC experiment as it is now being implemented. Much needs to be done if TJTC is to reach its positive potential or even to avoid negative consequences. At the same time, what information there is indicates that the TJTC can have a substantial effect if supportive actions are taken. This will require DOL to develop information about employers' personnel policies and practices so that policy alternatives can be formulated for effecting positive change to permit increased hiring of ex-felons, other TJTC groups and others with related employment disabilities not of their own making or job-relevant.

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