THE IMPACT OF FAIR CHANCE HIRING POLICIES ON HIRING PRACTICES IN THE HOSPITALITY INDUSTRY: A QUALITATIVE INQUIRY

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My H. Nguyen

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SIGNATURE PAGE

PROJECT: THE IMPACT OF FAIR CHANCE HIRING POLICIES ON HIRING PRACTICES IN THE HOSPITALITY INDUSTRY: A QUALITATIVE INQUIRY

AUTHOR: My H. Nguyen

DATE SUBMITTED: Spring 2021

The Collins College of Hospitality Management

Linch Kiwok, Ph.D.
Project Committee Chair
The Collins College of Hospitality Management

Dr. Hyounae Min
The Collins College of Hospitality Management

Neha Singh, Ph.D.
The Collins College of Hospitality Management
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This study explored how The Fair Chance Hiring (FCH) Policies might affect hospitality organizations regarding their human resource practices during the recruitment and hiring process. A total of 12 hospitality recruiters participated in a semi-structured interview via Zoom in this qualitative inquiry. The interviews were then transcribed using Otter.ai (Text transcribing software) and analyzed with the content analysis technique. The results suggest no significant change in hospitality organizations' recruitment and hiring process, primarily due to the consistency and standardization in their human resource practices prior to the implementation of FCH Policies. The informants also believed that FCH Policies' benefits to employers are minimal, as opposed to its major benefit contributed to the ex-offender population. Such findings provide hospitality organizations insights into what The FCH Policies bring to the job market, opening more future research opportunities that may help policymakers enhance and improve regulations effectively.
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CHAPTER 1
INTRODUCTION

In America, there are approximately 70 million people have criminal records; around 650,000 individuals are released from federal and state prisons in the United States (Peter, 2017; United States Department of Justice, n.d.). Among the countless number of challenges these individuals have to face, unemployment is one of the biggest hurdle. To all appearances, it is understandable because these individuals have violated the laws, and the record of those violations might become valuable to the employers when it comes to hiring decisions (Peterson, 2015). All decisions to hire are usually made after the employers conduct a complete background check. About 92 percent of employers conduct background check on their future employees during the recruitment process (Society for Human Resource Management, 2010), about 25 percent of the American male labor force have a criminal record shown after the background check (Freeman, 2008), and about 34 percent of unemployed men in America are men with criminal history (Appelbaum, 2015). Indeed, there are some convictions which are relevant to the job position even if the job is low level and has minimal cash and customer exposure. However, not all criminal records are relevant in employment. For instance, is it really problematic if a breakfast server or a hairdresser might have a minor drug violation on their record? In most case, it is not, but unfortunately, one-fifth of the American population who has criminal records face an extensive discrimination in the job market (Emsellem & Rodriguez, 2011).

With the intend to remove that widespread stigma of having a criminal record and help ex-offenders having a second chance, The Fair Chance Hiring Policies (FCH
Policies) was passed as the result of the Ban The Box campaign, giving ex-offenders more opportunity to be a part of the workforce. The FCH Policies has been passed in 35 states, as well as more than 150 cities and county nationwide as of July 2019 (Maurer, 2019). The FCH Policies requires, depends on the states, public and/or private sectors to remove the criminal background or convictions record question on the job application and delays the criminal background check process until after a conditional offer of employment has been made. According to Von Bergen and Bressler (2016), removing the conviction history question helps improving employment opportunity to ex-offenders and “is critical to designing a robust policy platform to help millions of Americans with records integrate into society.”

Because of its labor-intensive characteristic, the hospitality industry is heavily dependent upon its employees in order to meet its business goals, provide the best services quality, and create competitive advantage (Chytiri et al., 2018). Specifically, employment in the hospitality industry consists of many challenges, such as high turnover rate, shortages of skillful candidates, flexible employment patterns, low wages, and long hours. Due to the harshness nature of the industry, human resources management and practices is one of the most crucial element in achieving organizational goals (Baum, 2007; Chand & Katou, 2007; Young- Thelin & Baluk, 2012); and attracting and recruiting the right people is the first step to achieve these goals by managing a strong and effective workforce (Chytiri et al., 2018).

There are some studies created to investigate the impact and effectiveness of the “Ban The Box” or FCH Policy in the real job application process; and the majority of the studies show a positive result in which applicants with criminal histories receive a higher
callback rate, meaning that these individuals get more calls from the prospective employers after submitting their job application that does not include the question regarding their convictions (Agan & Starr, 2016). However, most studies shed lights on the impacts of FCH Policies toward the applicants, but not a lot about analyzing the impacts of FCH Policy on the hiring practices under the employer’s perspective and provide in-depth information about the transformation and implementation process of the employers when The FCH Policy is legally adapted. Therefore, there is a need to for a completed understanding of how The FCH Policies affects the employer’s procedure and standard of their selection measures and hiring decisions. More specifically, the research questions need to be addressed is: How does the FCH Policies impact current hiring practices in the hospitality industry?

This study adapts a qualitative approach in order to explore the real impact of the FCH Policies on the hospitality industry’s current hiring practices in California that also takes into consideration the role of criminal background in the employer’s hiring decision. Effective human resources practices as a whole, and recruitment and hiring practices specifically, is one of the most critical activities that greatly impact the performance of an organization. It is recommended that in order for an organization to improve their recruitment and hiring practices, all applicants “must be given equal opportunities”, and “complete qualifications should be stressed and should also be linked with the job to be done” (Saviour et al., 2016). Despite the massive amounts of study about Human Resources practices, there is a lack of literature regarding The FCH Policies and how it affects the hiring process, especially in the hospitality industry. Thus, the purpose of this study is to examine The Fair Chance Act in the hospitality industry,
with a focus on exploring how it affects the Human Resources field and employer’s perspective on changes in their current recruitment and hiring process. This study is conducted with the hope to understand better what The FCH Policies bring to the job market and possibly open more future research opportunity that helps enhancing the policies to achieve the best outcomes, and also contribute to the Human Resources and Hospitality literature.
CHAPTER 2
LITERATURE REVIEW

The Fair Chance Act

The Fair Chance Act, also known as the Ban The Box law, started as a human rights movement called Ban The Box. The movement started in 2003 with the effort to have employers removing the box on the job application that asks about the applicant’s criminal record. Ban The Box campaign was started by All of Us or None, a grassroots organization fighting for human and civil rights. The main goal of Ban The Box is to remove the initial knowledge of a job applicant’s criminal record, which is usually appeared as a question regarding the applicant’s conviction history, and have the employer focus on his or her qualifications, so a fair recruitment process can be done (Von Bergen & Bressler, 2016). The mentioned conviction history question is illustrated in Figure 1. Ban The Box do not prevent employers find out about applicant’s criminal record but delay it until after an interview or conditional offer, so the employer can consider the applicant based on his or her qualifications to the job without any prejudice because of the criminal record (Von Bergen & Bressler, 2016).

The first state that ever adapt Ban The Box was Hawaii. Hawaii state passed the law called Fair Chance Policy in 1998, removing the conviction history question box for both public and private sector (source). After that, it took more than 10 years for the second state in America to pass the Ban The Box law, which was Minnesota in 2009, applied for public sector only (source). In 2016, the Ban The Box law was passed by the next six states: Louisiana, Missouri, Oklahoma, Tennessee, Vermont, and Wisconsin (source). And up until 2019, there is a total of 35 states and more than 150 cities and
county around the United States that passed the Ban The Box Law, including California, which has the law as The Fair Chance Act. The Fair Chance Act is also supported by the United States government. In December 2019, the President of the United States, Donald J. Trump, has signed into law the S.1790 the “National Defense Authorization Act (NDAA) for Fiscal Year 2020”, that contains The Fair Chance Act, which is equivalent to the Ban The Box. The Fair Chance Act was created to give ex-offenders a better chance obtaining jobs in the U.S federal government (Ahearn, 2019).

Figure 1: An Example of a Conviction History Question Box on Many Job Application Forms

The Fair Chance Act is passed and adapted to be a part of an employee selection protocol of the human resources management practice. Generally, before the law was passed, most employers follow a standard procedure of employee selection that has a similar pattern as shown in Figure 2. The standardized procedure starts with the initial screening interview and ends with the finalized hiring decision. There are typically eight steps in this employee selection process: initial screening interview, completing the application form, employment tests, comprehensive interview, background investigation, conditional job offer, medical or physical examination, and permanent job offer (DeCenzo & Robbins, 2005). Each of these steps acts as an employer’s decision point that requires a confirmative feedback in order to move on to the next step in the process; during this time, an employer usually seeks knowledge about the applicant’s background,
skills, work ethics, and motivations (DeCenzo & Robbins, 2005). So when The Fair
Chance Act comes into action, it moves the inquiries regarding criminal background from
step 2 (completing the application form) and step 5 (background investigation) to step 6
(conditional job offer), in which postponing the criminal background knowledge gives
the potential employee a chance to provide explanation and justification of the crime,
how long has it been since the crime was committed, and also evidence of rehabilitation
effort (Smith, 2014). Also, the delay in criminal background inquiries allows the
employer to consider the applicants by evaluating their qualifications instead of letting
the stigma of having a conviction history impact their hiring decision (Von Bergen &
Bressler, 2016).
The Fair Chance Hiring at the Federal Level

In February 2014, President Barack Obama launched an initiative called My Brother’s Keeper to address the frequent opportunity gaps that are faced by boys and young men of color, and to help ensuring that all young people have the opportunity to reach their fullest potential (My Brother’s Keeper [MBK], 2014). This Obama Administration’s new initiative gave the Ban The Box movement a boost because it endorsed hiring practices that “which give applicants a fair chance and allows employers the opportunity to judge individual job candidates on their merits as they reenter the

Figure 2: DeCenzo and Robbins’s Standard Employee Selection Process

workforce” (MBK, 2014). After that, in November 2015, President Obama issued an executive order that make inquiries about criminal record on job applications illegal for federal agencies (Gladstone, 2015). This new step he took made it easier for Americans with a criminal history become more productive in society (Von Bergens & Bressler, 2016). The Congress’s lawmakers at the time, led by Democratic Senator Cory Booker and Republican Senator Ron Johnson, were also working on the federal Ban The Box or Fair Chance Hiring legislation (Condon, 2015).

In 2012, the Equal Employment Opportunity Commission (EEOC) has also endorsed the act of removing the conviction record question from the job application in its hiring guidance; the EEOC stated clearly that when it comes to conviction record, the employer’s decisions to hire is regulated by the federal civil rights laws (41). In this updated guidance, the EEOC recommended that it is best that employers do not inquire about criminal record on the job applications because it is more likely that the employer can objectively assess and evaluate the applicant’s criminal record’s relevance to the job when such knowledge is discovered after the evaluation of their qualifications and experience (42).

As the most recent endorsement of the Fair Chance Hiring policy, in the end of 2019, President Donald Trump and the United States House of Representatives has passed a legislation called The Fair Chance Act (FCA), banning federal agencies and contractors from inquiring about applicant’s criminal record until after the conditional employment offer is made (Maurer, 2019). According to Senator Cory Booker of New Jersey, “this legislation will remove the steep hurdles that deny individuals who have paid their debt to society from finding a job and allow them to have the dignity of work”
The FCA would apply to all federal agencies in the executive, legislative, and judicial branches, including the United States Postal Service. The law would also apply to any private-sector companies that have contracts with any federal agencies. In addition to the prohibition of criminal record inquiries on job application, the FCA also requires The Bureau of Justice Statistics and The United States Census Bureau to collect more data and reports on the employment of those individuals with criminal background, which is the type of information that has been missing in those states that adapted a FCH reforms (Cory Booker, 2019).

**The Fair Chance Hiring at the State and Local Levels**

The postponement of applicant’s criminal history inquiries is intended to inhibit employers from judging and depending on the applicant’s criminal background as a factor for disqualification at the initiation of employment, especially when the individual’s criminal history is irrelevant to the job. Other than this basic requirement, there is considerable and substantial difference among the statutes and policies, particularly when it comes to what type of information may the employer consider and when may the employer make inquiries about the applicant’s criminal record (Von Bersgen & Bressler, 2016). In most cases, the FCH Policies enforce restrictions on employer’s knowledge regarding the criminal history by restraining: (1) what the employer can ask their potential employees prior to their hire, (2) when the criminal background inquiries can be made, and (3) how far back into the criminal background can the employer investigate/inquire (Garcia, 2013).

In general, the policies are different in these following terms depending on the states: (1) the type of employers covered (public, private, or federal sector), (2) the
positions that are covered (city employee, law enforcement jobs, social services and child
care, (3) the stage of hiring process at which criminal history information may be
considered (initial application, preliminary interview, conditional job offer), and (4) the
guidance on criminal record information’s evaluation criteria: the number and types of
convictions, the seriousness of the crimes and the sentences imposed, how recently the
convictions occurred, present evidence of rehabilitation, and specific conditions within the
workplace (Smith, 2014). Most of the FCH Policies apply only to the public sector, but
the blanket FCH laws that apply to all sectors, including private companies, are upring
(Von Bersgen & Bressler, 2016).

Currently, there is a total of 35 states in America that have successfully passed the
FCH policy:

2013), Indiana (2017), Kansas (2018), Kentucky (2017), Louisiana (2016), Maine
(2019), Maryland (2013), Massachusetts (2010), Michigan (2018), Minnesota
(2013, 2009), Missouri (2016), Nebraska (2014), Nevada (2017), New Jersey
Washington (2018), and Wisconsin (2016). (Avery, 2019)

Among these states, there are 14 states that have extended the FCH policy to the
private sector: California, Colorado, Connecticut, Hawaii, Illinois, Massachusetts,
Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington
(Avery, 2019). Depends on the state, county, or city jurisdiction, the FCH policy typically have jobs that can be exempted from this law, such as jobs in law enforcement, child or nursing care, and schools due to safety and security concerns (Dougherty & Klofas, 2014).

**The Fair Chance Hiring Policy in California**

In California, the Fair Chance Hiring Policy is called the Fair Chance Act (FCA). California adapted the FCA, also known as the Ban The Box policy, as early as 2010, but not until 2018 that the state officially passed the FCA in Employment. The FCA in California applies to any employers that have five or more employees. Here the employers are prohibited from including any questions on the job application or asking the applicant about their conviction history before making a conditional offer. Additionally, under this law, the employers are also barred from “considering information about arrests not followed by conviction, participation in pre-trial or post-trial diversion programs, or convictions that have been sealed, dismissed, expunged, or statutorily eradicated” (California Department of Fair Employment and Housing [CDFEH], n.d.). Furthermore, the employers are not allowed to:

1. State on a job application form that a criminal record would be an employment disqualification
2. Consider, distribute, or disseminate information about the applicant’s referral to or participate in a pre-trial or post-trial diversion program
3. Skip or miss an individualized assessment considering the nature and gravity of the conduct, the time passed, and the relevance to the job held or sought
4. Skip or miss the explanation of the applicant’s rights to submit evidence challenging the criminal record, mitigating circumstances, or circumstances regarding the applicant’s rehabilitation. (CDFEH, n.d.)

After the job interview and the conditional offer of employment, the employers are allowed to conduct a criminal history check, however, under the FCA, employers cannot withdraw the existing conditional job offer based on the applicant’s criminal record without going through the process that consists of these steps:

1. Making an individualized assessment that justifies denying the applicant the position;
2. Notifying the applicant in writing of a preliminary decision to take back the offer;
3. Giving the applicant a chance to provide additional information; and
4. Notifying the applicant in writing of a final decision to take back the offer and informing the applicant of the right to complain to DFEH. (CDFEH, n.d.)

**Challenges to Employment After Incarceration**

*Stigma and Social Identity*

The people who are imposed with a label of criminal record has significant negative impacts on their employment opportunity (Western, 2007). According to Apel and Sweeten (2010), it is incarceration, instead of arrests and convictions, that leads to some challenges in employment because the employers are reluctant to hire applicants with a criminal history, mostly due to the gap in their employment history, and the lack of social networks who are willing to vouch for them. In society, a criminal record or a history of incarceration are considered a symbol of a “deviant identity” and this
interpretation is widely spread and dominates the social perceptions toward those individuals who have a criminal history (Rosenhan, 1973). These stigmas and prejudices are aggravated by the pre-existing racial discrimination (Anazodo et al., 2019).

According to a longitudinal study conducted by Decker et al. (2015), African American and Hispanic applicants with a criminal history were less likely to be called back for an interview or offered a job compared to Caucasian applicants with criminal history.

Another challenge that formerly incarcerated job applicants face is the employer’s low level of confidence in their ability to perform well at the jobs (Graffam et al., 2008). A study by Harding (2003) shows that even though some ex-offenders may be hired after their release, their ability to keep the job is affected negatively. Some employers claim that screening out ex-offenders during the selection process is justified because they use criminal records as predictors of the ex-offenders’ future job performance. Employers tend to make the assumption that an individual who has committed a crime is more likely to do it again (Lam and Harcourt, 2003). In addition, there is fewer opportunities and types of job that ex-offenders can obtain post-release, and also a much lower income (Harding, 2003; Lam and Harcourt, 2003). According to a data analysis by Shannon et al. (2017), the unemployment rate among ex-offenders is over 27%, which is higher than the total unemployment rate of the United States in history, including during the Great Depression. Also, other studies show that for each additional year of incarceration, their earnings will be reduced by 12 percent (Western, 2002). Ex-offenders also face a harsh reality in the job market which is their low income. According to a research by Looney and Turner (2018), only 55 percent of ex-offenders reported their earnings within the first year after their release, and the median earnings reported being $10,090. Among those
with earnings, 4 percent has earnings of less than $500, 32 percent has earnings ranging from $500 to $15,000, and only 20 percent has more than $15,000 earnings (Looney and Turner, 2018). Another obstacle toward the formerly incarcerated individuals is the multiple stigmas they might experience, one of the biggest stigmas is the assumption that individuals with criminal record have intellectual disability (Gausel and Thorrisen, 2014).

There are multiple factors that contribute to the ex-offenders’s low ability to obtain and maintain a job post-release (Travis, 2005). Besides stigmas, other factors that directly affect employment’s challenges post-release could be weak or inadequate employment history, lack of education and skills, living condition, and the surrounding environment (D;Alessio et al., 2015; Visher et al., 2011). Personal challenges can also be factors that pose as obstacles to the formerly incarcerated individuals, such as physical and mental health problems, substance abuse and addictions, poor behavioral problems, and negative self-esteem and self-perceptions (Dwyer, 2013; Atkin Armstrong, 2013).

And lastly, practical challenges can also pose as threats to ex-offenders’ employment potentiality, such as finding adequate accommodations, finance difficulties, and inability to access daily life’s necessities and services. (Visher and Farrel, 2005).

Unlike individuals who are convicted but never imprisoned, the formerly incarcerated individuals have to experience challenges overcoming the negative impacts of imprisonment and coping with the difficulties in their everyday life after imprisonment (Gill, 1997). The longer the prison sentence, the more challenging it may be for an individual to re-enter the community because prisons and jails have an extreme impact on such individual (Ricciardelli and Mooney, 2018). As a result, ex-offenders have more challenges as they seek employment post-release because they need to adapt to their new
life and, at the same time, trying to overcome the “ritualizations and perceptions” that has imprinted in their mind when they were living in prison (Maruna, 2011).

**Criminal History Inquiries on Job Application Forms**

Before any kind of justice movements and new laws protecting ex-offenders, individuals with criminal history have to face the inquiry regarding their past on almost every job application forms. Some studies were conducted to provide evidences that criminal background inquiries are normal in every firm’s Human Resources (HR) practice (Lam and Harcourt, 2003). Not only that employers inquire about the applicant’s criminal history, some employers included questions regarding one’s criminal convictions in an “incorrect manner” (Jolly and Frierson, 1989), such as: whether the individual had any bonding problems, and whether the individual had any difficulties obtaining a security clearance. In addition, some employers inquired applicants’ conviction history within the past five years, some even asked about the history for the past ten years (Harcourt and Harcourt 2002). These evidences show that most employers paid attention carefully to the applicant’s criminal history, even when it is irrelevant to the job or the length of time past since the last conviction (Lam and Harcourt, 2003).

Because of these invisible but quite obvious obstacles, ex-offenders faced a dilemma when submitting a job application form. Since there was a question on the application form regarding their criminal history, the majority of ex-offenders wondered whether they should disclose information about their conviction history on the job application. If they voluntarily disclose their criminal history on the job application, they automatically decreased the chance of getting hired. If they choose not to disclose the information on the application form, they might get hired, but then face the risk of later
being exposed and dismissed due to misrepresentation. Ex-offenders also had an option to stay silent and refuse to answer when being asked about their criminal history on a job application form or at a job interview, also known as omission. Even so, these individuals who chose this path would generally be treated as if they had admitted to being convicted in the past (Stone and Stone, 1987; Lam and Harcourt, 2003). Although some employers claim that they are willing to hire an ex-offenders, research from Pager (2003) suggests that discrimination against applicants with criminal records do exist, in fact, evidences show that applicants with a criminal background (or applicants who check “yes” for the question regarding their criminal history on the job application), reduces their callback rates from the employer by 50 percent.

**The Current General Recruitment and Selection Process**

In business, an effective Human Resources (HR) practice is critical because it determines the overall growth of the company and provides an accurate projection of future labor needs (Myrna, 2008). The recruitment and selection process is one of the key functions of an organization’s HR department. The process involves predicting one’s future behavior, and from there, make a decision about whether the individual will be the best fit for a specific job (Newell, 2005).

Regardless of size, in all businesses that have an HR departments, the HR Managers, also known as the hiring managers, makes the final decision regarding a prospective hiring (Workman, 2009). The hiring process starts with recruitment, which is the process of attracting applicants who might meet the standard to fill a specific position or job. The recruitment process usually occurs when a current employee leaves, and the purpose of the process is to find a replacement. The first step in the recruitment process is
a systematic review and analysis of the company’s requirements. After the review, a completed list of requirements for the job is established, also known as a job analysis. Once the job analysis data is ready, creating a job description is the next step. The job description has more details about the job, such as: what the job involves, the purpose of the job, the undertaken tasks, an outline of expected performance standards, the duties and responsibilities, the reporting superior, and the details of compensation. After all information regarding the job is established, the company then make the job listing visible to public (Newell, 2005). There are different methods of attracting applicants, such as posting on local newspapers, using online forms through online newspaper or magazines, posting job listings on the company’s websites, creating listings on third-party career websites (Indeed.com, Monster.com, Hcareers.com, etc), and using social media platforms (Facebook, LinkedIn) (Newell, 2005; Myrna, 2008; Society for Human Resources Management [SHRM], 2017).

The selection process begins after the company has successfully attracted applicants through their recruitment process. In the selection process, the employers will need to make a choice between candidates, and the most common method used by managers to make this decision is through an interview (Newell, 2005). However, there are other selection methods that are used by employers, such as application form, employer references, resume, work samples, etc (Wilk and Cappelli, 2003). Before the employers start calling in candidates for an interview, most employers usually perform a pre-screening to eliminate candidates who do not meet their standard requirements for the job. Some employers use a preliminary assessment (usually appears in form of questionnaire) to filter out the applicants who lack of competencies and characteristics for
the job. Social network platforms are becoming more popular nowadays as a pre-screening tools among employers (SHRM, n.d.).

After selecting a pool of eligible candidates, the employer then moves on to the next step, which is the preliminary assessment of these selected candidates. The employer can perform this assessment through different methods: in-person interviews, structured panel interviews, video interviews, and in-depth assessment. The employers usually end up with a smaller pool of eligible candidates after the preliminary assessment. These candidates will be offered an conditional job offer. The conditional offer, also known as a contingent offer, is made based on the requirements and qualifications of the applicants after the preliminary assessment. The employer then performs pre-employment screening to ensure the credibility and validity of the prospective employees. Pre-employment screening process includes pre-employment testing, criminal background checks, verification of credit history, verification of education credentials, and validation of prior work performance, employment, and references. The employer must ensure their recruitment and selection process comprised with the laws. A lot of legal issues appear during the recruitment and selection process involves the background checks and equal employment opportunity. When the employer has completed the validation and verification process, the most qualified applicant will be chosen and offered the job. Depends on the level of the job, compensation negotiation might take place, and the start date is set which complete the recruitment and selection process (SHMR, n.d.; Newell, 2005).
CHAPTER 3

METHODOLOGY

In order to seek answers for the stated research questions, a qualitative research method was proposed for this study. It is best to achieve these answers in a natural setting; therefore, a semi-structured interview was chosen as a method of this qualitative research. The goal of this interview approach is to understand the participant’s experiences and pursue the in-depth information from those experiences. The interview research method can guarantee a higher response rate than a questionnaire, it also allows a more detailed response that benefit the data collection process, and it helps avoiding the participant being pressured or influenced by others.

Sample

Purposeful/purposive sampling technique was utilized in this qualitative research. It is a well-known nonrandom sampling technique for the identification and selection of information-rich cases which proven to be the most effective when there is limited resources (Patton, 2002). Purposive sampling involves identifying and selecting individuals that are knowledgeable about and experienced with the researched phenomenon (Cresswell & Plano Clark, 2011), in this case, The Fair Chance Act and the hospitality’s hiring practices. A group of 12 departmental managers and/or Human Resources manager in the hospitality industry was the target sample. The sample consisted of managers and recruiters from different segments of service in the industry: lodging, food services, tourism, airlines, and recreations, within the Southern California area. The sample was purposely recruited mainly from the professional (former job, former supervisors), academic (hospitality schools, alumni) and acquaintances networks
(friends, families). The location choice was selected and considered appropriate for the study since all previous studies of Ban The Box focused on the East Coast of the United States of America.

The hospitality industry is a term that addresses a broad range of service sectors, diverse venues, and leisure categories as “evolving contemporary trends” (Slattery, 2002) because the hospitality industry constantly increases its extensive market penetration (Ekonomou et al., 2014). There is a lack of agreement within the literature on the definition of the hospitality and tourism industry, various researchers have aimed to conceptualize hospitality (Smith, 1988; Brotherton, 1999; Lashley, 2000; Lashley & Morrison, 2000). Eventhough there is no exact explanation has been made regarding the extent and exact spectrum of the hospitality industry, a few studies have proposed and recommended that it should be associated with businesses related to lodging, food services, tourism, airlines, and theme parks (Lee & Yuan, 2017). In this study, the scope of hospitality that was used when recruiting informants, adapted from Walker (2017) is: lodging, restaurant and managed services, travel, assembly and event management, and recreation. Table 1 illustrates the five main sectors of the hospitality industry used in this study and its corresponding types of business that fit into its category.
### Table 1: Hospitality industry service sectors and its types of business

<table>
<thead>
<tr>
<th>Service sector</th>
<th>Type of business</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lodging</td>
<td>Hotels, motels, resorts</td>
</tr>
<tr>
<td>Restaurant and Managed Services</td>
<td>Restaurants, managed services (catering services)</td>
</tr>
<tr>
<td>Travel</td>
<td>Airlines, cruise ships, Railroads, Coach, Automobile, Ecotourism</td>
</tr>
<tr>
<td>Assembly and Event Management</td>
<td>Meetings, conventions, expositions</td>
</tr>
<tr>
<td>Recreation</td>
<td>Attractions, gaming, parks, recreation</td>
</tr>
</tbody>
</table>

In order to protect the informants’ privacy and confidentiality, collected data was labeled by using developed identifying code (e.g. Informant 1). The informants’ personal contact information was protected to guarantee confidentiality.

**Method**

Virtual semi-structured interviews were conducted to collect responses via Zoom, an online meeting software. A list of open-ended questions and probes was created and asked to the group. This approach is chosen because of its ability to facilitates fast interviews. It is easier to analyze and compare the responses collected from the group. Qualitative method also allows the interviewer to collect a more in-depth and accurate information directly from the interviewees. The researcher created the interview protocol based on the various themes that have emerged from academic literature review. The
researcher also considered the purposes, goals, and research question of the research when creating the interview protocol. The interview protocol consisted of some behavioral questions to explore what each participant has done or is doing, various questions about the participant’s opinion on the topic to analyze what they think about the topic, and also some questions about the participant’s feelings and knowledge regarding the topic. Appendix A at the end of the paper shows the complete interview protocol with all the questions.

After obtaining IRB approval, the proposed sample was recruited by email and invited to a virtual interview that would take place on Zoom at a time scheduled at informants best convenience. During the first contact, the selected informants were explained the purpose and objective of the study, the IRB approved informed consent form were also sent prior to the interview if the informants agreed to participate. A preview of the interview protocol was not sent beforehand to avoid inspontaneity and prepared answers which might lead to inconsistency in data between informants (Harrel & Bradley, n.d.). All interviews were audio recorded, upon permission, for transcription to ensure data completeness and accuracy (Leedy & Ormrod, 2013).

After the interviews with the informants were completed, the recorded audio data were transcribed by using Otter.ai software, and then analyzed to explore the themes and recurrent trends. Content analysis was chosen to interpret the qualitative findings of the research because it is considered a popular methodology performed on different types of human communications to identify the pattern and themes (Schreier, 2012). When doing content analysis, there were four steps that need to be performed, according to Leedy and Ormrod (2013): identify body of material that need to be studied, precisely define the
characteristic that the researcher is looking for, code the concepts, tabulate each characteristic, and inspect the patterns that the material reflect.

In order to identify consistencies during the interview process, this study adapts the analytical process proposed by Miles and Huberman (1994) that consists of three concurrent flows of activity: data reduction, data display, and verification. When conducting a qualitative study, the data analysis is an ongoing continuous process starting from the collection of data, which is the interview process, and also the transcription process and anything happens during the study. The following steps adopted by Wang and Krakover (2008) were used for data analysis in this study:

- Transcribe data and identify major ideas
- Define appropriate unit of analysis
- Develop categorization schemes
- Confirm categories
- Identify themes and use relevant theory if necessary for interpretation

Inductive content analysis was used in this study because there is not enough existing knowledge about the phenomenon being studied (Lauri & Kyngas, 2005). The unit of analysis in this study was whole interviews. According to Graneheim and Lundman (2004), a whole interview or observational protocol can be a suitable unit of analysis for inductive content analysis because it is large enough to be considered as a whole and small enough to be noted as a context for meaning unit during the analysis process. The researcher also decided to analyze only the manifest content, meaning the text transcript and not including latent content such as: silence, pause, sigh, laughter, etc. After developing categories emerged from the data, the researcher re-read the transcripts
to identify themes, highlighted critical points and crucial statements relevant to the themes for interpretation. No additional software was used during this phase. The researcher performed the analysis manually and organically.

For this research, participation in the interviews was voluntary, and informants were financially rewarded afterward. Beside the small financial compensation, informants were also offered the result of the study upon its conclusion to emphasize the value of their contribution to the study. Regardless of the time commitment requested (varying from 30 to 45 minutes per interview), various recruiters contacted were willing to participate in the study. Specifically, 12 managers and recruiters out of 50 approached, accepted to participate to the study. The response rate during the recruitment process was lower than expected due to the majority of out-of-office managers during the COVID-19 Pandemic. Therefore the recruitment process took place longer, despite that, the insights and shared information from the 12 informants were valuable and abundant to this study.

**Trustworthiness for qualitative content analysis**

Since the study is a qualitative inquiry, it is crucial to have some measures in action to ensure the trustworthiness of the investigation. The main goal of trustworthiness in a qualitative research is to support the argument that the study’s findings and results are “worth paying attention to” (Lincoln & Guba, 1985). Trustworthiness is especially important when it comes to qualitative content analysis, which is when the researchers induce raw data into categories without a theory-based categorization matrix (Elo et al., 2014). According to Denzin et al. (1994), there are five alternatives to assess the trustworthiness of a qualitative research: credibility, dependability, conformability, transferability, and authenticity. Credibility refers to the accuracy in the description and
identification of those who participate in the research; it also refers to the truth or believability of the study. Dependability refers to the stability of data over time and under different conditions. Conformability refers to the objectivity of the research during data collection and data analysis. There should be congruency between two or more independent persons about the accuracy, relevance, or meaning of the data.

Conformability also indicates a means to demonstrate quality. Transferability refers to whether the study’s results can be applied to other settings and contexts. And authenticity refers to the extent to which researchers, fairly and faithfully, show a range of realities (Polit & Beck, 2012; Lincoln & Guba, 1985; Denzin et al., 1994). Table 2 demonstrates the strategies that were applied specifically in this study to ensure trustworthiness of the qualitative investigation as suggested by Shenton (2004), Lincoln and Guba (1985), and Denzin et al. (1989).
Table 2: Strategies applied in this qualitative study to ensure trustworthiness of the investigation

<table>
<thead>
<tr>
<th>Trustworthiness criteria</th>
<th>Strategy applied in this study</th>
</tr>
</thead>
<tbody>
<tr>
<td>Credibility</td>
<td>Detailing reflexive journals throughout the study</td>
</tr>
<tr>
<td></td>
<td>Prolonged engagement, building rapport with informants</td>
</tr>
<tr>
<td></td>
<td>Encouraging and ensuring honesty in informants (give informants the ability to stop/refuse to participate, guarantee confidentiality)</td>
</tr>
<tr>
<td></td>
<td>Taking comprehensive notes during data collection</td>
</tr>
<tr>
<td></td>
<td>Audio recording and verbatim transcription</td>
</tr>
<tr>
<td></td>
<td>Triangulation in data by using different types of informants</td>
</tr>
<tr>
<td></td>
<td>Examining previous research to frame and conclude findings</td>
</tr>
<tr>
<td>Dependability</td>
<td>Careful documentation throughout the study</td>
</tr>
<tr>
<td>Confirmability</td>
<td>Careful documentation throughout the study</td>
</tr>
<tr>
<td></td>
<td>Triangulation to reduce effect of investigator bias</td>
</tr>
<tr>
<td></td>
<td>Detailed record of methodology to allow the study results to be reviewed and evaluated</td>
</tr>
<tr>
<td>Transferability</td>
<td>Taking comprehensive notes during data collection</td>
</tr>
<tr>
<td>Authenticity</td>
<td>Vivid description of findings to allow comparison being made</td>
</tr>
<tr>
<td></td>
<td>Detailing reflexive journals throughout the study</td>
</tr>
<tr>
<td></td>
<td>Prolonged engagement, building rapport with informants</td>
</tr>
<tr>
<td></td>
<td>Audio recording and verbatim transcription</td>
</tr>
<tr>
<td></td>
<td>Thick and vivid description of findings</td>
</tr>
<tr>
<td></td>
<td>Impactful writing about findings and its implications</td>
</tr>
</tbody>
</table>

**Assumption**

A research assumption is the factor that the researcher believe to be true, which is a realistic expectation when conducting a study (Simon & Goes, 2013). Assumptions in a research is out of the researcher’s control, but without the existence of assumptions, the study would become irrelevant (Simon, 2011). According to Goldberg and Allen (2015), the researchers should share their assumptions to demonstrate transparency to the readers, and also to create more meaning and life to the study, which promotes authenticity of the study’s trustworthiness.

In this study, the researcher assumed the informants were honest and told the truth when participating in the interviews. The informants were assumed to be qualified as
managers and/or recruiters whose career directly involved with the hiring process in the hospitality industry. The sample of informants recruited for this study is assumed to be an accurate representation of the hospitality recruiters and managers population in Southern California. Although each of these assumptions is believed to be true, they are crucial for the study’s foundation and relevance (Simon, 2011; Simon & Goes, 2013; Leedy & Ormrod, 2010).
CHAPTER 4

RESULTS

The purpose of this qualitative exploratory inquiry was to examine the impacts of The Fair Chance Act on hospitality’s human resources (HR) practices and the employer’s point of view on the policy. Initially, the researcher sought to obtain 15 individuals to participate in this study, but was only able to acquire 12 informants for participation. Guest et al. (2006) stated that saturation of codes and themes in qualitative analysis may be met with as few as five subjects. The informants were recruited from the professional network of Cal Poly Pomona Career Expo. Phenomenological research method was applied in this study in order to provide the informants an opportunity to discuss their personal experiences and beliefs toward hiring ex-offenders and how it reflects on their hiring practices. Since the study follows a similar fashion used by other researchers who conducted studies with a comparable methodology (Kwok et al., 2011), the results include a plentiful amount of direct quotes and responses of informants cited from the interview transcripts.

Informant demographic data

This study was designed to explore the changes that the HR department in hospitality companies make to adapt the new policy, The Fair Chance Act, and also the employer’s perspective on hiring ex-offenders and the policy’s productiveness. This section presents experiences and opinions of the 12 HR hiring managers and operational managers who were interviewed in this study. The perspective of these 12 informants portray an exemplified sample of HR managers thought processes regarding the Fair Chance Act and hiring ex-offenders. However, the researcher understands that these
perceptions are not representative of the whole HR managers population worldwide.

Table 3 displays the informants’ demographics. Among the 12 informants, there are six females and six males; yielding 50% of the informants were female and 50% were male. The racial composite of the sample consisted of two Hispanics, five Asians, and five Caucasians; yielding 16.67% of the informants were Hispanic, 41.67% were Asians, and 41.67% were Caucasian. With the efforts to get a wide representation of perspectives and experiences, the participated informants come from all company sizes: small, medium, large, and extra large; and the years of professional experience encompassed by each informant ranged from 8 years to 24 years.
<table>
<thead>
<tr>
<th>Informant</th>
<th>Gender</th>
<th>Ethnicity</th>
<th>Job title</th>
<th>Year of professional experience</th>
<th>Year employed at current company</th>
<th>Company size</th>
<th>Type of company</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>M</td>
<td>Hispanic</td>
<td>Front Office Manager Recruiter</td>
<td>10</td>
<td>3</td>
<td>Small</td>
<td>Lodging</td>
</tr>
<tr>
<td>2</td>
<td>M</td>
<td>Asian</td>
<td>Assistant General Manager</td>
<td>8</td>
<td>1</td>
<td>Medium</td>
<td>Lodging</td>
</tr>
<tr>
<td>3</td>
<td>M</td>
<td>White</td>
<td>Director of Talent Selection CEO</td>
<td>11</td>
<td>2.5</td>
<td>Small</td>
<td>Recreation</td>
</tr>
<tr>
<td>4</td>
<td>F</td>
<td>Asian</td>
<td>Sr. HR Director</td>
<td>20</td>
<td>3.5</td>
<td>X-Large</td>
<td>Food Service</td>
</tr>
<tr>
<td>5</td>
<td>F</td>
<td>White</td>
<td>Sr. HR Director</td>
<td>16</td>
<td>9</td>
<td>Small</td>
<td>Event Management</td>
</tr>
<tr>
<td>6</td>
<td>F</td>
<td>White</td>
<td>Sr. HR Director</td>
<td>24</td>
<td>8</td>
<td>X-Large</td>
<td>Food Service</td>
</tr>
<tr>
<td>7</td>
<td>M</td>
<td>Asian</td>
<td>Food and Beverage Manager</td>
<td>11</td>
<td>6</td>
<td>X-Large</td>
<td>Lodging</td>
</tr>
<tr>
<td>8</td>
<td>F</td>
<td>Hispanic</td>
<td>Front Office Manager Manager</td>
<td>12</td>
<td>4</td>
<td>Medium</td>
<td>Lodging</td>
</tr>
<tr>
<td>9</td>
<td>F</td>
<td>Asian</td>
<td>Sr. HR Director</td>
<td>9</td>
<td>3</td>
<td>Small</td>
<td>Food Service</td>
</tr>
<tr>
<td>10</td>
<td>F</td>
<td>White</td>
<td>Director of Human Resources</td>
<td>19</td>
<td>5</td>
<td>Medium</td>
<td>Assembly and Event Management</td>
</tr>
<tr>
<td>11</td>
<td>M</td>
<td>Asian</td>
<td>General Manager</td>
<td>11</td>
<td>11</td>
<td>Small</td>
<td>Event Management</td>
</tr>
<tr>
<td>12</td>
<td>M</td>
<td>White</td>
<td>Director of Talent Acquisition</td>
<td>27</td>
<td>18</td>
<td>Large</td>
<td>Real Estate Development</td>
</tr>
</tbody>
</table>

*Note.* The company size definitions are: Small (21-100 employees), Medium (101-500 employees), X-Large (5001+ employees).
General perceptions about hiring ex-offenders

One of the preliminary steps of the research during the data collection process aimed at determining the overall perspective and understanding of the managers and recruiters and comparing those data with the existing literature. The informants were specifically asked to discuss their perception of hiring an employee with a criminal record, and all 12 informants confirmed their willingness to hire ex-offenders if the conviction is not related to any aspects of the job. Even though all informants came from different organization varying from different type of services in the hospitality industry, the managers and recruiters were unanimous when inquired about their perceptions in hiring ex-offenders, for example.

- “We do hire employees with a criminal record, depending on the record and the job. So I would say the, the general scenario is we consider the case and its effects to the safety of our restaurant, our business and our guests. So basically, it has to be job related” (Informant 4, p. 5).
- “We do hire employees with criminal records so long as the conviction isn’t related to their ability to do the job and isn’t a violation of any laws or regulations” (Informant 6, p. 2).
- “[...] as long as for the interview process if you're presentable, you have the personality, you meet all the requirements for the hospitality industry. And for our specific property, we do not mind if you have a criminal background depending on what type of conviction it was” (Informant 8, p. 2).

Some informants mentioned the importance of giving ex-offenders a second chance at employment by hiring them despite their records, and that criminal record should be
treated as “mistakes”, and people deserve better at life. This findings match with a past study by Pierson et al. (2020), which demonstrated that situational forgiveness and belief in a just world are two major factors that affect hiring manager’s willingness to hire ex-offenders.

- “People make mistakes. I would assume they're applying because they actually should be capable of holding the job in direction and obviously staying out of trouble. And now we honestly have no problem hiring somebody who has had any past incidences. And just like everybody else, we will give them the opportunity, and if they start failing, then we hold them accountable” (Informant 1, p. 2).

- “I do believe in second chances, and I think a lot of recruiters have to be able to step up and talk about that with hiring managers so that they can have that second opportunity, that second chance at employment, because that's really you're dealing with their livelihood” (Informant 2, p. 2).

- “It's up to a conversation, their drive, their passion, their talent, their enthusiasm, depending on their situation, maybe they had to really go through kind of a rebirth or something. In my opinion, that [criminal record] doesn't exempt them” (Informant 5, p. 2).
The Fair Chance Act Acknowledgement

Because The Fair Chance Act is a relatively new policy in California, the researcher asked the informants whether they have heard of this policy or have any experiences and/or knowledge regarding the policy in California. Surprisingly, more than half of the informants have very little information about The Fair Chance Act. Only important information about the policy are discussed, such as employers can no longer inquire about applicant’s criminal record before and during the preliminary job interview, and only allowed to conduct a background check after the conditional offer has been made; other than that, not all managers and recruiters participating in this study know the details about The Fair Chance Act. There are only 3 informants who know The Fair Chance Act very well.

- “This will be one of the first times I knew there was something set in place in regards to giving people the opportunity to be hired no matter what their background may be” (Informant 1, p. 3).
- “To be honest, I haven’t had any real experience. And I knew prior to it about it. I didn’t really look into it, though, until we started talking. But in terms of experience wise, I’ve never really dealt with it much” (Informant 2, p. 4).
- “I have to say, I don’t have much knowledge about it, I know that it was a process and, and out of fairness for everyone, I agreed with it” (Informant 5, p. 2).
- “I was never exposed to policies regarding a potential candidate with a criminal record. I would be informed from my HR department if the employee had a criminal record” (Informant 7, p. 2).
The Fair Chance Act and Its Impacts on the Hospitality Industry

**Hiring trend before and after The Fair Chance Act**

Each informant was asked if they have ever hired an employee with a criminal record before and after The Fair Chance Act passed. The purpose of this question is to indicate if there is a change in hiring trend within the hospitality industry because of the new policy. The results for managers and recruiters that had hired ex-offenders before The Fair Chance Act passed was 92% and after The Fair Chance Act passed was 58%. 33% of the informants claimed to have not hired any ex-offenders after The Fair Chance Act passed because they have not encountered any job applicants or employees with a criminal record after 2018. No informant claimed to not hire ex-offenders before the policy passed, and one informant (Informant 11) was not counted at all for both before and after The Fair Chance Act because Informant 11 did not and does not conduct background check for any employees for the entire company. These results are reported in Table 4.
Table 4: Number of informants that have hired and have not hired ex-offender before and after The Fair Chance Act (FCA)

<table>
<thead>
<tr>
<th></th>
<th>Before FCA</th>
<th>After FCA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Have hired</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>Have not hired</td>
<td>0</td>
<td>4</td>
</tr>
</tbody>
</table>

*Note.* Informant 11 was excluded from this table because they did not and do not conduct background check on any employees.

Interestingly, the data generated by the sample in this study demonstrates a trend that somewhat contradicts the evidences from literature review about manager and recruiter’s willingness in hiring ex-offenders. Existing literature has an abundant amount of research showing employers not willing to hire an employee knowing that the individual has a criminal record. Also, as the literature mentioned earlier in this report, past studies show managers and recruiters consider a criminal record as an indicator of low job performance. However, the informants participating completely disagreed. In fact, when asked a follow up question about the performance evaluation of the ex-offenders that they have hired, the informants stated that ex-offenders perform the job as well as any other employee without criminal history.

- “The employee that we hired, they worked out fine, and wasn’t an issue whatsoever. Normal!” (Informant 3, p. 3).
- “I would say, for the most part, I think they perform like anybody else, their attrition and turnover rates is pretty similar to everybody else. Everybody goes through the same onboarding experience, the same training experience, and their work environment. So either they have the skills and experience to
succeed, or they'll turnover and attrition out like everybody else” (Informant 4, p. 9).

- “They're actually still with us. It really has nothing to do with them moving on in their future. So, as long as they are a good employee for our company, then they're going to continue to work with us” (Informant 8, p. 3).

- “I would argue with any employer who thinks that people have criminal records are not going to do a good job. I would say: Hey, why don't you go back and look at the last 100 people you fired? How many of them had a criminal record? I would bet you that. Not many at all! I mean, people get fired for reasons that have nothing to do with whether they had a criminal record or not” (Informant 12, p. 9).

The Fair Chance Act’s impacts on hiring practices

The purpose of this study is to explore the impacts of The Fair Chance Act on the current hiring practices in the hospitality industry. In order to shed lights on this matter, the researcher asked the informants What changes have your company made in terms of hiring and selection since The Fair Chance Act became effective?, there was a common theme in the majority of the answers from the informants, which indicates no significant change has been made in any of the company’s hiring practices. The following statements are some highlighted answers that reflect the common theme for this interview question:

- “No, we haven't made any changes whatsoever, still the same process” (Informant 1, p. 4).

- “I don’t think so. Because the hiring practices and processes that we develop are designed for any situation that come about. So, if anything, it makes the
process more fair, and effective, because of the fact that our process is meant to be a fair process. It's meant to be a very standard process to where if, let's say, we were to do auditing, there's nothing that we can get nicked on, because everything that we're doing is a standardized process. That's a leveled playing field for any candidate. There's no judgment that's happening. So if anything new, it's just fit right in, it shouldn't really affect the process or practices at all” (Informant 2, p. 7).

• “We haven’t made changes. Our practices were consistent with the Act prior to the Act becoming effective” (Informant 6, p. 4).

• “It doesn’t really affect us as we provide opportunity to everyone” (Informant 9, p.4).

Besides the majority of the answer stating there was no changes to their company’s hiring practices, there were some informants talked about the small change in their hiring procedure, which is also the foundation of The Fair Chance Act. Informant 4 and 12 stated that the Human Resources Department of their company informed and ensured managers and recruiters what not to do and what not to ask during a preliminary job interview; informant 10 stated that they need to make sure the legal aspect of background check is understood among the managers; and informant 8 stated their company has not make any change but they should in order to comply with the policy.

• “So we did. We used to ask our applicants regarding their criminal history, as well as would they subject to or agree to a drug test. We no longer ask those questions. Because that's not something we want to know, pre offer. So I think the biggest change is really going out of our way to make sure our process is
objective, and fair, and that we don't have any visibility into criminal history until we have made the hiring decision” (Informant 4, p. 12).

• “I say that the only difference we see is that we have to informing employers and hiring managers of the process, what not to do in an interview, what not to ask. We have a quarterly interview skills training. So it's included there, we cover the legal aspects of interviewing, what not to say, stay away from this, stay away from that, don't do that” (Informant 12, p. 10).

• “Only in that we ensure that an offer is made before a background check is ordered” (Informant 10, p. 8).

• “I would say that they will probably have to remove that part [criminal background inquiry] off of the application, because as of right now, that is still on the application. So they would. Our company would have to remove that” (Informant 8, p. 5).

The Fair Chance Act’s impacts on employers

The current literature demonstrates various advantages The Fair Chance Act bring to the ex-offenders population in the United States, however, there is a lack of evidence of the advantages and disadvantages The Fair Chance Act might have on the employers. In order to shed lights on this matter, all informants were asked, What are The Fair Chance Act’s effects in helping you hire the qualified candidates? Each informant had a different perspective on whether The Fair Chance Act helps them hiring more qualified candidates. The results are presented in Table 5.
**Table 5: Informant responses regarding The Fair Chance Act’s effects on helping employers hire qualified candidates**

<table>
<thead>
<tr>
<th>Informant</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>I would say benefits. Not necessarily for this establishment in specific, but I would probably say for bigger corporate establish.</td>
</tr>
<tr>
<td>2</td>
<td>I genuinely think it will help. It helps bringing in more people that should be qualified for the role. Some entry level roles are hard to fill. So, in that sense, you'd want to try to see as many people as possible to then find the most qualified person for the role.</td>
</tr>
<tr>
<td>3</td>
<td>I don't see any benefit of it. Directly having the effect from the employer, possibly, overall, to the community, but I don't see it as a direct effect.</td>
</tr>
<tr>
<td>4</td>
<td>Not really. I think there are regulations that keeps our hiring fair, and really just keep us from being focused on the charges that are impactful to the business rather than someone's personal, subjective opinion.</td>
</tr>
<tr>
<td>5</td>
<td>I think it gives us an opportunity to evaluate them appropriately, as opposed to just seeing the label that they have.</td>
</tr>
<tr>
<td>6</td>
<td>We don’t know but I suspect the impact is either non-existent or nominal.</td>
</tr>
<tr>
<td>7</td>
<td>People are shunned away because of other people’s opinions about the person and their record. So yes, the policy does help our company having more candidates to choose from now that criminal record is no longer on the job application.</td>
</tr>
<tr>
<td>8</td>
<td>No, I think that in the hospitality industry, specifically, there are so many candidates who are always inquiring there. So, we always get as soon as we post something on Indeed. It's never been an issue because we look at the resume to see if they have the experience.</td>
</tr>
<tr>
<td>9</td>
<td>Not noticing any difference.</td>
</tr>
<tr>
<td>10</td>
<td>It supports our policy/practice of fair hiring among all qualified candidates.</td>
</tr>
<tr>
<td>11</td>
<td>Not sure. I have not measured its effects on our business.</td>
</tr>
<tr>
<td>12</td>
<td>I think what the fair chance act might do is there might be give, there might be more, more people who apply for our jobs. Ten, fifteen years ago, someone might not apply for a big company, like a Marriott, or a Hilton, they might think &quot;I can't get in there, I have a criminal record, I'm going to go apply at the, at the motel 6 or I'm going to go apply at the little independent restaurant. This fancy restaurant will never hire me.&quot; Whereas I think they might think twice about that now. They might think &quot;I'll give it a shot. I want to do good work. I'm a good person.&quot; So I think at the end of the day, I don't know if it will help me hire. But I think it will, I don't know if other employers can see the effects.</td>
</tr>
</tbody>
</table>
It is not surprising to see the informants’ answer to this question vary one from another because each company is different by size, type of business, and hiring strategies and tactics. According to Table 5, 50% of the informants believe the benefits coming from The Fair Chance Act toward employers is very minimal to non-existent. Informant 5 and 10 states the benefits that is more for the ex-offenders population, which is reflected in the current literature. Informant 2 and 7 believed that the employers would have access to a larger pool of applicants now that The Fair Chance Act prevent employers from finding out about applicant’s criminal background before the interview and conditional offer. According to Informant 2, 7, and 12, it is common among some employers to use the criminal background inquiry as a tool to screen out “unqualified” candidates. Therefore, without the criminal background inquiry, companies would have more candidates to choose from and eventually will lead to more qualified candidates from the pool. Informant 12, interestingly, stated that the company might have a benefit of accessing a larger pool of candidates because ex-offenders become more confident to submit a job application, which links directly back to our literature review regarding ex-offender’s dilemma when applying for a job: to disclose or not disclose.
CHAPTER 5
DISCUSSION

The purpose of this chapter is to present a summary of the study results, conclusions, and implications for this qualitative inquiry of human resource (HR) hiring managers in the hospitality industry. This chapter discusses the results and how they are applicable to the existing literature on employers’ perspective on The Fair Chance Act. This chapter concludes with the study limitations and practical implications. Every informant in this study was passionate and committed about sharing their experience and opinion. The foundation of this exploratory qualitative study attempts to address the employer’s perspective toward The Fair Chance Act regarding hiring ex-offenders and whether the policy affects the current hiring practices. By examining the hospitality recruiters’ opinion and experience with The Fair Chance Act and hiring ex-offenders, the study seeks to understand if policy provides the employers any benefits or creates disadvantages, and also to examine if the hospitality’s hiring practices undergone any changes after The Fair Chance Act has passed. This information is important to the field of organization and management because information obtained from it may impact organization’s ability to improve their HR practices, and understand the job market trends under The Fair Chance Act’s influence.
The findings of this study demonstrated a relatively high willingness to hire an ex-offenders among the hospitality managers and recruiters. The results also illustrated that 92% of the recruiters have hired ex-offenders before The Fair Chance Act was legally passed, and 58% of the recruiters have hired ex-offenders after the policy was passed. Those recruiters and managers who have hired ex-offenders, when discuss about the ex-offenders’ job performance, indicated that “they perform like anybody else” (Informant 4, p. 9). The recruiters mentioned that their ability to work “has nothing to do with them moving on in their future” (Informant 8, p. 3). Such findings about the correlation between ex-offenders and job performance contradicts the literature. A study by Apel and Sweeten (2010) suggested that employers are not willing to hire ex-offenders due to the gap in their employment history and the lack of social network during the time they were incarcerated. However, the findings of this study show that hospitality recruiters and managers believe in second chance at employment for ex-offenders and that they are willing to hire, however, the type of crime and the time frame in which the convictions take place may be the deciding factor, and it should be a case-by-case basis. Lam and Harcourt (2003) suggested that most employers utilize criminal records as predictors of the ex-offenders’ ability to perform at the job. The assumption is that these individuals are more likely to commit the crime again. Nevertheless, the results from this study presents the opposite. All of the hospitality recruiters who have hired ex-offenders evaluated their job performance highly, and that the correlation between criminal record and job performance is nonexistent.

Some of the informants, when expressing their willingness to hire an ex-offender, stating they did not mind the incarceration history and the type of conviction, however,
the researcher observed and interpreted that most informants addressed this type of leniency toward lower level or entry-level positions only. The informants gave examples to demonstrate their point about forgiveness and providing ex-offenders second-chance at employment; the examples given consisted of job titles such as: accountant, cashier, dishwasher, and server. The positions being used in examples are consistent with entry-level jobs rather than managerial position, therefore, the managers and recruiters participated might only be willing to overlook the stigma of having a criminal history for lower level jobs and not willing to do the same for a managerial position. This indicates the level of the jobs hiring could be a potential factor that affect the hospitality managers and recruiters’ willingness and decision to hire an ex-offender.

The study’s findings also suggested that the employers have very little knowledge about The Fair Chance Act and its details. Most participated recruiters understood that they no longer could ask questions regarding a prospective employee’s criminal background before a conditional job offer, and the recruiters supported The Fair Chance Act because of its fairness. However, since The Fair Chance Act’s main purpose is to help the ex-offenders population and not the employers specifically, there is a lack of effort in learning and understanding deeper about the policy among the recruiters population. Many of the participated recruiters and managers remain woefully ignorant about what The Fair Chance Act can do, its value, and the benefits it can bring to the organization.

Further findings of the study indicated that there is hardly any changes in the current hiring practices among the hospitality organization participated. The results illustrated 67% of the recruiters stating there was no change in their hiring and selection
procedure since The Fair Chance Act became effective. A very common reason among these recruiters for the lack of change is that their organization has been practicing nondiscrimination against ex-offenders even prior to The Fair Chance Act, therefore, changes were not necessary in their case. Some recruiters mentioned the change in how recruiters treat the type of crimes. The recruiters noticed that drugs charges and driving under influences (DUI) charges are now no longer considered a taboo during the hiring process. Many recruiters stated they are now more lenient toward those charges related to drugs (especially marijuana) and DUI, rather than immediately consider as a big red flag like how they a few years ago before The Fair Chance Act was passed.

Interestingly, the majority of the hospitality recruiters and managers did not see or feel that The Fair Chance Act is beneficial to the employers. Although the benefits toward the ex-offenders population is undeniable and agreeable among the recruiters, its effects in helping organization hire more qualified candidates is very minimal to nonexistent. The recruiters and managers did not see any differences in job application submissions, retention rate and turnover rate before and after The Fair Chance Act, hence, they conclude that there is no significant impact of the policy on the employer. Some recruiters stating that The Fair Chance Act does not help the hospitality industry hiring more qualified candidates because the industry never faces a shortage of labor. The recruiters explained how they always received an abundant amount of job applications submission everytime they posted a job listing before the policy enforced. That might be true in the past, but recently, the whole world suffered a pandemic, and America was not an exception. Due to the COVID-19 pandemic, starting from 2020, the nation’s mortality and economy were devastated. As a result, President Biden had initiated a massive
stimulus package to help recover the job loss. Although the stimulus package has helped numerous of Americans, a “worker shortage” emerged, and business leaders blamed the generous unemployment payments and stimulus checks for making Americans not wanting to employ low-paying jobs at fast-food chains and retail stores (Long, 2021). Therefore, the hospitality industry might not face any challenges in recruiting qualified employees in the past, but the job market now has changed after the pandemic, and perhaps the employers could see more benefits that The Fair Chance Act provide during this worker shortage. A few recruiters found The Fair Chance Act beneficial in helping expand the employer’s candidate pools because when employers overlook the stigma of a criminal record, they might find more highly-qualified workers. Another unpopular opinion about the benefits of The Fair Chance Act is that the policy might increase the employer’s amount of job application submissions. The removal of the criminal background question of job applications might boost the confidence of individuals who have criminal record, which will also expand the employer’s candidate pool. This specific opinion from a recruiter relates to the literature mentioned above, that ex-offenders always face a dilemma of whether or not they should disclose their criminal background on the job application, or omit the information and risk losing their opportunity (Lam & Harcourt, 2003).

**Implications**

Based on the results of this qualitative study, the implications of the research suggests that hospitality recruiters and managers are willing to hire ex-offenders. This findings hope to help the applicants to understand the employer’s perspective and expectation when it comes to hiring. The statements from the recruiters participating in
this study could boost confidence and job performance in ex-offenders. The study also assists the ex-offenders to obtain more knowledge regarding policy and their rights. Although not popular, but evidence demonstrates a small chance of The Fair Chance Act contributing to the expansion of employer’s job applicants pool by not delaying criminal background check to a later phase of the hiring process. This small effect may help organization occupy hard-to-fill jobs and strengthen their labor force. Information obtained from this study might help employers to improve their hiring and selection practice as well as understand further the trend and impact of the current law. However, since the popular opinion recognizes there is no significant benefits The Fair Chance Act provide the employers, this information may help policy makers enhance the policy to achieve the best outcomes, which provides visible benefits toward both parties, the employer and the job applicants. The findings from this study also help increase awareness to policymakers about communications and training about new laws and policies to organizations since the majority of the recruiters have very little knowledge about The Fair Chance Act.

Limitations

Since this study used key informants, a major limitation of this study is the informant’s honesty and transparency. Some key informants do not want to share their own opinions or intellectual property because they are afraid of how their knowledge might be used or the consequences of that use, especially when this study’s topic is relatively sensitive. The informants participated in this study may withhold certain information out of fear of being judged (The Hawthorne effect), privacy considerations, or they might think it is not relevant to the topic (Cossham & Johanson, 2019). Other
limitations of this study include that it did not cover all types of services in the hospitality industry to create a better representation of the hospitality recruiters and managers population. The lack of real human interaction and observation is another limitation in this study. The study was conducted during the COVID-19 Pandemic, face-to-face interview was not viable; teleconference via Zoom was utilized to conduct interviews and not all informants participated with video turned on. The geographical constraints may become another limitation since the study mainly focused on hospitality recruiters and managers within large metropolitan cities in the state of California.

**Conclusion**

According to previous research, employers were not usually willing to offer employment to individuals with criminal background, and the criminal record inquiry on the job application was used a tool to screen out unqualified candidates (Lam & Harcourt, 2003; Pager, 2003). However, the results of this study have offered a sign of hope that the hospitality industry has never been discriminated against ex-offenders, even prior to the existence of The Fair Chance Act. The hospitality recruiters and managers have indicated that they have been hiring and they are willing to hire an ex-offender, but there are various factors that must be taken in consideration before a hiring decision is made. Surprisingly, The Fair Chance Act had no significant impact on the hospitality’s Human Resource practices. Perhaps more importantly, after the COVID-19 Pandemic, the hospitality employers will recognize more values and benefits from The Fair Chance Act in the near future as the job market is now shifting. In addition, the study’s finding emphasizes the need to increase awareness and proper training about The Fair Chance Act among recruiters and managers. Ignorance is not an excuse when it comes to
regulations and policies; employers need to understand fully all employment laws and policies, and its values, so they can provide an optimal working environment for employees.
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APPENDIX A

IRB Approved Letter for Current Study
Date: February 5, 2021
PI Name: My Nguyen; Department/College: Collins-Hospitality Management, CCHM
Co-PI(s): Linchi Kwok
IRB Protocol Number: IRB-21-6
Protocol Title: The Impact of Fair Chance Hiring Policies on Hiring Practices in the Hospitality Industry: An Exploratory Study
Protocol Submission Type: Initial; Review Board Type: CPP IRB members
Review Type: Expedited
Decision: Approved

Dear Investigator(s),

The protocol as described above has been reviewed by the Cal Poly Pomona Institutional Review Board (IRB) by the expedited review method. It was found to be in compliance with applicable federal and state regulations and Cal Poly Pomona policies regarding the protection of human subjects used in research. Thus, the Cal Poly Pomona IRB grants you approval to conduct the research. On its behalf, I thank you for your adherence to established policies meant to ensure the safety and privacy of your study participants. You may wish to keep a copy of this memo with you while conducting your research project.

You may initiate the project as of January 28, 2021

It would be appreciated that you advise the IRB upon the completion of your project involving the interaction with human subjects. Please use the "Closure or termination of the protocol" form in the Cayuse system.

Approval is conditional upon your willingness to carry out your responsibilities as the principal investigator under University policy. Your research project must be conducted according to the methods described in the final approved protocol. Should there be any changes to your research plan as described, please advise the IRB, because you may be required to submit an amendment (with re-certification). Additionally, should you as the investigator or any of your subjects experience any "problems which involve an undescribed element of risk" (adverse events in regulatory terms), please immediately inform the IRB of the circumstances. There are forms for both in the Cayuse system.

The committee wishes you success in your future research endeavors. If you need further assistance, you are encouraged to contact the IRB.

Sincerely,

Kristen Schiele

Kristen Schiele, Ph.D., MBA
Chair, Institutional Review Board
APPENDIX B

Informed Consent Form for Research Involving Human Subjects
You are being invited to participate in a research study, which the Cal Poly Pomona Institutional Review Board (IRB) has reviewed and approved for conduct by the investigators named here. This form is designed to provide you - as a human subject/participant - with information about this study. The investigator or his/her representative will describe this study to you and answer any of your questions. You are entitled to an Experimental Research Subject’s Bill of Rights and a copy of this form. If you have any questions about your rights as a subject or participant, complaints about the informed consent process of this research study, or experience an adverse event (something goes wrong), please contact the Research Compliance Office within Cal Poly Pomona’s Office of Research at 909.869.4215. More information is available at the IRB website, http://www.cpp.edu/~research/irb/index.shtml

Project Title

Primary Investigator: My Nguyen
Faculty Advisor: Dr. Linchi Kwok

IRB Protocol #21-6

The study is designed to examine The Fair Chance Act in the hospitality industry, with a focus on exploring how it affects the Human Resources field and employer’s perspective on changes in their current recruitment and hiring process. This study is conducted with the hope to understand better what The FCH Policy bring to the job market and possibly open more future research opportunity that helps enhancing the policy to achieve the best outcomes for Humans Resources practice.

You will be asked to respond to 16 interview questions about hiring practices before and after the establishment and enforcement of The Fair Chance Hiring Policy. Participation in this study will take approximately 45 minutes of your time.

Your participation in this study is completely voluntary. You are free to refuse to participate and/or to withdraw at any time during the study, and there will be no penalty for your withdrawal.

There are minimal risks of fatigue associated with participation in this study. This is a one-on-one interview and your information will be kept completely confidential. We welcome you to ask any questions you have about this project both before and throughout your participation. Should you have any further questions, please feel free to contact My Nguyen (Gigi) at 408-637-1812 or if you prefer by email at nguyenl@cpp.edu.

Thank you.
CONSENT STATEMENT:

I, ______________________, hereby give my consent to participate in the research entitled, The Fair Chance Hiring Policy in Hospitality Industry. I have reviewed the above information and am aware of the potential risks of fatigue.

The researcher has permission to record the interview as a reference for analysis purposes. _____Initial

I fully understand that I may withdraw from this research project at any time without prejudice. I also understand that I am free to ask questions about the study at any time.

Finally, I understand that information obtained about me during the course of the study will be kept confidential. None of the information I provide can be connected directly to me.

_________________________________ ____________________________
Participant’s signature (18+ years of age) Date

I hereby certify that I have given an explanation to the above individual of the contemplated study and its risks and potential complications.

_________________________________ ____________________________
Principal Investigator Date
APPENDIX C

Interview Protocol for Informants

Introduction:

Hello. Thank you for participating in this interview. My name is My Nguyen. I’ll be leading you through this session today. Before you begin, I have some information and I am going to read it to make sure that I cover everything. To provide an overview, I am collecting information to incorporate into my research which focused on the impact of The Fair Chance Act on ex-offenders on getting hired after the preliminary job interview and conditional offer. There is no right or wrong answer to the questions. I am interested in hearing your opinions and personal experiences which will help me to understand further the employers and recruiters’ perspective on The Fair Chance Act. This interview today should take about 30 to 45 minutes.

All of your answers are confidential. No one outside this conversation will know what you, in particular, said because your name will not be associated with your responses.

The conversation will be audio recorded so that I can listen to it and transcribe it later. The recording will be kept safely until it is transcribed word for word, then it will be deleted. The transcribed notes of the interview will contain no information that would allow individual subjects to be linked to specific statements. Please understand that your participation is voluntary, and you are free to stop participating at any time.
Interview questions:

Questions for the description of the sample:

1. What is your current job title?
2. How many years have you been employed in the current position?
3. How many years have you worked in the hospitality industry?

This study is about the real impact of the Fair Chance Hiring Policy in the hospitality industry’s current hiring practices in California, and also the role of criminal background in the employer’s hiring decision. I would like to ask you some questions regarding this topic to learn the employer’s perspective:

4. Can you describe the typical hiring process in your organization?
5. What is your perception of hiring an employee with a criminal record?
6. Does your company have any guidelines or policies regarding a potential candidate with a criminal record? If yes, please provide some examples.
7. Can you tell me about your experiences or knowledge regarding the Fair Chance Hiring Policy, also known as the Fair Chance Act in California? (If an informant is not familiar with FCA, provide this description about this FCA: Fair Chance Hiring (FCH) Policy, also known as The Fair Chance Act (FCA) (California), was created to bring hopes and opportunities for ex-offenders. FCH's main goal is to remove the initial knowledge of job applicants' criminal records, ensuring a fair recruitment process in which the potential employers focus on their qualifications. FCA does not prevent employers from finding out about the applicants' criminal records. Instead, FCA delays such a process until an interview is completed or a conditional offer is made.)
8. Have you ever hired an employee with a criminal record before and/or after the Fair Chance Act passed?
   - If yes, how do you evaluate their performance in general?
   - If not, for what reasons?

9. What are The Fair Chance Act's effects in helping you hire the qualified candidates?

10. How does the Fair Chance Act affect your company's hiring practice?
    - Your pre-hiring preparation?
    - During the hiring process?
    - After the employees got hired (e.g., retention rate, turnover rate, etc.)?

11. What changes have your company made in terms of hiring and selection since the Fair Chance Act became effective?

12. Is there anything else that you would like to share or add on this topic?

**Conclusions:**

Before we wrap things up, are there any last comments you have regarding this area of research?

Thank you for your participation. Your insights are very crucial to my research. Please do not hesitate to e-mail should you think of additional areas that I should include or if you have any questions.