White Paper

Employers' Use of Credit Reports in Hiring: What Are the Disparate Impacts on the Economically Vulnerable and How Can They Be Addressed?

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by Allison Freeman, Mathieu Despard, Barbara Kiviat,
Jennifer Fox, and Carly Hoffmann
UNC Center for Community Capital

Principal Contact: Allison Freeman
UNC Center for Community Capital
1700 Martin Luther King Jr. Blvd., Suite 129
Chapel Hill, NC 27599
allison_freeman@email.unc.edu
(919) 843-7291

UNC | COLLEGE OF ARTS AND SCIENCES
Center for Community Capital

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The Center for Community Capital is a non-partisan, multi-disciplinary research center housed within the University of North Carolina at Chapel Hill and is a leading center for research and policy analysis on the power of capital to transform households and communities in the United States. It is part of the University of North Carolina at Chapel Hill's College of Arts and Sciences. The center's in-depth analyses help policymakers, advocates, and the private sector build and amplify knowledge concerning economic inclusion and opportunity in order to improve markets, public policies, and community development practice.

INTRODUCTION

Research indicates that nearly half of employers check an applicant's credit history when hiring (SHRM, 2012). This indicator raises a number of equity and fairness issues, including job applicants' rights to privacy (Desmond, 2010; Nielsen and Kuhn, 2009), the extent to which employers receive useful information from credit reports, since they might contain errors (Avery, Calem, and Canner, 2004; FTC, 2012), and the potential for disparate impacts along lines of income, race, ethnicity, gender, physical ability, and age (Morris and Goodman, 2015; Desmond, 2010; Traub, 2013; Bernerth, 2012). Of particular concern is the effect that employment credit checks might be having on lower-income people's economic mobility: lower-income people are more likely than higher-income people to have issues with their credit histories, and this could affect their access to jobs; yet without access to jobs, lower-income people's financial well-being – including their credit – will only worsen. In this way, employment credit checks might create a vicious circle that inhibits lower-income people's ability to improve their financial well-being.

While employment credit checks are not set up to discriminate against lower-income people, the systematic differences in lower-income people's credit histories might lead employment credit checks to have a disparate impact on lower-income people's access to employment. To investigate the use of credit checks in employment hiring decisions, and in particular the potential effect on lower-income job applicants, the UNC Center for Community Capital (CCC) partnered with the W. K. Kellogg Foundation to undertake research into these matters. The focus of the research was on the following question:

> Does the use of credit checks negatively affect lower-income job applicants, and if so, what policies and practices can mitigate this impact?

The goal of the project was to provide an enhanced understanding of the use of credit reports in hiring decisions and to probe and document current strategies used around the country to minimize disparate impact on lower-income job seekers. The insights gleaned from this effort are presented here, in the following sections:

- **Literature review:** A review of academic articles and non-academic reports, publications, and articles related to the following:
    - What credit checks are and how they are used by employers.
    - How credit reports are used in hiring decisions, specifically.
    - How credit status relates to work performance.
    - The disparate impact of the use of credit reports in hiring decisions.
- **Methods:** An explanation of the methods used in gathering and analyzing data for this report.
- **Findings:** A presentation of findings from our analysis of interview and consumer complaint data, and a national scan of notable initiatives that specifically address client credit reports.
- **Implications:** A presentation of the implications that follow from the findings.

LITERATURE REVIEW

The central concern of this paper is to provide an enhanced understanding of the use of credit reports in hiring processes, with a particular focus on the disparate impact of credit checks on lower-income job seekers. This literature review provides the background necessary for investigating this issue.

The Mechanics of Credit Checks: What Are Credit Checks and How Are They Used by Potential and Current Employers?

An employment credit check involves pulling an applicant or employee's credit report and using the information found there to inform an employment decision. The Fair Credit Reporting Act (FCRA) permits employers to request credit reports on both applicants and employees; the resulting information can be used in decisions around hiring, retaining, or promoting an employee. As of February 2018, the use of credit checks in employment processes is legal under federal law, though the following eleven states restrict their use: California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont, and Washington (Employment Screening Resources, 2018). New York City and Chicago have also restricted credit checks (Traub and McElwee, 2016); Washington, DC restricts their use as well.

As described by Desmond (2010), consumer credit reports contain three main sections. The header section includes basic identifying information – name, address, date of birth, social security number, spouse's name, and job history. The second section includes details about one's credit history; details vary depending on "a persons' age, income, credit choices, payment history, financial and medical history, and circumstances." (p. 908) Credit histories are quite detailed: they show, "the amount and type of debt a person has, including mortgages, student loans, medical debt, and credit card debt. [They] also show a person's payment history by month for the past seven years, including both on time and late payments. Serious payment delinquencies, such as accounts transferred to collection agencies, are also recorded." (pp. 908-9). The third section of a credit report shows public records connected to that person; records can include any bankruptcies, liens, or legal filings (such as judgments or divorces). How do employers get access to credit reports? Employers can purchase reports from companies that offer employment background checks – which can also include criminal record checks and the provision of other public data (CFPB, 2016). The credit section of a background check is usually supplied by one of three consumer reporting agencies (CRAs): Equifax, Experian, and Transunion. Credit scores – the three-digit number that is meant to be a distillation of one's creditworthiness – are not typically provided to employers (Traub, 2013).

Employment credit checks are used by employers in several employment practices, including hiring, promoting, and retaining employees. The employment credit check process works as follows. First, employers must obtain written permission from current or potential employees to obtain and review their credit report. Once they have considered the report, employers are required to notify individuals before taking adverse action based on the report; adverse action would include failing to hire, promote, or retain an employee. At the time of notification, employers must offer a copy of the credit report to the current or potential employee and must provide a written summary of the consumer's rights when they do so. Current/potential employees then have, typically, three to five business days to identify and dispute any errors in their report. Following this, employers may take action based on the report; they must let the applicant/employee know when they have done so (Traub, 2013).

As mentioned above, the Fair Credit Reporting Act, which was enacted in 1970 and is enforced by the Federal Trade Commission (FTC), regulates the use of credit reports in employment processes.[1] There have been several attempts to amend this act via the Equal Employment for All Act, which was introduced in 2009, 2011, and 2013 by Steve Cohen (D, TN), and again in 2015 by Elizabeth Warren (D, MA). The 2015 version of the bill was summarized as "a bill to amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions." More specifically, the bill attempted to "prohibit a current or prospective employer from using a consumer report or an investigative consumer report, or from causing one to be procured, for either employment purposes or for making an adverse action, if the report contains information that bears upon the consumer's creditworthiness, credit standing, or credit capacity. [It makes] exceptions to such prohibition when: (1) the consumer applies for, or currently holds, employment that requires a national security clearance; or (2) a consumer report is otherwise required by law." (US Congress, 2015) Despite being proposed four times, the Equal Employment for All Act has never been enacted.

Desmond (2010) summarizes the benefits to employers of using credit reports as:

- an inexpensive way to confirm basic application information, like name, address, etc.
- an easy way to assess candidates based on a range of factors that are important to employers and that might not be visible on a resume or an application.
- a way to avoid liability by preventing the hiring of untrustworthy employees.

However, Desmond (2010) provides a much longer list of the problems to consumers of employers using credit reports, including:

- The Fair Credit Reporting Act's broad definition of the "employment purposes" for which a report might be used allows almost unlimited access to credit reports. The use of reports for hiring, promotion, reassignment, or retention, "leaves employers free to use credit reports for any employee, at any time…[and this] essentially allows employers to conduct a form of financial surveillance on their employees." (p. 911)

[1] According to the Federal Trade Commission (n.d.), while "the Dodd-Frank Act transferred to the Consumer Financial Protection Bureau most of the rulemaking responsibilities added to this Act by the Fair and Accurate Credit Transactions Act and the Credit CARD Act…the [Federal Trade] Commission retains all its enforcement authority."

- Credit reports reveal information that is "intimate but incomplete" and this allows employers to draw misleading conclusions.
- Credit report inaccuracies make reports unreliable. (In fact, the FTC (2012) reports that over a quarter (26%) of consumers said there were errors in their credit report.)
- Finally, the use of credit reports in employment processes might have a "disparate impact" on certain groups of applicants and employees. Disparate impact results when a seemingly neutral policy that is evenly applied across groups nevertheless results in a differential outcome for one or more groups.

Having looked at the mechanics of credit checks in employment processes, this literature review now moves on to a consideration of the use of credit reports in hiring decisions.

The Use of Credit Reports in Hiring Decisions

An overview of the use of credit reports in hiring decisions is provided here from two perspectives: that of the employer and that of the potential employee.

Employers who use credit reports in hiring decisions do so with the expectation that credit data will reveal important information that may predict a job applicant's future performance and/or mitigate legal risk concerning negligent hiring (Desmond, 2010; Gallagher, 2005; Kiviat, 2017). One of the few sources for information on the use of credit checks by employers is the Society for Human Resource Management (SHRM, 2012). Between 2011 and 2012, SHRM surveyed 544 randomly-selected human resources professionals who are members of the society. The results of this survey revealed the following about employers' reliance on credit reports in hiring processes:

- 13% of organizations conduct credit checks on *all* job candidates.
- 34% of organizations conduct credit checks on *select* job applicants. Of these organizations,
    - 87% conduct credit checks on applicants for positions with financial responsibility.
    - 42% conduct credit checks on applicants for senior executive positions.
    - 34% conduct credit checks on applicants for positions with access to highly confidential employee information.
- 53% of organizations *do not use* credit background checks in hiring processes.
- The share of organizations conducting credit checks (for some or all candidates) has fallen over time, from 60% in 2010 to 47% in the 2011-12 survey.
- 45% of larger organizations (2,500 to 24,999 employees) conducted credit checks on select employees, compared to only 25% of smaller organizations (100 to 499 employees).
- As concerns timing of the check, the majority of organizations using credit checks conduct the check after a contingent job offer (58%), some conduct the credit check after a job interview (33%), and a very small share of organizations conduct the check before a job interview (2%).
- The top stated reasons for conducting credit checks were
    - To reduce/prevent theft/embezzlement (45%).

    - To reduce legal liability for negligent hiring (22%).
    - To assess overall trustworthiness of the job applicant (19%).
- 80% of organizations reported hiring an applicant whose credit check revealed problems.
- 64% of organizations give applicants the opportunity to explain the results of their consumer report that might have an adverse effect on an employment decision *before* the decision to hire was made, while 28% reported allowing candidates to explain these results *after* the decision to hire (or not) was made.
- Regardless of the type of job on offer, if a check reveals negative information on an applicant's credit history, the type of credit problem that is most likely to affect the decision not to extend a job offer was having an account in debt collection; this was followed by having a current outstanding judgment.

While other selection criteria, like skills tests, allow applicants to demonstrate competencies, credit checks arguably do not (Nielsen & Kuhn, 2009). Kiviat (2017) finds that for most jobs, hiring professionals do not take credit reports as an indication of competence, but rather as a marker of moral character. Employers broadly assume that people who cannot be trusted to repay loans also cannot be trusted at work. That said, most hiring professionals believe that in some circumstances people fail to pay their debts even though they do have good moral character. Employers, therefore, often make exceptions for candidates who can tell a convincing story about why their bad credit is not their fault, but is instead the result of some unfortunate situation, such as job loss, divorce, or illness (Kiviat, 2017).

The job applicants' perspective on the use of credit checks in hiring processes is offered in Demos's analysis of the 2012 National Survey on Credit Card Debt in Low- and Middle-Income [LMI] Households, a nationally representative survey of 997 LMI American households who carry credit card debt (Traub, 2013). Analysis of these data reveals that:

- 14% of respondents remember being asked by an employer/prospective employer to allow a credit check.
- 25% of unemployed respondents say they have been asked to allow a check credit as part of the application process.
- 10% of unemployed respondents were told they would not be hired because of information in their credit report.
- 14% of applicants with poor credit were told they were not being hired because of information in their credit check.
- 12% of respondents with poor credit cite errors in their credit report as the reason for their poor credit.

On this last point – i.e. the inaccuracies of credit reports – a Federal Trade Commission study of credit reporting errors found that 26% of those surveyed had an error in their credit report from at least one of the three major credit-reporting agencies. Of the 206 consumers who had a modification to at least one of their inaccurate reports following a dispute process, 63% "experienced a change in their credit score as a result of these modifications" (FTC, 2012).

Is Employee Credit Status Related to Work Performance and Behavior?

Employers review applicants' credit histories in an attempt to predict job performance, particularly to mitigate risk concerning embezzlement and breaches of confidentiality. Thus, it is important to consider evidence from studies concerning the relationship between employees' credit status and their performance and behavior in the workplace. Should such a connection exist, it could be argued that credit checks during hiring constitute a viable applicant screening strategy.

Existing research provides only weak evidence that such connections exist. Bryan and Palmer (2012) studied a randomly selected sample of 178 employees at a financial services firm and found that credit report data was unrelated to termination decisions or job performance assessments. Weaver (2015) used nationally representative panel data and found no link between productivity and credit outcomes, for example being rejected for credit or paying a mortgage late. Bernerth et al. (2012) studied a self-selected, non-random sample of university employees, alumni, and students and found no correlation between supervisors' reports of bad workplace behavior and credit scores; they did, however, find a relationship between credit scores and supervisor assessments of "organizational citizenship," like helping co-workers, and task performance. Oppler et al. (2008) used a random sample of workers at a government agency and found a correlation between employee reports about whether they had any loan delinquencies or bankruptcies and "counterproductive work behaviors," such as failure to pay debts, credit card misuse, and theft; however, as Kiviat (2017) has noted, "it is difficult…to know what to make of this correlation, since certain independent and dependent variables are so similar (e.g. loan delinquency is an explanation while failure to pay debts is an outcome), and the authors note a surprisingly high rate of counterproductive work behaviors, casting doubt on generalizability." (p. 7)

Some studies have found that employees' personal financial problems adversely affect absenteeism and performance (Bagwell and Kim, 2003; Consumer Financial Protection Bureau, 2014). According to a national, random sample survey of human resource managers (*n* = 419), over a third said employees had missed work due to a financial emergency, over half reported that employees had asked for pay advances, and 13% said employees had been terminated due to personal financial issues during the prior year (Society for Human Resource Management, 2014). Younger employees may be more negatively affected than older employees: over a third of Generation Y employees[2] said they took unplanned time off from work to address a financial issue and/or spent more time at work than they should thinking about personal financial issues (MetLife, 2012).

The above findings underlie the emerging interest among companies in offering financial wellness programs and services to employees (Hannon et al., 2017). Interest in employee financial wellness suggests a tacit acknowledgement among companies that financial problems are present in the

[2] Generation Y consists of those born in the 1980s and 1990s.

workplace to such a degree that credit checks may constitute a blunt screening strategy. In other words, as personal financial stress – including credit problems – rises in the general population (American Psychological Association, 2015), credit checks are less likely to distinguish candidates. This may be especially true of LMI job applicants, as credit status and income are strongly correlated.

Disparate Impact and the Use of Credit Reports in Hiring Decisions

> *Advocates of algorithmic techniques…argue that these techniques eliminate human biases from the decision-making process. But an algorithm is only as good as the data it works with. Data is frequently imperfect in ways that allow these algorithms to inherit the prejudices of prior decision makers. In other cases, data may simply reflect the widespread biases that persist in society at large. In still others, data mining can discover surprisingly useful regularities that are really just preexisting patterns of exclusion and inequality. Unthinking reliance on data mining can deny historically disadvantaged and vulnerable groups full participation in society. (Barocas and Selbst, 2016, p. 671)*

The reliance on credit reports as a screening technique in hiring processes is seemingly neutral on its face, as long as the practice is applied uniformly across job applicants. However, even ostensibly neutral policies that are applied evenly across groups can result in a differential outcome for one or more groups; in this case they are said to have "disparate impact," which is a form of discrimination.

According to the Equal Employment Opportunity Commission (EEOC, n.d.(b)), discrimination does not only occur when there are overt biases in the hiring and promotion of members of protected classes[3] (i.e. disparate treatment). Discrimination also occurs "when neutral policies or practices [have] a disproportionate, adverse impact on any protected class, usually minorities or women," an outcome known as disparate impact.

In 1966, the EEOC issued Guidelines on Employment Testing Procedures, the "first public articulation of the principle that Title VII [of the Civil Rights Act of 1964] prohibited neutral policies and practices that adversely affected members of protected groups and could not be justified by business necessity." (EEOC, n.d.(b)) The Supreme Court adopted this position in its 1971 decision, Griggs v. Duke Power Co., which "invalidated an employer's requirement that applicants have a high school diploma and/or pass aptitude tests for hire and transfer into more desirable departments," a requirement that had restricted black employees' access to jobs (EEOC, n.d.(b)). In the Griggs v. Duke Power Co. decision, the Supreme Court stated, "The Act proscribes not only overt discrimination but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is

[3] According to the US Equal Employment Opportunity Commission (n.d.(a)), federal law makes it "illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information."

prohibited." (United States Supreme Court, 1971) According to the EEOC (n.d.(b)), "this basic definition of discrimination, further elaborated in later court decisions, paved the way for EEOC to challenge many seemingly neutral employment practices that operated to restrict the advancement of minorities and women."

Does the use of credit reports in employment hiring processes result in disparate impact? Unfortunately, an understanding of the discriminatory effects of the use of credit report data in credit, housing, and labor markets is limited, because race and ethnicity are not included in credit records of credit reporting agencies (Avery, Brevoort, and Canner, 2009). Nonetheless, the use of credit reports in hiring decisions may impact population segments differently. Groups such as racial minorities, who have lower average credit scores compared to whites, may be less likely to be hired for jobs requiring a credit check, thus perpetuating and exacerbating their economic disadvantages (Desmond, 2010; Traub, 2013). Bernerth (2012) found that minority status was strongly correlated with lower credit scores, concluding "the use of credit scores as a selection tool may result in severe adverse impact against a protected class of applicants." (p. 244)

A look at credit profiles across groups suggests that there is a possibility for systematically different outcomes when credit reports are used in employment screening processes. Only 40% of African-American and 53% of Latino adult respondents to the 2015 National Financial Capability Study (NFCS) rated their credit as good or very good, compared to 65% of white respondents (FINRA Investor Education Foundation, 2016). Looking at credit scores specifically, these were lower among African-Americans and Latinos, among single individuals, among individuals under the age of 30, and among individuals living in predominantly low-income and racial minority census tracts.[4]

Many structural factors help explain lower credit scores among African-Americans and Latinos. Lower incomes and assets compared to white households make it more likely African-American and Latino households will run into difficulty repaying loans and credit card balances. Inequities in housing, health care, and other markets also help explain the relationship between race/ethnicity and credit status. For example, African-Americans and Latinos were more likely to receive higher-priced subprime mortgages (Ding, Ratcliffe, Stegman, & Quercia, 2008), which led to greater loan defaults and foreclosures (Ding, Quercia, & Ratcliffe, 2010; Reid, Bocian, Li, & Quercia, 2017), and these greatly damaged credit files. In their analysis of various issues related to credit scoring, Avery, Brevoort, and Canner (2009) found that over a third (36%) of African-Americans had at least one serious credit delinquency, while the same was true of only 14% of whites. They also found that more than a third (35%) of African-Americans had medical collections compared to 15% of whites (Avery, Brevoort, and Canner, 2009).

African-Americans and Latinos are also more likely to be credit invisible – to have no credit history or too thin a credit file to be scored – partly because they are more likely to borrow from lenders that do not report payment history to mainstream credit bureaus (Brevoort, Grimm, & Kambara, 2016). A lack of a

[4] Group differences in credit scores were smaller but persistent, controlling for differences in other demographic characteristics, income, and geography.

credit history may affect background checks and disqualify a job candidate from further consideration: employers might receive credit reports without record of on-time payments (even if they exist), though the reports could still include negative events, such as bills in debt collection.

The use of credit reports in hiring may also have a disparate impact based on income status. Analysis of the 2015 National Financial Capability Study survey data reveals that less than half (46%) of respondents with income under $50,000 rated their credit as good or very good, compared to 78% of respondents with income $50,000 and above (FINRA Investor Education Foundation, 2016). Among those who said it is somewhat or very difficult to pay for household expenses, only 45% said their credit was good or very good compared to 82% of respondents who had no difficulty covering their expenses.[5] The strong association between income and credit status suggests that economic constraints – difficulty covering regular and irregular expenses with income – harms credit, since it makes it more likely LMI households will fall behind on bills and credit payments.

Credit checks affect those with poor credit, and people have poor credit for a number of reasons, including unemployment, low incomes, and high debt levels (including medical debt; in fact, Himmelstein et al. (2005) found that illness and injury are predictors of poor credit). As Traub and McElwee (2016) put it, these factors "tell very little about personal job performance, but rather reveal systemic injustice, individual bad luck, and the impact of a weak economy." (p. 4) On the topic of the economy's effect on credit histories, these same authors note that the Great Recession hit many Americans hard, and that the negative financial ramifications might show up on people's credit histories: the use of credit checks in employment hiring processes, and especially their use following a period of serious economic decline, "[is] unfair and discriminate[s] against the long-term unemployed and other disadvantaged groups, creating a barrier to upward mobility." (pp. 4-5)

Recent research suggests that laws restricting credit checks might have a positive effect on the likelihood of people with poor credit being hired. Friedberg, Hynes, and Pattison (2017) use Survey of Income and Program Participation (SIPP) data to evaluate "the success of [state-level] credit check bans in helping financially distressed individuals find employment." (p. 1) They find that credit check bans increase the likelihood of finding a job by 25% among those who have reported trouble meeting their expenses. Clifford and Shoag (2016) also find positive effects of credit check bans. Using data from Equifax, the Federal Reserve Bank of New York Consumer Credit Panel/Equifax, and the US Census's LEHD Origin-Destination Employment data set, they find that credit check bans are associated with employment gains in low credit score census tracts.

Having presented an overview of the literature concerning issues related to the use of credit reports in hiring decisions, we now turn to our own research, beginning with a description of the methods used to complete this study.

[5] Authors' calculations using 2015 National Financial Capability Study survey data (FINRA Investor Education Foundation, 2016).

METHODS

The central concern of this paper is to provide an enhanced understanding of the use of credit reports in hiring decisions and to probe and document current strategies used around the country to minimize the disparate impact of credit checks on lower-income job seekers. In undertaking our research, we used three main methods: semi-structured interviews with key informants, employers, and state legislators or legislative assistants; analysis of consumer complaint data from the Consumer Financial Protection Bureau, the Federal Trade Commission, and the Equal Employment Opportunity Commission; and a national scan of notable organizations that provide financial education, counseling, and loan products that specifically address client credit reports. Each of these methods is described here.

Semi-structured Interviews

To help answer the central question of this paper – whether the use of credit checks negatively affects lower-income job applicants, and if so, what policies and practices can mitigate this impact – we conducted 25 interviews with three types of stakeholders: key informants; employers; and legislators and/or legislative staff in states with credit-check restrictions.

Interviewees were selected using non-probability convenience sampling, starting with our contacting people we identified as having relevant knowledge, including individuals recommended by the W. K. Kellogg Foundation. To increase the sample, we undertook snowball sampling, wherein interviewees were asked to refer us to additional people we might interview. Recruitment took place using simple email introductions; for employers, a standard recruitment email was used. Our samples for each type of interviewee groups are as follows:

- *Key informants:* We interviewed 10 key informants, representing the following sectors: credit counseling (1), policy (3), think tank (2), academia (1), workforce development (2), and philanthropy (1).
- *Employers:* We interviewed 10 representatives of employers interested in employee financial wellness programs; these individuals were recruited by a partner research organization.[6]
- *State agencies:* We interviewed legislators or legislative staff in five of 11 states with laws restricting the use of credit checks in the hiring process.

All interviews followed set scripts that contained a list of open-ended interview questions. We chose this approach to make best use of each interviewee's expertise and knowledge: where appropriate, interviewers followed up with impromptu questions relevant to the particular interviewee's experience. A copy of the three survey instruments may be found in Appendix A (key informant), Appendix B (employer), and Appendix C (state agency).

[6] Employer interviews were conducted anonymously and information about characteristics of these employers is not available for this report.

All interviews were conducted by phone. Interviewers took extensive, typed notes during the interviews; where interviewees agreed, interviews were also recorded. Recordings were used to confirm the accuracy of interview notes and to draw verbatim quotes for use in this paper. The interview script was used as a guide to analyze transcripts and identify common themes. Interview quotes included in this paper are verbatim, though habits of speech like “you know” or “um” or “uh” have been removed. Similarly, repeated words or phrases have been removed while maintaining the speakers’ meaning and intent. Where longer strings of words have been removed to facilitate smoother conveyance of people’s thoughts, we have been careful to maintain the integrity of the speakers’ meaning; in these instances, ellipses have been inserted to signify the deletion.

Analysis of Consumer Complaint Data

In an effort to understand problems applicants encounter with employment credit checks, we searched consumer complaints held by the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission (FTC), and the Equal Employment Opportunity Commission (EEOC). The CFPB and FTC oversee the Fair Credit Reporting Act, and the EEOC accepts complaints about hiring practices. We describe here how we worked with each type of data.

- *CFPB data:* These data come the CFPB’s publicly accessible consumer complaints database. We filtered the database to pull only complaints with consumer narratives – i.e. written-out explanations of the specific concern. We conducted two searches of these data. In the first search, we only included complaints under the heading “Credit reporting, credit repair services, or other personal consumer reports,” and then the sub-heading “Credit reporting.” From there, we narrowed the search to the issue “Improper use of your report.” That returned nearly 9,000 complaints. We searched these complaints using four keywords: hiring, hire, employer, and job. In the second search, we included complaints that were tagged with two employer-related sub-codes: “Report shared with employer w/o consent” and “Report provided to employer without your written authorization.” We read through each of these complaints, but many had nothing to do with employment. When we combined the relevant complaints with the results of the first search, we identified 39 complaints in total.
- *FTC data:* The FTC data come from a Freedom of Information Act (FOIA) request we made. We asked for all complaints about “credit report users” from 2016. The FTC’s Consumer Sentinel Network Data Book shows that there were 207 such complaints in 2016: about a quarter of them touched on hiring, although many were about criminal background checks, and some only specified “background check,” which could be credit, criminal, or something else (e.g. driving record). We requested this category of complaint after speaking with an FTC staffer who said that complaints about how employers use credit reports should show up in this category, along with complaints about other users of credit reports (e.g. lenders, landlords).
- *EEOC data:* The EEOC collects consumer complaints related to hiring, but unfortunately there is no way to query for cases related to employment credit checks (or even background checks more broadly). Because of this, we chose to use an alternate source of data, and we searched

for lawsuits about employment credit checks. These are often brought by the EEOC and stem from complaints the agency receives. Using LexisNexis Academic, we searched all federal cases for the keywords “Equal Employment Opportunity Commission” and “credit report.” This returned 59 hits. We then narrowed the results to those in the category “Employment & Labor Law.” This returned 44 hits. We skimmed the 44 cases for relevance and saved 21 cases. These data give a sense of how employment credit checks are discussed in legal cases.

National Scan of Promising Interventions

The final method undertaken in order to provide an enhanced understanding of the use of credit reports in hiring decisions was a national scan of notable organizations that provide financial education, counseling, and loan products that specifically address client credit reports. To do this, we contacted organizations and initiatives that focus on improving the financial well-being of their clients.

FINDINGS

Findings are reported in three sections: interview findings (further broken into findings from key informants, employers, and state agencies); analysis of consumer complaints regarding employment credit checks; and a national scan of promising credit-related programs and services.

Interview Findings

Key Informants

Key informant interviews averaged 33 minutes in length. With some exceptions, interviewees had little to say about the use of credit checks in hiring practices.[7] This is an important finding: most interviewees were aware of the fact that this *might* be an important issue affecting the lives of lower-income job seekers, but their awareness was based on anecdotal evidence and intuition. As we will discuss in the implications section of this report, hard evidence around this issue is sorely lacking; data are needed to enable deeper research into this topic.

What did key informants have to say about issues related to employment credit checks?

Key informants mostly viewed the **use of credit reports in hiring as an obstacle to finding jobs**. Those working at higher levels (developing policy, for example) have either done research demonstrating that background checks negatively affect job seekers or have heard anecdotally that credit checks are acting as a barrier to those seeking employment. These interviewees expressed concern about the “systemic” effects of this practice. As one interviewee put it, “If we’re thinking about low-income communities,

[7] Some interviews lasted longer because individuals explained what their organization does around improving the financial well-being of lower-income people; where appropriate, this information was included in our national scan of promising initiatives.

communities of color, communities that face other kinds of systemic disadvantage, they're likely to have bad credit scores. So as they're trying to improve their economic standing, their negative economic standing catches them in the kind of classic Catch-22." Another interviewee concurred, expressing concern about the disparate impact of this practice; as this person put it, "We know there are a lot of structural [factors] that are built into our credit system that disproportionately impact people, specifically people of color, so any time you use a credit report to determine employment, you're going to disproportionately hinder opportunities for people of color." Those interviewees working with job seekers report from direct experience that the credit check process is an obstacle to people's search for jobs and indicate that they don't see value in employment credit checks. As one interviewee put it, "It seems to be invasive and unnecessary…I can't see how it's related to the job…. I think there's other ways of determining the character of a person." Another interviewee concurred, asking, "If there's no relationship between someone's financial well-being and whether or not they're able and capable of working, then what is the point if it's going to potentially eliminate an otherwise really great candidate?"

Key informant interviewees were **less knowledgeable about the use of credit checks in employee retention and promotion decisions**: several stated outright that they had never heard of this practice, that they were only aware of credit checks being used during hiring processes.

When asked about trends in the share of employers using credit reports in hiring practices, interviewees were somewhat vague in their responses: one person commented that credit report use "probably varies," and that state-level laws restricting credit report use would be partly accountable for any variation. Interviewees were **more likely to comment on regional variations than they were to comment on employer-level variations** in the use of credit reports. One interviewee commented that the use of credit reports hasn't become "normalized…in our region" and another commented on the labor market being so tight in their area of the country that they found "employers are loosening some constraints to hiring…. Credit reporting is an easier one for them to give up than background checks."

There was general agreement across interviewees about which subgroups are most affected by credit checks in hiring practices: almost all interviewees stated that **low-income and minority people are the most likely to be negatively affected by this practice**. Some interviewees added that the use of credit checks negatively affects applicants who haven't worked in several years. This is an especially pressing concern given the recent economic crisis; as one interviewee commented, "Coming out of the recession, where we had the foreclosure crisis…[and] a predatory lending crisis that started first…you have a large portion of people who have credit that is severely damaged. I mean, a mortgage foreclosure damages your credit for years and years and years…[and] people of color and people with low income [were] disproportionately impacted."

Interviewees concurred that there might be situations in which the use of credit reports as an employment screening tool is appropriate, for example, when hiring for a financial services position involving handling money and managing accounts. However, **even those who think there might be beneficial uses of credit checks express concern about the disparate impact** of this practice given systemic differences in access to and use of credit. As one interviewee commented, “Because of the systems in our country where certain people don’t have access to credit, or affordable credit, or affordable banking products and services in general, there’s a number of people in our country, and they tend to be low-income or minorities, that are kind of set up for failure. And they’re going to be struggling financially, and that’s going to show up in their credit report. Does that mean that they’re not good employees? Of course not…. Low-income consumers and people of color do not have the same mechanisms for accessing affordable credit that many of us do. A lot of times, the way that they do…enter the credit system [is] with collections, versus people who are higher income and who are white, who tend to enter the credit system when their parents make them a co-borrower, like, they cosign a loan or they make them an authorized user on a credit account.”

Interestingly, interviewees expressed **skepticism about just how knowledgeable employers and workforce development agencies are about the Fair Credit Reporting Act** and the need to comply with it as they check potential employees’ credit: as one interviewee put it, “I would question whether or not employers know that under the law they are required to do that [i.e. inform job applicants that a hiring decision was based on a credit report].” (Our interviews with employers suggested they are both aware of and thoughtful about credit report checks; these findings will be discussed in the next subsection.) Another interviewee told us that workforce development agencies are similarly confused about this issue; in this person’s experience, “unfortunately, workforce organizations themselves frequently don’t know what the laws are and what companies should be doing. I’ve definitely seen that.”

When asked about the issue of integrating credit analysis and repair into practices of employers, workforce development agencies, and community-based employment and training programs, interviewees raised several key issues. One interviewee felt that organizations were **more likely to integrate credit analysis and repair when organizational staff reflected the population being served**. For example, agencies dedicated to hiring lower-income people in order to undertake community-based employment/training work are more likely to offer credit analysis and repair opportunities to their own staff. Another interviewee commented that most employers have only HR departments, and **HR departments are inadequate for addressing credit analysis and repair**; as this person put it, “human resources is really just there to enforce the employee manual.” **Funding is a key issue** inhibiting the integration of credit analysis and repair into community-based agencies and workforce development agencies; as one interview sees it, “It’s the same problem that we always have: we ask more and fund less.” Finally, one interviewee commented that **credit repair is outside the expertise of many workforce development agencies** – either due to institutional history, an unwillingness to probe into this sensitive area, or a lack of funding with which to begin to address this problem.

Finally, interviewees expressed **mixed feelings about the use of alternative data**[8] in credit scores as a potential solution to addressing the issues arising from using credit reports in hiring practices. Even those who thought this might be good idea either thought it was unlikely to happen in practice or

[8] Such as utility and cell phone service payments, which are not typically included in credit scores.

thought that it didn't really address the underlying issue of systematic differences in credit histories across groups.

Employers

We spoke with 10 employers concerning the use of employment credit checks. Nine out of 10 interviewees reported that they do *not* check credit reports on potential employees. This finding is unsurprising, as these employers had expressed an interest in employee financial wellness programs and were likely sensitized to the problem of credit checks as a barrier to employment. However, their answers about the use of credit reports – and especially on why they choose not to use them – are informative, and we provide an overview of employers' views on credit checks here.

The only employer-interviewee who reported that their organization uses credit report checks in the hiring process said they do so because they are "a financial organization." (Another organization reported having job applicants sign an agreement to have a credit check run, though the organization does not in fact check job applicants' credit.) The employer who reported checking applicants credit applies this policy uniformly, to applicants for every position, and they run the credit check at the same time they run the entire background check, just before an offer of employment. When asked what they are trying to achieve through use of a credit check, the interviewee stated, "If somebody has good credit or does not have…a significant issue on file, it probably means that they are good with…managing their own money and would be trusted to be in an environment where we manage other people's money." When asked how often their financial organization hires people with credit problems, this interviewee couldn't say for certain, but replied that this happens, "Probably not very often."

As for the employers who do not use credit checks in the hiring process, there are a number of reasons they choose not to do so.

One reason businesses elect not to run employee credit checks has to do with **organizational culture**: a number of employer-interviewees reported not running credit checks – even after internal discussions about doing so – because this is just not what their organization does. Interviewees could be somewhat emphatic on this point: as one interviewee put it, running credit checks "is not something that's ever been on our radar or discussed in any way, shape, or form." Of the nine employers who reported not running employment credit checks, eight reported that their organizations had never done so. According to an employer who ran credit checks in the past but who no longer does so, the reason for the shift has to do with issues of practicality ("there's a labor shortage, it's hard to find good people…") and fairness ("there's too many folks out there with blemishes on their credit record and they made some mistakes in the past and our company believes in redemption…").

This second factor – **fairness** – was raised by a number of employer-interviewees as they discussed why they didn't run employment credit checks. One employer emphasized that they didn't run credit checks because they didn't want to single out only some individuals as needing their credit checked; for this person, refusing to use credit checks was a matter of organizational fairness. As this person told us, “We’ve definitely looked into the benefits of looking into credit reports in terms of finding out [about] liens or bankruptcies or late fees that can have an impact on a candidate’s success, however, we’ve taken the stance to leave the financial history of the candidate out of the review process…. Unless we were going to do it for all candidates, we didn’t want to single out one way or the other…. We were kind of all in, or we weren’t going to review them at all.” Another employer chose not to use credit checks because problems with credit are widespread; as this person explained, using credit checks “is unfair, because there’s…a lot of people with low credit scores….” Finally, an employer interviewee stated that checking someone’s credit is probing into information that is too personal, i.e. into information that is beyond the bounds of the workplace.

The employers who spoke about credit checks and fairness sometimes emphasized that **credit checks aren’t in fact a reliable indicator of a job applicant’s character or abilities**. As one employer explained, “We don’t feel it’s relevant to the job, to doing the job…. It doesn’t really, in our mind, relate directly to job performance.” Another employer concurred, stating, “Sometimes that credit report wasn’t a true indicator of who the applicant was. And there’s a lot of errors that are in those credit reports also.” A third employer told us, “We concentrate on what the applicant can do for our company, what type of asset this person could be to our company. We look at their job history, their employers, what sources [sic] they know – for example, computer software.” As another employer-interviewee sees it, some companies are so worried about hiring a bad person that they don’t “get an opportunity to measure the true character of a person, and the true character of a person is much more than their credit report.”

Overall, employer-interviewees emphasized that **resumes, interviews, reference checks, and other (non-credit related) background checks are sufficient** for them to judge a candidate’s value as a potential employee. From employer-interviewees, we heard comments like, “We look at a lot of other factors…resume…criminal background check. I don’t think for us somebody’s financial well-being is really a concern…like…something that we determine as something that we should consider” and “A lot of assumptions can be made based on one’s credit history or credit report that can lead to preference of a candidate with a better credit report. However, there’s been…in terms of the research, there’s nothing…that really aided employees or employers in hiring the correct candidate based on their credit history.” As one interviewee concluded, “We feel [using credit reports] would skew the applicants over a piece of information that isn’t necessarily relevant to the job performance, and it would reduce our pool of candidates. And the people that really need employment may not always have the best score. And we just feel that it is not relative to, as in relates back to, job performance.”

State Agencies

The final set of interviewees we spoke with about employment credit checks included legislators or legislative staff in five of the 11 states where laws are enforced related to credit report use in the hiring process. The states from which we interviewed public sector employees are Colorado, Connecticut, Maryland, Oregon, and California.

In all five interviews, **the Great Recession was identified as the main reason for these states enacting legislation** restricting the use of credit reports in employment decisions. The very first state to enact legislation was Hawaii in 2009, and the last state was Delaware in 2014.[9] State-level interviewees commented on the fact that many people were out of work at the time bills were introduced and that bad credit was a common problem for their constituents. As one interviewee explained, "A lot of people were out of work and had problems with overspending credit, and it seemed like bad economic policy to bar people who owed money from being able to get jobs to be able to pay them back."

All interviewees either directly stated that **using credit reports in employment decisions is bad policy**, and/or used narratives to depict that it is bad policy. The interviewees explained that there are too many circumstances when it comes to having bad credit for it to truly depict a person's character; furthermore, the characteristics that employers are looking for through the use of credit reports are highly subjective. As one interviewee told us, "Someone that just went through a messy divorce or has credit challenges is not necessarily reflective of whether they're going to be a good employee or not." Another interviewee stated, "You don't need to have good credit to be a bad person, and you don't need to have good credit to be a good person."

All interviews revealed that **the exemptions presented in their state's law make the law substantially less effective and in some cases completely unenforceable**. For example, one interviewee commented that an exemption included in their state's law caused the enforcing agency (The Department of Labor) to "decide that the law is unenforceable and unworkable." The interviews highlighted the need for legislators to compromise, yet noted that, when possible, it is critical to fight against any exemptions that will negatively affect protected populations. As one interviewee stated, "From my perspective, I think that any exemption is simply foolish. Again, if you believe that a person's worth is not boiled down to their credit score, then any exemption is simply foolish." Similar thoughts were echoed in all interviews. Interestingly, all interviewees pointed out that industries lobbied for exemptions.

Interviewees with state agents revealed that **the efficacy of the implemented laws is unknown because of a lack of data.** Interviewees were unable to confirm the efficacy of the law in their state because, while some anecdotes exist, nothing is statistically measured. Furthermore, while all states have a complaint-driven process, only one interviewee was able to provide the number of complaints related to the law since it was implemented. The lack of concrete information around employment credit checks hampers an understanding of their effect as well as the effectiveness of measures that restrict them.

Our investigation of state legislation around employment credit checks uncovered two additional findings that are relevant to this study. The first finding is that **current education efforts around existing legislation are unsuccessful.** While there are education efforts in all states, it is not all-inclusive, and in every state in which we conducted interviews, the onus is on the employer to know the law. This raises

[9] For point of reference, the states in which we conducted interviews are listed here along with the year that legislation in the state was enacted: California (2011), Colorado (2013), Connecticut (2011), Maryland (2011), and Oregon (2010).

the question of whether the states are doing enough to ensure compliance with their laws. The second finding concerns the likelihood of states enacting legislation in the first place: our research finds that **there is a strong association between the political composition of the state and the likelihood of the state having legislation.** States where Democrats hold the majority of seats in the State Senate and State House seem more likely to enact legislation to restrict the use of credit reports in employment decisions than states with a Republican majority. In fact, of the eleven states that have a law, all eleven had Democratic majorities at the time these laws were passed.[10] This has large implications as the current legislative composition of the United States is 32 Republican-majority, 13 Democratic-majority, and five split states.

Analysis of Consumer Complaints

In an effort to understand what problems people applying for jobs have with employment credit checks, we searched consumer complaints held by the Consumer Financial Protection Bureau (CFPB), the Federal Trade Commission (FTC), and the Equal Employment Opportunity Commission (EEOC). Here, we provide highlights from these data.

CFPB

A complaint that came up frequently in the CFPB data concerned the issue of potential (or current) employers running background checks without obtaining permission from the candidate (or employee). Three examples are provided here:

> *I applied for a bank position online. I got a call for an interview. I then received an email and letter stating the possible employer did a background/credit check. I did not give written consent. I did not give verbal permission either. I then get a call stating what they found on my credit they weren't going to proceed with the interview.*
>
> *I was contacted by A. B. Group[11] that they wanted to request a copy of my credit report for employment prior to an interview or employment offer. I informed [name] that I was not authorizing this and to remove my resume form [sic] the potential contenders for employment. On [date] my credit was requested by A. B. Group against my consent.*

[10] Through use of information from the National Conference of State Legislators (www.ncsl.org), we discovered that every state that passed restrictions on the use of employment credit reports had a Democratic majority at the time they passed the legislation. The following is the list of states that have passed such restrictions and they years in which they did so: California (2011); Colorado (2013); Connecticut (2011); Delaware (2014); Hawaii (2009); Illinois (2010); Maryland (2011); Nevada (2013); Oregon (2010); Vermont (2012); Washington (2007).

[11] It is our purpose to explore general issues around employment credit checks, not to highlight instances where individuals feel a specific employer has violated the law. For this reason, we have abbreviated any names included in the complaints data.

I applied for a job, interviewed, and days later, received a letter in the mail about that potential employer receiving information listed in my credit report without my consent or permission. When I reached out to the individual that interviewed me, I received no response so I presume I did not get the job based on the information contained in my report.

Additional issues reported in the CFPB data include:

- background check providers reporting information to companies that is more than seven years old, and in some case much older (e.g. 20 years old).
- background check providers reporting inaccurate information.
- credit bureaus/background check companies running employment credit checks even though the consumer is not applying for work.
- credit bureaus running checks for companies the complainant no longer works for.
- background check companies refusing to change an authorization to run credit checks.
- background check companies sending information disallowed under state law.
- consumers thinking that credit checks are the reason they are not being hired.
- consumers thinking that incorrect credit information is the reason they are not being hired.

As this list makes clear, the CFPB complaints are about both employers and firms that provide credit reports (credit bureaus and background check companies).

FTC

Many of the FTC complaints reflect direct violations of the Fair Credit Reporting Act. Unlike the CFPB data, these complaints focus overwhelmingly on employers, rather than credit bureaus or background check companies. Common complaints include:

- potential (or current) employer running a background check without obtaining permission from the candidate/employee.
- potential (or current) employer failing to hire (or choosing to fire) the candidate/employee because of a background check, but not sending the required adverse action notice.
- potential (or current) employer failing to hire (or choosing to fire) the candidate/employee because of a background check, but not explaining what in the report was problematic.
- potential (or current) employer failing to hire (or choosing to fire) the candidate/employee because of a background check, but not providing the candidate/employee with a copy of the background report, sometimes even after the candidate/employee asked for it.
- potential (or current) employer failing to hire (or choosing to fire) the candidate/employee because of incorrect information[12] from a background check.

[12] Sometimes the incorrect information included other people's infractions, and other times the entire report belonged to a different person. Some complaints specify that employers refused to reverse their decision, even after the incorrect information was brought to light.

- potential (or current) employers using background check information that is more than seven years old.

EEOC

As explained in the *Methods* section, we searched for lawsuits about employment credit checks; these are often brought by the EEOC and stem from particular complaints the agency receives. Some of the cases contain great details about how and why employers use credit reports: these details are often incidental to the arguments of the case, but they provide one source for understanding employer practices. What do these data reveal about employment credit checks?

Many of the cases we reviewed hinge on the claim that credit reports enable illegal discrimination, an area of focus for the EEOC, since it enforces Title VII of the Civil Rights Act. Some cases operate under the legal theory of disparate impact, that is, by using credit reports, employers inadvertently discriminate against protected classes in a way not justified by "business necessity." The EEOC has not been successful at winning such cases in recent years (e.g. EEOC v. Kaplan, EEOC v. Freeman). Other ways the cases claim racial or other discrimination is by alleging that credit checks are used for some but not all applicants (e.g. black ones, but not white ones), or that a bad credit report is only the stated, but not the actual, reason for denying employment. Some of these cases involve employment practices beyond hiring, such as current employees either not receiving promotions or being fired for the contents of their credit files (e.g. Freeman v. Atlantic Ref. & Marketing). Finally, some of these cases involve credit bureau mistakes, e.g. attributing information to the wrong person.

National Scan of Promising Interventions

This section provides an overview of notable organizations that provide financial education, counseling, and loan products that specifically address client credit reports. The organizations and initiatives highlighted here focus on improving the financial well-being of their clients. Through financial counseling and services to help clients build or repair credit, these organizations are also indirectly addressing some of the issues clients may face in pre-employment credit screenings. However, most organizations are not explicitly designing their programming around the issue of pre-employment credit screening.

<u>I. Non-profit organizations and programs</u>

A. Organizations that work directly with low- and moderate-income individuals and other non-profit service providers

Local Initiatives Support Corporation's Financial Opportunity Centers

The Local Initiatives Support Corporation (LISC) provides financial support and technical assistance to community organizations in 30 cities across the country to run Financial Opportunity Centers (FOCs).

FOCs offer integrated services around employment assistance, financial counseling, and assistance accessing public benefits, with the goal of improving low-income families' financial well-being (Roder, 2016).

The Economic Mobility Corporation (Mobility) evaluated five FOCs in Chicago from 2011 to 2012 and found that FOC participants were more likely to have positive activity on their credit reports compared to clients of Chicago's workforce centers. FOC participants who did not have credit scores at program entry were significantly more likely than their comparison group to have a credit score after two years. Mobility also found that program participants who engaged in both employment and financial counseling were significantly more likely than the comparison group to have a prime credit score after two years, underlining the importance of providing integrated services. However, for FOC participants overall, there was no significant impact on average credit scores or likelihood that they had a prime credit score two years after program entry, which speaks to the necessity of longer-term, integrated strategies for building credit (Roder, 2016).

The Twin Accounts Program

In addition to providing financial counseling and education, many FOCs offer the Twin Accounts program for those who have no credit or a subprime score. Participants in the Twin Accounts program are issued a twelve-month $300 loan with a 9% interest rate, which participants pay back in monthly installments of $26.24. LISC matches each monthly payment dollar-for-dollar if it is made on time, and LISC's CDFI partner Justine PETERSEN[13] reports the monthly payments to the major credit bureaus (Elliott and Roder, 2014).

LISC's 2017 evaluation of the Twin Accounts program revealed that the loan product, when paired with financial coaching, had a "large impact" on credit scores and credit building behavior. When compared with FOC clients who did not have access to the Twin Accounts program, participants in the program saw double the credit score gain of non-participants and increased their credit score by an average of 35 points. Notably, Twin Accounts participants also had higher six- and twelve-month employment retention rates, which may be attributed to client participation in other FOC services, including employment counseling (Rankin, 2017).

The Financial Clinic

Based in New York City, the Financial Clinic focuses on building financial security for low-income families through free tax preparation services and one-on-one financial coaching. Most of The Financial Clinic's clients are referred through partner community-based organizations and 311 call referrals. Coaches at The Financial Clinic work with clients to reduce financial transaction costs, pay down debts, and review and monitor client credit reports. A 2014 Urban Institute evaluation of The Financial Clinic's financial coaching model found that clients saw an average 33-point increase in their credit score over a year-

[13] This is the name of the CDFI. See http://www.justinepetersen.org/

long period, and that coaches worked with clients to address common issues like removing false items from credit reports (Theodos et al., 2015).

Credit Builders Alliance

Credit Builders Alliance (CBA) works directly with over 450 non-profits, including CDFIs, credit unions, and integrated service organizations like LISC FOCs. CBA provides the ability for partners to report loan data to the major credit report agencies, to pull client credit reports so as to provide financial counseling, and also offers credit building trainings and tools (Credit Builders Alliance, n.d.(a)).

According to organizations that use CBA's Reporter service to report client payment data to the major credit bureaus, those organizations saw increased on-time payments from clients and improvements in clients' credit scores after using the service (Credit Builders Alliance, 2016(a)). One example of a CDFI that uses CBA's Reporter tool is the Oregon-based Innovative Change$, which provides credit builder loans and an Opportunity Loan to help low-income borrowers deal with financial emergencies and pay down high-cost debt. The Opportunity Loan is available to borrowers who have been referred from community partners and requires participation in a loan orientation where borrowers learn about cash flow planning and budgeting (Credit Builders Alliance, n.d.(b)).

Some organizations use both CBA's Reporter service and its Access tool, which allows organizations to pull client credit reports. For example, AHC Greater Baltimore is an affordable-housing provider that also offers financial counseling services for residents. In a testimony shared on Credit Builders Alliance's website, a Resident Services Manager at AHC Greater Baltimore shared how the resident services team was able to assist a victim of identity theft by pulling her credit report and identifying and removing fraudulent debt. Once the resident's fraudulent debt was removed, her credit score improved and she was able to pay less in car insurance and thereby save money. This resident has also seen improvements in her credit score through AHC Baltimore's reporting of her rent payments to the Experian credit bureau in partnership with CBA (Parker, n.d.).

CHN Housing Partners

CHN Housing Partners, formerly the Cleveland Housing Network, is an example of an organization that successfully integrates housing, financial empowerment, and workforce development services. CHN began as an affordable housing provider for low-income families in Cleveland, and now operates a community resource center where tenants can meet one-on-one with counselors.

CHN's flagship Lease Purchase program offers affordable homeownership opportunities to low-income renters. Through the Family Success Initiative, tenants are switched to six-month leases in the five years prior to purchasing a home; at each lease renewal, tenants meet individually with coaches to provide workforce development and financial counseling services and to prepare for homeownership. From January 2014 to June 2017, 50% of CHN clients participating in the Family Success Initiative who met with coaches more than twice were able to access mainstream financial products, and 52% improved their credit scores or were scored for the first time. Just under half of clients reduced derogatory debt by an average of $4,600 (CHN Housing Partners, 2017).

CHN also participates in a pilot program run by Credit Builders Alliance, where the organization reports tenant rent payments to the Experian RentBureau (Experian is the first major credit bureau to accept rent payment reports). In evaluating the pilot program, which seven other affordable housing providers participated in, Credit Builders Alliance found that all unscored tenants became scored after participating, and 79% of scored participants saw an increase in their credit score. Rental payments appear as a new trade line on tenants' credit reports, and the payments are reported whether they are on-time or not, underscoring the importance of pairing financial education and counseling with a rent reporting program (Credit Builders Alliance, 2016(b)).

Urban Upbound and the Urban Upbound Federal Credit Union

Urban Upbound is a direct-service organization based in New York City with the mission of breaking cycles of poverty in public housing neighborhoods. The organization provides financial counseling, workforce development, and college access services to public housing residents, and it also offers banking services and affordable financial products through the Urban Upbound Federal Credit Union (Urban Upbound, 2017). Urban Upbound's financial counseling program is integrated into the organization's other services and includes one-on-one and group sessions. Urban Upbound's financial counseling clients are also referred to the organization's credit union for financial products that include credit-building loans (Urban Upbound, n.d.(a); Urban Upbound, n.d.(b)).

The Urban Upbound Federal Credit Union is also participating in a pilot program with the New York City Housing Authority, similar to CHN's partnership with Credit Builders Alliance, to pair rent reporting to the major credit bureaus with financial counseling and credit-building products offered by Urban Upbound. The pilot program targets the public housing developments with the lowest average credit scores across New York (New York City Comptroller, 2018).

B. Organizations that work directly with employers

The SOURCE

Based in Grand Rapids, Michigan, The SOURCE is an innovative member organization that positions financial well-being as a labor productivity issue. Local small- to medium-sized employers in health care and manufacturing pay membership fees to The SOURCE, which in turn offers on-site financial services and counseling to entry-level workers. Many of their services are oriented towards building and repairing credit. The organization pulls and reviews client credit reports through CBA's Access tool, and offers a loan product that can be used as a credit building tool through AAC, a local credit union (The SOURCE, n.d.(a)).

The SOURCE argues that providing financial education and counseling services to employees results in better performance and improved retention. Specific examples of the services provided to member companies' employees include: contacting student loan lenders and setting up income-based payment plans; securing affordable housing for clients; and enrolling clients in the W. K. Kellogg Foundation-funded "Spark at The SOURCE," which trains and supports low-wage workers to move them into higher-paying and higher-skilled jobs (The SOURCE, n.d.(b); The SOURCE, n.d.(a)).

Working Credit

Similar to The SOURCE, Working Credit works directly with employers to provide financial education as an employee benefit. The organization offers the 18-month Make Credit Work for You program to employees, which combines credit-building workshops with one-on-one financial coaching. Working Credit counselors also pull credit reports and scores for clients at six-month increments during the program, and offer the CW-3 credit building product that combines a savings account, secured loan, and credit card. The CW-3 credit building product, which is similar to LISC's Twin Accounts program, allows clients to generate a record of regular on-time payments that are reflected on credit reports and scores within three to six months (Working Credit, n.d.(b)). Working Credit reports that 88% of clients who participate in the CW-3 program complete the product, improve their score, and save $300 in one year (Working Credit n.d.(a)).

II. Public sector programs

State Workforce Development Boards and American Job Centers

State Workforce Development Boards (WDBs) and American Job Centers (AJCs, also known as One-Stop Centers), which are coordinated by the US Department of Labor, offer a variety of workforce development services that are often coordinated with financial capability and asset building strategies. The Workforce Innovation and Opportunity Act of 2014 authorized and supports the integration of financial literacy activities into federally-funded workforce development programs (Morris and Goodman, 2015).

AJCs can specifically offer services related to credit improvement in the form of financial coaching and referrals to and/or partnerships with other organizations. For example, the Newark Workforce Investment Board received a one-year grant from Capital One to partner with the Financial Clinic, the New York City-based non-profit, to provide to over 150 clients financial coaching that focused on setting goals, building assets, and establishing or repairing credit. Similarly, participants at the Arlington Heights Workforce Center in Illinois fill out an intake form that includes financial questions, which the Workforce Center uses to help the client identify financial goals. For clients who are facing issues with debt, the Arlington Heights Workforce Center makes referrals to the local office of the National Association of Debt Education and Assistance, which offers debt recovery services (Morris and Goodman, 2015).

$tand by Me (The Delaware Financial Empowerment Partnership)

The $tand by Me program, led by the State of Delaware in partnership with United Way Delaware, provides low-income residents with a financial coach, who works one-on-one with the client to achieve client-directed goals. Understanding and improving credit is one of the most common goals identified by clients. $tand by Me coaches address issues with credit by pulling full credit reports for clients, assisting with short-term action steps like removing outdated or false items and paying off smaller bills, and developing longer-term strategies for repairing and building credit.

The $tand by Me model involves partnerships with state agencies, community organizations, and businesses, where the $tand by Me coaches are embedded to allow clients easy access to meetings and services. Many business partners, such as health care providers, partner with $tand by Me so as to connect employees to financial empowerment services, since they have found that employees who are more financially stable perform better in the workplace.

$tand by Me has also developed a successful partnership with Head Start in Delaware, where both Head Start employees and parents can meet with coaches on site. As a part of its partnership with $tand by Me, Head Start Delaware added questions to their parent agreement that address families' financial well-being, so as to start the process of setting financial goals and making parents aware of the services provided by $tand by Me. Developing strong partnerships that allow for accessible financial services for clients has been a critical part of the success of the program.

The Financial Empowerment Center Initiative

The Financial Empowerment Center (FEC) model, which offers individualized financial counseling as a free public service that is integrated into other social services, was developed by New York City Mayor Michael R. Bloomberg's administration in 2008. In 2012, Bloomberg Philanthropies partnered with the Cities for Financial Empowerment Fund (CFE Fund) to replicate the FEC model in five partner cities: Denver, CO; Lansing, MI; Nashville, TN; Philadelphia, PA; and San Antonio, TX. The FEC initiative was managed by city government in each location, and the counseling was provided by nonprofit partners.

The CFE Fund evaluated the expanded FEC initiative from March 2013 through September 2015 and found that 23% of the 1,166 clients without a credit score were able to establish a credit score. Of the clients that met with counselors more than once, roughly 37% increased their credit scores (CFE Fund, 2017).

The integration of FEC services with other city agencies is an important part of the model. However, the CFE Fund evaluation found that, in some cities, the true integration of services was challenging for FEC counselors to implement. For example, an FEC counselor was located at an American Jobs Center (AJC) in one city, but found herself unable to share feedback about clients with AJC staff due to data-sharing rules and bandwidth issues – meaning that she could not track the impact of FEC counseling on employment-related goals (CFE Fund, 2017).

Overall, the CFE Fund reports that the FEC initiative increased the capacity of city agencies and non-profits to address clients' financial issues. All cities involved also committed to funding FECs beyond the course of the initiative and demonstrated a commitment to financial inclusion efforts (CFE Fund, 2017).

IMPLICATIONS

In this report, we explored the issue of employer credit checks during the hiring process to answer the following:

> Does the use of credit checks negatively affect lower-income job applicants, and if so, what policies and practices can mitigate this impact?

Academic research that attempts to answer this question is limited. The available evidence, however, including the research undertaken for this report, suggests that credit checks at hiring likely have a disparate impact on lower-income job applicants. The mechanism through which this impact occurs concerns what is reflected on credit reports: simply put, income is strongly correlated with credit, and the lower one's income, the more likely one will be to have a credit report containing issues that might concern a prospective employer.

The use of employment credit checks is motivated in large part by the belief that credit reflects character: a poor credit report is taken by some employers as evidence of irresponsible financial decision making. Our research has led us to conclude that this link is in large part spurious: the fact that lower-income individuals are more likely than those with higher incomes to have blemished credit has far more to do with economic constraints and life circumstances than with poor financial decision making. For example, lower-income individuals are more likely to experience housing cost burden (housing costs that exceed 30% of income), and this may result in "difficulty affording necessities such as food, clothing, transportation, and medical care."[14] Lower-income individuals are more likely to have trouble paying for medical care costs, and meeting these expenses can affect lower-income people's ability to make credit card, loan, and bill payments, resulting in accounts that are delinquent or in collection.[15] As the interviewees we spoke with noted, lower-income people are hit harder by economic downturns like the Great Recession, and the resulting credit ramifications can follow people for years. In short, credit blemishes that actually reflect inefficient housing or health care markets or macroeconomic conditions are misconstrued by employers as signs of financial irresponsibility.

[14] See https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html

[15] In fact, medical debt re-sold on the secondary collections market will not appear as medical debt, but as a collections account on an applicant's credit report. Similarly, medical expenses charged to a credit card will be subsumed in information about the card account, which may show a delinquency. For these reasons, even an employer who wishes not to create a disadvantage for an applicant based on a prior illness or a medical condition would unknowingly do so through the use of an employment credit check.

If the use of credit checks during the hiring process is likely to inhibit lower-income job applicants' chances of getting hired, what can be done to lessen, if not eliminate, this impact? Possible solutions concern employer practices, legal restrictions, consumer protections, and credit-related programs and services. We discuss each of these here.

Employer Practices

Employers can voluntarily stop using credit checks and can instead use other decision-making tools that have greater predictive power: our employer interviewees stressed that work history (including past employers), references, and relevant skills are a better indicator of how well an applicant might perform at a given job.

Interestingly, Kiviat (2017) found that employers instinctively recognize the limitations of credit report information: employers often gave applicants with adverse items on their credit reports an opportunity to explain the related circumstances, implicitly acknowledging that social and economic disadvantages or bad luck underlie adverse credit data. This shows that the value of credit report information in predicting job applicants' future performance seems to be mistrusted by even some employers who use credit checks during hiring. Kiviat's findings are supported by our own interviews with employers, the majority of whom choose not to use employment credit checks and are extremely thoughtful as they discuss the limitations of this practice.

The instinctive skepticism among the employers we spoke with about the predictive value of credit report information is corroborated by research evidence that mostly fails to find a link between credit history and job performance. It is further supported by studies that demonstrate an association between credit check restrictions and reduced employment disparities. Happily, there is a declining trend in the use of credit checks by employers, and this can and should be accelerated.

In fairness, some employers have a legitimate interest in avoiding hiring those whose financial situations might lead to workplace, and especially legal, issues; this is particularly true for positions involving financial transactions and the handling of sensitive financial information. Where employers need to use credit checks as part of their hiring processes, we recommend that they thoroughly scrutinize the companies that provide background checking services and that they question the accuracy and relevancy of any credit information revealed during a background check. Employers should not blindly accept the notion that having more information about applicants will help them make better hiring decisions: *quantity* of information is less important than *quality* and *relevancy* of information.

We end this subsection with several questions that remain to be answered. What decision-making tools best strike the balance between employers' interest in risk mitigation and applicants' rights to be fairly evaluated? Does any information in a credit report offer predictive value to employers concerning certain types of positions? The answers to these questions are beyond the scope of this report and should be explored through future research. Until then, employers can turn to organizations like the Society for Human Resource Management for answers based on the best existing evidence.

Credit Check Restrictions

Another way to mitigate the disparate impact of employment credit checks on lower-income job seekers is to pass ordinances and laws restricting the use of credit checks. This has been done in eleven states (and is proposed by several more) as well as in several cities. As discussed in this report, preliminary research suggests that this strategy is effective. However, as our interviews with state legislators and legislative aides revealed, even in states with employment credit check restrictions, exemptions can make the laws less effective or, in certain instances, unenforceable. There is a need for additional research into several topics related to credit check restrictions: how restrictions might be strengthened; how exemptions might be more carefully constructed to maintain these laws' effectiveness; how restrictions interact with labor market conditions; what mechanisms work best for crafting and implementing these laws; how political climates affect the possibility for and effectiveness of these restrictions. We recommend that research be undertaken into these and other related questions.

Consumer Protections

As long as employment credit checks are used, consumer protections, such as those provided by the Fair Credit Reporting Act, must be actively enforced. Enforcement begins when affected parties – in this case, job seekers – file official complaints about issues related to an employment credit check. The complaint process has tremendous potential to shed light on both the extent and nature of problems encountered by those subjected to employment credit checks. Unfortunately, our research revealed that no federal agency systematically tracks job applicant complaints concerning the use of credit checks in hiring. A seemingly simple solution to this information gap would be for the Federal Trade Commission, Equal Employment Opportunity Commission, and Consumer Financial Protection Bureau to add flags into their existing consumer complaint systems for employment credit checks. It is especially important for the EEOC to add a credit check complaint flag to their system, as improper use of credit checks during hiring directly relates to possible employment discrimination.

Credit-related Programs and Services

As long as credit checks continue to be used in hiring processes, lower-income job seekers will benefit from receiving services to help them improve their credit. Our national field scan highlighted a number of noteworthy organizations that provide financial education, counseling, and loan products that specifically address client credit reports. These provide examples of current best practices in the field, and they should be referred to in order to guide future initiatives.

Credit counseling and financial coaching have both been found to improve credit report outcomes (Moulton and Roll, 2016; Theodos et al., 2015). Unfortunately, one limitation of this strategy is that lower-income job applicants may not be aware of nor inclined to seek such services, since their principal concern is finding a job. Promoting efforts that integrate workforce development and credit counseling are important, therefore, as is done in LISC's Financial Opportunity Centers.

One strategy to integrate credit building and workforce development would be through partnerships between organizations with expertise in credit building and workforce development agencies (which we found do not routinely address participants' credit). An easy step in this direction would be for workforce development agencies to become members of the Credit Builders Alliance; this would allow them to conduct soft credit report pulls for individuals seeking employment, thereby enabling job seekers to view the information a prospective employer may see. Organizations with experience in credit repair and building could help workforce development agency counselors create practice guidelines, which might include offering specific recommendations for addressing adverse credit information like delinquencies and collections. The effort to better integrate credit and financial wellness into workforce development might also include the participation of financial technology providers to help individuals pay bills on time, manage debt, and access affordable credit.[16]

Until employers stop using credit checks in hiring processes – either voluntarily or through legal restrictions – efforts to help lower-income people repair and improve their credit remain central to reducing the impact of employment credit checks on lower-income people's lives. The strategies recommended here align with the growing interest among employers in employee financial wellness. They would contribute to addressing credit issues and financial well-being along the hiring and employment continuum.

[16] For an exploration of innovations in financial technology targeted at lower-income people, see Gorham, Lucy and Jess Dorrance. "Catalyzing Inclusion: Financial Technology and the Underserved." UNC Center for Community Capital, Chapel Hill, NC, 2017, https://communitycapital.unc.edu/research/catalyzing-inclusion-financial-technology-and-the-underserved/

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APPENDIX A: KEY INFORMANT SURVEY INSTRUMENT

Kellogg Credit Report Research
Interview Questions and Consent Script: Key Informants

Consent Script

Thanks so much for making time to speak with me today to conduct a key informant interview on the use of credit reports in hiring decisions.

The UNC Center for Community Capital, with support from the W. K. Kellogg Foundation, is undertaking research to provide an enhanced understanding of the use of credit reports in hiring decisions and current strategies used around the country to both minimize discriminatory impact and educate job seekers on credit repair. The information from this research can impact policies, regulations, and legislation regarding the use of credit reporting by employers and inform workforce development practices aimed at improving the credit and financial capability of job applicants and trainees. We will ultimately produce a white paper, which will be based on a rigorous literature review, a national field scan, and key informant interviews with a broad range of experts.

If you choose to participate in our key informant interview, you will be one of about 80 people providing information on this topic. We'll be talking to individuals from workforce development organizations and job training programs, credit counseling agencies, prisoner re-entry programs, community college programs, legal/regulatory agencies, and consumer advocacy organizations.

We expect these conversations to last approximately 30-45 minutes. We would like your permission to record the interview. We'll be taking notes, but the recording ensures that we capture everything that you say. Please know that you can ask us to turn off the recorder at any time and can also ask us not to record at all. You can also choose not to answer any questions you are not comfortable answering. If you give us permission to record, please know that the recording will be transcribed by a professional company and that all transcripts and recordings will remain in our possession.

May we record this interview? Yes No

Do you have any questions before we begin? [START RECORDER]

Interview Questions

1. Do you view the issue of employer use of credit reports in hiring as an obstacle to helping people find jobs? Please elaborate.

2. And are you aware of employers' use of credit information in employee retention and promotion decisions? Do you view this as an obstacle to some groups of employees' ability to move up the job ladder?

3. Some evidence indicates that a declining share of employers is using this practice. On the other hand, it is also more common among large employers who hire a growing share of the workforce. Have you seen a trend in the share of employers using credit information and the way they are using the information? Does it vary depending on the labor market?

    a. Has this changed since the economic downturn and subsequent recovery?

4. Which subgroups of job applicants do you think are most affected? What do you see as the potential disparate impacts on these groups?

5. Are there certain occupations and/or industries where you are more likely to see this practice (review of credit reports) take place? Are there times where you feel the practice is justified and leads to better hiring decisions?

6. Do you know of state or local workforce development agencies that are actively working to address this issue, either by working with employers to influence their practices or by integrating credit repair strategies with their job recruitment and training efforts?

7. Do you know of states and cities that have enacted legislation to regulate the practice and do you believe these regulations are effective? What remains to be done?

8. Employment law dictates that employers inform job applicants if they have made an adverse decision based on the information in their credit report and that applicants have a window in which they can review their report and correct errors. Given that employers may base hiring decisions on a wide range of factors, do you have a sense of how common it is for applicants to be told that credit report information was the basis for the decision? How do you think this works in practice?

9. What are key "capacity challenges" related to integrating credit analysis/repair into frontline practice for employers, for the workforce development system and for community-based employment and training programs?

10. Do you know of innovative community or nonprofit programs that are working on this issue?

11. Do you see efforts to utilize alternative credit data in credit scores as a piece of what's needed to address this problem?

12. Lastly, we know that credit report information can impact access to and the price of insurance and consumer credit, such as auto loans. Do you see this as an additional constraint on workers being able to commute to a range of available jobs?

13. Are there any questions you feel we've missed that we ought to be asking? What would you most like to know as we explore this issue further?

APPENDIX B: EMPLOYER SURVEY INSTRUMENT

Kellogg Credit Report Research
Interview Questions and Consent Script: Employers

Consent Script
Thanks so much for making time to speak with me today about the use of credit reports in hiring decisions.

The UNC Center for Community Capital, with support from the W. K. Kellogg Foundation, is undertaking research to better understand the use of credit reports in hiring and how job seekers with credit problems can become better job candidates. Employment credit checks have gotten a lot of attention from policymakers—and yet there's very little information about how employers use credit reports. The information from this research can impact policies, regulations, and legislation regarding the use of credit reports by employers and inform workforce development practices aimed at improving the credit and financial capability of job applicants and trainees. We will ultimately produce a white paper to report our findings.

If you choose to participate in our interview, your responses will be confidential and your identity and the identity of your company will remain anonymous and will not be revealed in any research reports or other public information concerning our study.

You will be one of several people providing information on this topic. We'll be talking to representatives of employers, workforce development organizations, credit counseling agencies, prisoner re-entry programs, community college programs, legal/regulatory agencies, and consumer advocacy organizations.

We expect these interviews to last approximately 30-45 minutes. I would like to take notes and audio record our conversation so I do not miss anything important. Is this process for the interview agreeable to you?

Do you have any questions before we begin?

Interview Questions (for employers)

1. Does your company review job applicants' credit reports as part of the screening and hiring process?

(If Yes, sometimes, or it depends, proceed to #2. If No, skip to #10)

2. How did your organization decide to start using credit reports?

PROBE: When was that? Could you walk me through how the decision was made? What was the reasoning? Who, if anyone, disagreed with the decision?

3. Is this practice limited to applications for certain positions?

   IF YES: Which ones? Why do those positions come with credit checks and others don't?

   IF NO: Why do you run credit for everyone?

4. At what point in the hiring process do you look at credit?

   PROBE/CLARIFY: Is the credit check conducted as a preliminary screen or part of a final background check prior to an offer of employment.

5. What are you trying to achieve with your use of credit reports? What, if any, information do you hope a credit report check will reveal about an applicant? Are there any other parts of the hiring process that help you to accomplish these goals?

6. What, exactly, do you look for in a credit report?

   PROBE: Who all evaluates credit reports? Do you ever use written guidelines? If so, what are they?

7. If you couldn't use credit reports, what, if any, other information would you use?

8. How often do you hire someone with credit problems? Could you give me some examples of times when you hired someone even though they had bad credit? Tell me the story from start to finish.

9. When, if ever, do you look at the credit reports of current employees? What do you hope to accomplish? What are the outcomes of checking current employers' credit? (e.g. not getting a promotion, being laid off)

10. Why doesn't your company review credit reports as part of the hiring process? Did you ever consider using credit reports? If so, why did you decide not to?

(If the company does not use credit reports because of a local or state law banning or restricting this practice, proceed to #11; otherwise skip to #12)

11. Since the restriction/ban went into effect, have you changed any other part of your screening or hiring process?

PROBE: Have you added any other sort of information to replace credit checks? How did you decide to use that information?

12. Has your company used credit reports as part of the hiring process in the past? If so, why did you change this practice?

13. Is there anything else you would like to add to help us understand why and how companies do or do not use credit reports as part of the hiring process?

APPENDIX C: STATE AGENCY SURVEY INSTRUMENT

Kellogg Credit Report Research
Interview Questions and Consent Script: State Agencies

Consent Script
Thanks so much for making time to speak with me today to conduct a key informant interview on the use of credit reports in hiring decisions.

The UNC Center for Community Capital, with support from the W. K. Kellogg Foundation, is undertaking research to provide an enhanced understanding of the use of credit reports in hiring decisions and current strategies used around the country to both minimize discriminatory impact and educate job seekers on credit repair. The information from this research can impact policies, regulations, and legislation regarding the use of credit reporting by employers and inform workforce development practices aimed at improving the credit and financial capability of job applicants and trainees. We will ultimately produce a white paper to report our findings.

Your state has enacted a law that bans or limits employers' use of credit information in hiring decisions. Are you familiar with this law? (If YES, proceed below; If NO, ask the individual if they can refer us to a different employee of the agency who is familiar with the law).

If you choose to participate in our interview, your responses will be confidential and your identity and the identity of your agency will remain anonymous and will not be revealed in any research reports or other public information concerning our study.

You will be one of several people providing information on this topic. We'll be talking to representatives of employers, workforce development organizations, credit counseling agencies, prisoner re-entry programs, community college programs, legal/regulatory agencies, and consumer advocacy organizations.

We expect these interviews to last approximately 30-45 minutes. I would like to take notes and audio record our conversation so I do not miss anything important. Is this process for the interview agreeable to you?

Do you have any questions before we begin?

Interview Questions (for state agency representatives in states with credit check bans or restrictions)

1. In (year), your state passed a law restricting the use of credit reports in hiring. Tell me the story of what led up to that ban.

2. And how have things gone since the law went into effect?

3. How has the law been implemented?

   PROBE: Have there been efforts to educate employers? Efforts to educate job seekers? Monitor employer compliance? Assess penalties for non-compliance?

   a. Does your or another state agency work with other public agencies, nonprofit organizations, and/or industry groups to educate employers?

   b. What does your or another state agency do to educate job applicants concerning their rights under this law?

   c. Do you have documentation you can share that describes these implementation guidelines and procedures?

4. What would you say the effect of the law has been?

   PROBE: Is there any way to quantify the effect of the law? Are there any specific stories/anecdotes you could share?

(If state law includes any exemptions, proceed to #5; otherwise skip to #7)

5. Your state's law contains exemptions for (FILL IN EXEMPTIONS). Can you describe the reasoning behind these exemptions?

6. Do you think these exemptions are effective in allowing companies to manage risk by reviewing certain job candidates' credit reports? Why or why not?

7. How might your state's law concerning job applicant credit report checks be improved?

8. Do you have other information or thoughts you wish to share about how to ensure credit checks in hiring decisions do not pose an unnecessary barrier to employment?