

“In the Eye of the Employer”:

*An investigation into the role of stigma and shaming in the professional reintegration of persons
with criminal records*

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“I believe our society should do more to support positive initiatives to encourage the rehabilitation of prisoners. We should create more chances for people who have been in jail to make a positive contribution to the workforce.”¹

Richard Branson, Founder, Virgin Group Ltd.

¹ Branson, Richard (n.d). “Employing more ex-offenders,” Undated open letter posted on Virgin’s webpage. Retrieved from www.virgin.com/richard-branson/employing-more-ex-offenders.

ABSTRACT

The employment of persons with criminal records has become an increasingly important issue in the Western world. Literature on Canadian hiring practices in relation to persons with criminal records, however, is severely lacking. This thesis aims to make a significant contribution to the field of criminology by investigating how employers evaluate the employability of persons with criminal records, as well as their attitudes and perceptions towards this population. Through eight open-ended and low-structured interviews with owners and/or hiring managers in the city of Ottawa and using the theoretical framework of H. Blumer's (1969) *symbolic interactionism* (SI), E. Goffman's (1963) *stigma*, and J. Braithwaite's (1989) *reintegrative shaming* for analysis, this thesis attempts to gain insight into the barriers and challenges of professional integration for persons with criminal records. This study ultimately revealed that: (1) criminal record verifications were seldom used among employers to check for past convictions; (2) employers were willing to hire persons with criminal records (under specific conditions); and that (3) employability was based primarily on whether the candidate in question had the skillset required for the position, making the criminal record a secondary consideration. Contrary to popular belief, the results also suggest that while employers may be socially aware of this stigma, not all engage in stigmatizing and/or shaming behaviour towards persons with criminal records during the hiring process. Further, it is often the case that when making decisions, employers must decide between catering to the needs of their business or hiring a prospective candidate despite their criminal record. This study opens new avenues of inquiry concerning persons with criminal records and professional reintegration while proposing future directions for research.

Keywords: employers, criminal records, persons with criminal records, ex-offender, employability, hiring, attitudes, perceptions, stigma, reintegrative shaming, symbolic interactionism, constructivism

RÉSUMÉ

La réinsertion professionnelle des personnes judiciairisées est un sujet qui a acquis une grande importance dans le monde occidental. Toutefois, la littérature détaillant les pratiques d'embauche des employeurs Canadiens est limitée. Cette thèse vise donc à contribuer au champ de connaissance sur le sujet. Elle a pour objectif d'analyser comment les employeurs évaluent l'employabilité des personnes avec un casier judiciaire, leurs attitudes ainsi que leurs perceptions de cette population. Sur la base de huit entretiens ouverts et non-structurés avec des propriétaires et/ou responsables du recrutement dans la ville d'Ottawa et en utilisant le cadre théorique de l'interactionnisme symbolique d'H. Blumer (1969), la théorie du stigmatisme d'E. Goffman (1963) ainsi que celle du *reintegrative shaming* de J. Braithwaite (1989), cette thèse aspire à une meilleure compréhension des obstacles dans la réinsertion professionnelle des personnes avec des casiers judiciaires. Cette étude révèle que (1) la fréquence des vérifications des casiers judiciaire est rare, (2) que les employeurs désirent embaucher les personnes judiciairisées (mais sous certaines conditions) et (3) que l'employabilité est basée principalement sur les compétences requises pour le poste. Le casier judiciaire devient donc une considération secondaire. Ces résultats suggèrent que même si les employeurs sont conscients du stigmatisme, un comportement stigmatisant ou humiliant envers les personnes avec un casier judiciaire n'est pas la norme lors du processus d'embauche. Lors de la décision finale, le dilemme des employeurs porte davantage sur les besoins de leur entreprise versus ceux du candidat que sur le casier judiciaire de ce dernier.

Mots clés: employeurs, casier judiciaire, personnes avec des casiers judiciaires, employabilité, embauche, attitudes, perceptions, stigmatisme, reintegrative shaming, interactionnisme symbolique, constructivisme

ACRONYM LIST

SI – Symbolic interactionism

GT – Grounded theory

CR – Criminal record

CRs – Criminal records

PwCR – Person with a criminal record

PwCRs – Persons with criminal records

US – United States

UK – United Kingdom

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To conclude, writing this thesis was an experience in and of itself. If there is one thing I hope it spurs, is a serious discussion surrounding what we can do as a society to facilitate the successful reintegration of persons with criminal records. Additionally, I sincerely hope in the near future that society also begins to see those who have been in conflict with the law as human, rather than “disposable”. When this cognitive shift occurs, it is only at this point that individuals can succeed in redefining themselves and finding purpose.

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INTRODUCTION

A question that I often ask myself is the following: Why does society feel the need to label people, places, and things, and even situations that cannot be explained or fully understood? From a practical standpoint, I can somewhat understand the need; we label things to classify, to sort, to organize, and ultimately, to bring order. The question is, however, whose best interest does this serve? These questions became increasingly relevant during my studies in criminology at the undergraduate level, and even more glaring during the conceptualization of this MA thesis. One thing I am certain of is that, in situations where the label appended is negative, it is unlikely that it will ever benefit the person in question. A context in which this is particularly relevant is the labeling of persons who have been in the conflict with the law, persons commonly referred to as “ex-cons”, “felons”, and “ex-offenders.”² No matter the label chosen, in this case, all are equally damaging.

The labels we attach to persons who have been in conflict with the law result in ridicule, as well as stigma and shaming. Many different social actors play a role in the creation and perpetuation of these negative labels, actors such as the media and particularly the government who for example, create policies and table legislation that often limit access to important social domains. These social domains are typically identified as being the “key” to successful reintegration. As a result of these actions, broader society may be convinced to “buy into” common narratives and stereotypes surrounding those with past convictions such as persons who have committed crimes in the past will always pose a risk and/or danger to society, and/or once released will inevitably go back to their “old ways”.

² The term “ex-offender”, when used, will always be in quotation marks in this paper. The decision to do so stems from the fact that the term “ex-offender” is a label applied by the criminal justice system. As a researcher, I do not feel comfortable using this label to describe those who have been in conflict with the law, as it is highly stigmatizing. Therefore, in all other cases when possible and/or appropriate, this researcher will refer to those with past convictions as persons with criminal records (PwCRs) which I find to be a less stigmatizing and more of an appropriate label.

One significant challenge faced by persons with criminal records (PwCRs) is the issue of access to employment, which in recent years has become a topic of great concern. Until recently, the Conservative Party in Canada held office for almost 10 years. During its tenure, various “tough on crime” strategies, notably Bill C-10 (*Safe Streets and Communities Act*), severely hampered the possibility of criminal justice reform for PwCRs by making the ability to secure employment increasingly more out of reach for this group. The various legislative changes regarding what are now called “record suspensions” (formerly known as pardons) amended under Bill C-10 (Department of Justice Canada, 2012), contributed to the increased difficulty and frustration felt by persons with criminal records. In terms of the social barriers created by the “ex-offender” label, the issues of stigma and shame attached to the label are significant. This label is so powerful that it can effectively eclipse all other statuses of the person in question, becoming one’s master status. Given the power of the label attached to persons with criminal records, the government must adopt a more proactive stance and assist persons with criminal records in finding more meaningful employment by working closely with employers to bridge the gap between the employment domain and those individuals seeking employment. We must not forget that employment is a central value in our society, and it is particularly vital to meaningful and successful reintegration for this group. In all, the present thesis aims to contribute to the current discussion on criminal social justice reform and the importance of employment and the impact of criminal records on employability.

This thesis will begin by providing a timeline of the evolution of the concept of employment, colloquially known as *work*, and subsequently outline its importance as a social and criminological issue. Chapter 2 will review the current body of literature on the “ex-offender” to situate this research. Chapter 3 will look at the theoretical framework at the core of this research, mainly the concepts of *symbolic interactionism* (Blumer, 1969), *stigma* (Goffman, 1963) and *shame* (Braithwaite, 1989). A detailed explanation of the guiding research questions and the

operationalization of major concepts will follow. Chapter 4 establishes the methodology, addresses issues of epistemology, reflexivity, and details the research design. Chapter 5 reveals the major findings by theme while identifying converging and/or diverging trends when compared to current literature. Chapter 6 provides an overview of the major trends in data, analyzes the study's contribution to the field of knowledge, strengths and limitations, and lastly, the broader implications of the findings. The conclusion recapitulates the major findings of the study, closes by proposing new research questions, and reflects on the importance of addressing professional reintegration for those with criminal records.

CHAPTER 1: SITUATING THE RESEARCH

This first chapter aims to situate the concept of work in both a sociological and criminological context to emphasize its role as a central value of society. In doing so, the hope is to affirm the importance of examining this issue with respect to the professional reintegration of persons with criminal records. After examining the social meaning of work, this chapter will conclude by discussing what is at stake for these individuals when trying to re-enter the domain of employment.

1.1 – THE SOCIAL MEANING OF WORK

Work, to many, is a colloquial synonym for the term employment. The meaning of the term work, however, has evolved over time and has been defined by many authors. In the field of sociology, Baldry (2013), for example, defined work “as the activities by which humans build, maintain, and transform their physical and social environment” (p. 577). Each activity has a set of values and socially constructed meaning attached to it depending on the context in which it is performed (Baldry, 2013). Baldry references the act of garment making to illustrate this point: garment making as a task is seen in various ways; “as a hobby, as unpaid domestic work, and as a paid employee in the garment trade” (Baldry, 2013, p. 577). In the end, however, each task will have different meanings attached to it for the garment maker (Baldry, 2013). For Baldry (2013), “if employment is the social and economic context in which work is undertaken, its meaning to the employee will be determined by the nature of the employment relationship” (p. 577), a notion explored in the works of Karl Marx, mainly alienated labour (*infra*). A major condition that may influence the nature of the employment relationship is the extent to which the worker or another individual has autonomy and controls the performance of the task as this will in turn decide the meanings assigned to that task (Baldry, 2013).

Despite the range of definitions that may exist, work, understood in the sense of transforming one’s environment and current state, remains a highly valued and integral part of social and everyday life for many around the world. Nevertheless, it is important to consider that the concept continued to evolve significantly over the course of various centuries and has come to fruition under specific

circumstances.³ In its early stages, work was often considered to be a curse, further voiding the perception that it was a way to acquire goods or wealth (Roy & Hurtubise, 2004). Later, it was branded a “survival” task that was rarely carried out individually and was commonly reserved for non-citizens, who were often slaves forced to engage in activities that were both degrading and harsh (Roy & Hurtubise, 2004). ‘Survival tasks’ are tasks deemed essential for survival; for women tasks were primarily child care, gardening, food preparation, and tasks situated near the home base, while for men these tasks were typically far removed from the home base, such as hunting, fishing, or herding (Ballantine & Roberts, 2009). Work was also thought to help citizens develop their mind (Méda 1998 as cited in Roy & Hurtubise, 2004).

It was not until the end of the 17th century that work would take on a new meaning with regards to industrial production, and become a part of the relationship between individual and society (Roy & Hurtubise, 2004). By the 19th century, the value of work changed dramatically eventually becoming the “essence of man” (p. 129), and then shifting to highlighting a means of achieving emancipation and self-realization (Méda 1998 as cited in Roy & Hurtubise, 2004). Hegel (1807/2003) was the first to emphasize work as a source of self-realization and self-actualization, where one comes to recognize their full potential. Stanley Rosen (1974) conveyed the essence of Hegel’s philosophy as follows:

“Man enlightens himself through the process of work, which is also a self-estrangement or loss of self in the various forms of spiritual interpretation. Human work is the ‘existence of the pure self as self’.” (p. 191)

However, this conceptualization of work was challenged by Marx (1818-1883), who underlined the far more alienating nature of work. Work takes on an entirely different value for those working in the factories of the 19th century. For Marx (as cited in Marx & Engels, 1988) work under a capitalist system with industrial production was a source of deep and widespread alienation for

³ From this point forward both *work* and *employment* will be used interchangeably as the essence of these words carry the same meaning.

workers in society. First, the worker is alienated from the fruits of his/her labour because s/he does not own the means of production, nor the product s/he makes (Marx, 1844 as cited in Marx & Engels, 1988), and because it reduces the worker's bodily and intellectual freedom (Cox, 1998). However too brief, this review highlights the presence of conflicting perceptions regarding the meaning of work in the 19th century. For some, work is by nature alienating, and for others, it is highly emancipatory.

While these dissonant meanings of work prevail into the 20th century, the later part of the 20th century would see the notion of work transform again (Roy & Hurtubise, 2004). It would now be characterized as a way to learn various aspects of social life, while giving one access to others, himself, and social rules (Roy & Hurtubise, 2004). On the one hand, work has been very influential in giving people a sense of identity, structuring social interaction, and constituted a major way of organizing time during the day (Roy & Hurtubise, 2004). On the other hand, and most importantly, work has been a key component of social integration and social links based on concepts of reciprocity, exchange, contracts, and utility (Roy & Hurtubise, 2004), while also representing unity among individuals and fostering a new order focused on community values (Méda, 1998 as cited in Roy & Hurtubise, 2004). The notion of a sense of identity, as raised here, can be linked back to ideas of self-realization and self-actualization as posited by Hegel. Both elements are ultimately necessary for an individual to develop a true sense of identity.

By becoming the core of social relationships and social cohesion, work at this point comes to serve a new function: it would be the way by which we classify or fail to recognize the status of individuals, in addition to defining the social space they occupy (Roy & Hurtubise, 2004). This is where the issue of identity becomes significant and once again becomes the focus of various authors. For Castel (1999), identity is critical when discussing the notion of a wage society ("*société salariale*") which is a society in which social identity is defined by work or labour, rather than property. Essentially, labour is responsible for identity formation, determines the status of an

individual and situates that individual in society (Castel, 2003). This concept is further demonstrated to be of significance in the workplace. Identity in the context of one's workplace as suggested by Poster (2013) is "the subjective side of employment" (p. 407). When compared to the material dimensions of work that are commonly discussed regarding the labour process, (elements which include *wages*, *contracts* and *career ladders*) identity is a rather abstract concept and constitutes an experience that is often more difficult to quantify or visualize (Poster, 2013). Elements of identity include "mental states and orientations; behaviours and gestures; feelings, emotions, and desires and symbols and images" (Poster, 2013, p. 407). At its core, "identity is about the sense and definition of self" (Poster, 2013, p. 407). What can be concluded from these studies is that the 'self' (or one's identity) is developed through engaging in work.

1.2 – EMPLOYMENT AS A SOCIAL AND CRIMINOLOGICAL ISSUE

A review of the evolution of work or employment has revealed what is at stake for individuals without work. If employment is the way by which an individual can realize and achieve their full potential, then those who may find themselves unemployed are often alienated from society, for others may perceive them as having failed to internalize society's values (Roy & Hurtubise, 2004). Consequently, the individual may feel as though they are in direct conflict with the rest of society, which may in turn contribute to the erosion of community cohesion and increase social disorganization.

For Roy and Hurtubise (2004), the unemployed may too be perceived as a threat to social cohesion: the individual is observed as unable to engage in reciprocity, as he cannot contribute, ultimately leading to an inability to develop a sense of belonging. This further amplifies feelings of exclusion, alienation, and anomie and contributes to overall stigmatization. In the end, the individual may also be perceived as useless by others around him such as his peers, and by powerful institutions within society. As Castel (2003) would say, the unemployed are "the useless of the world", who exist in society without really belonging to it" (p. 389). In addition, the very lack of income due to

unemployment has concrete personal and social consequences (*supra*) on self-identity and can create feelings of alienation, shame, stigma, and increased social isolation. Moreover, these consequences may increase as state of unemployment is prolonged, giving rise to “severe financial hardship and poverty, debt, homelessness and housing stress, financial tensions and breakdown, boredom, [...], increased social isolation, crime, erosion of confidence and self-esteem, the atrophying of work skills and ill health” (McClelland, Macdonald, & Macdonald, 1998, p.1).

Literature shows that many authors agree with these findings. Johnson and Feng (as cited in Hassett, 2013), for example, outlined the subtle and negative effects of unemployment on well-being and on one’s family: approximately half of individuals who were out of a job for six months reported experiencing a loss/reduction in family income of approximately 40%. These negative outcomes “were felt by African-Americans and Hispanics, along with workers who did not have more than a high school education and unmarried workers who could not rely on a spouse’s income” (Johnson & Feng, 2013 as cited in Hassett, 2013, p. 4). In addition to the consequences listed, unemployed individuals were at an increased risk of death and reduced life expectancy (Sullivan & Wachter, 2009 as cited in Hassett, 2013), and an increased risk of suicide as the duration of unemployment increases (Classen & Dunn, 2012 as cited in Hassett, 2013). Other collateral consequences include: “child abuse, family violence, the spread of infectious diseases, homelessness, and community disorganization” (Petersilia, 2001, p. 361). While this list may not be exhaustive nor deterministic, it shows that being unemployed in our society can affect individuals in several major ways.

Considering the wide range of possible consequences to unemployment, it is crucial to note that within the employment domain there have been significant changes (Kuhn, 1995; Pupo & Thomas, 2010; Rifkin, 1995; Statistics Canada, 2014b; Strimelle & Poupart, 2004) that have potentially increased the level of difficulty in securing employment. Many individuals attempting to re-enter the labour market often find themselves at a loss due to their lack of skills and competencies, age,

and level of education that new employment opportunities require (Strimelle & Poupart, 2004). In particular, new technologies, flexibility in job management, and a priority given to employment falling under the tertiary sector, have fundamentally changed the requirements needed to secure employment, which in turn has caused the formation of new marginalized and alienated populations (Strimelle & Poupart, 2004). One of these groups are persons with criminal records (PwCRs). Accordingly, facilitating the re-entry of PwCRs should be a major priority for correctional bodies, as most offenders will be released from prison at some point in time (Bureau of Justice Statistics, 2001, as cited in Kethineni & Falcone, 2007; Petersilia, 2001). Indeed, while the correctional system is ready to release the individual once their sentence is terminated (Petersilia, 2001), the question remains as to whether the individual is fully prepared for release and equipped to resume daily life outside the institution. The collateral consequences, including homelessness and mental illness in addition to the threat of returning to prison (Petersilia, 2001), may be imminent if released prematurely into the community with no structure or guidance.

Despite the potential consequences named above, once released the individual is expected to become independent and self-sufficient. One of the ways to achieve this is through employment, which is suggested to be one the most effective ways to achieve reintegration and avoid its challenges (Kethineni & Falcone, 2007; Petersilia, 2001; Strimelle & Poupart, 2004), in particular, that of recidivism (Carlson & Garrett, 1999; Laub & Sampson, 2001; Uggen, 2000; Rhodes, 2008; Sampson & Laub, 1993; Visser & Travis, 2003). As we can see the notion of employment as a vehicle for achieving self-actualization and integration mirrors the sociological literature on work, discussed earlier in this chapter.

Considering the value of work and employment, it is therefore understandable and quite logical that the successful re-integration of persons with criminal records is to a certain degree linked to his/her ability to secure employment once released from prison, or even in cases where individuals serve no prison time, having to navigate the workforce with a new conviction on their criminal

record. The unemployed may find themselves in a precarious situation and may feel alienated from society. Despite the current literature that overwhelmingly suggests that employment is the most effective way to achieve social integration, the attempts of those with past convictions to return to the workplace have not been met with “open arms” by employers and their businesses, as we will uncover.

CHAPTER 2: LITERATURE REVIEW

In the previous chapter, it was concluded that persons with criminal records are often marginalized and alienated from society which is further exacerbated by an absence of employment opportunities. Along with other factors, employment opportunities provide strong support for the assertion that work can encourage desistance and deter an individual from returning to a lifestyle of criminality. The next section will present the current literature in the field concerning persons with criminal records and the workforce. An examination of the gap in current research follows and how this thesis aims to fill that very gap.

2.1 – “EX-OFFENDERS” AND THE WORKFORCE

The following literature review (sections 2.2 to 2.7) explores the academic knowledge concerning the “ex-offender” and the workforce. While it may not be completely exhaustive, it includes a variety of studies that exclusively examine themes relating directly to the issue. Further, it examines studies from the 1990s to present day. This seems to be the most appropriate period to examine, as labour market trends and conditions have changed dramatically since the 1990s (Bureau of Labor Statistics, 2003; Lindsay, 2003; Statistics Canada, 2000; Statistics Canada, 2014a). Additionally, the 1980s were a part of the “get tough” movement (in the United States) where there were various changes in policies that had adverse effects on the offender population (Petersilia, 2001, p. 367). This period (1990 to present day), therefore, appropriately reflects the differences between the 1980s and 1990s, and considers the impact of these policies.

Studies cited in this review contain articles from predominantly English-speaking countries such as Canada, the United States, United Kingdom, Australia, and New Zealand. The trends in these countries possibly mirror one another as they are all a part of the Commonwealth and have systems rooted in English Common Law. With that being said, differences remain between the countries, and as a researcher it is important to be cognizant of the fact that it would be misleading and erroneous to make sweeping generalizations about any country in comparison with another. In

terms of the language of the articles, I have referenced articles in English as this is my native language except for two important French academics that were suggested to me during the early stages of this thesis. This, however, may create limitations to my literature review because by excluding French literature, pertinent studies related to my subject matter may be inadvertently excluded. Hereunder, this thesis explores the prominent social themes in current literature concerning the “ex-offender” and the workforce: gender, race and education, followed by a discussing in section 2.4 pertaining to criminal records and how they impact employability.

2.2 – GENDER

Corrections research has revealed that the prison population is overwhelmingly comprised of male offenders, and for that reason the issue of gender has been of minimal interest to academics. However, in recent years this has changed, as there is a noticeable increase in the number of female offenders entering the system (Harrison & Schehr, 2004; Holmes, 2010; Liddell & Martinovic, 2013; Statistics Canada, 2015). Research suggests also that women offenders often face specific issues gaining access to employment post-incarceration. These issues include the lack of resources for child care in addition to their criminal record (Harrison & Schehr, 2004). This issue is worth highlighting as women face complex challenges as “the majority of female offenders have minor children and were the custodial parent prior to incarceration” (Greenfeld & Snell 1999, as cited in Richardson & Flower, 2014, p. 38). Thus, access to daycare becomes a necessity but may pose a serious problem as many daycare providers operate only during typical business hours, which create serious challenges for women who occupy jobs that require alternative shifts (Richardson & Flower, 2014).

From a more global standpoint, differences are observed in terms of the types of offences for which males and females are incarcerated. In such a case, it would be more difficult for one group than the other to secure stable employment. On the one hand, women have predominantly been incarcerated for property, fraud, and drug offences (Chesney-Lind, 2002 & Coving, 2007 &

O'Brien, 2002 as cited in Richardson & Flower, 2014; Schwartz & Steffensmeier, 2007) which are generally perceived to be minor in nature. It has also been found that women engage in certain offences because of multiple experiences of physical or sexual abuse (Richardson & Flower, 2014; Schwartz & Steffensmeier, 2007). Men, on the other hand, are generally incarcerated at higher rates for violent offences (Carson & Gollinelli, 2013 as cited in Richardson & Flower, 2014). It is a possibility that males in general would have a more difficult time securing employment because the offences committed are generally perceived as being more severe in nature in comparison to their female counterparts. Accordingly, employers may be more likely to hire a woman over a man because of the offences that each gender has committed. More research needs to be done on this matter to bring light to potential differences.

Empirical evidence from American literature concerning these differences reveals mixed results, thus, challenging these assumptions. In a study of 62 businesses in the Baltimore area, Giguere and Dundes (2002) reported that 87% of business owners and/or hiring managers stated that the gender of the "ex-offender" had no bearing on whether they would hire them or not, while 12% said that if the individual in question were a woman that they would be more likely to hire them. On the other hand, many sources (American, Canadian and British included) maintain that women are severely disadvantaged in the employment domain (Carlen, 1983; European Commission, 2014; Office for National Statistics, 2015; Organisation for Economic Co-operation and Development, n.d; Srinivas, 2007; Statistics Canada, 2014a). A study by Decker et al. (2014), found that male and female applicants that have gone to prison have a much more difficult time securing a job interview however there is a stronger and more negative effect experienced by women in comparison to men. While this set of statistics challenge the earlier assertion that males are more disadvantaged than females, the fact remains that "similar to male offenders, women offenders are under- and un-employed, but women also work fewer hours, make less money on the dollar, and secure jobs in non-permanent low-level or entry-level jobs with little chance for advancement" (Blitz, 2006; Delveaux, Blanchette & Wickett, 2005; James, 2004; McCampbell,

2005; Rose et al., 2008; Tonkin, Dickie, Alemagno & Grove, 2004; Zaitzow, 2006 as cited in Richardson & Flower, 2014, p. 36). Overall, most of the studies except for the one detailed, view the element of gender as having an impact on employability.

Nonetheless, taking into account the present research, it is fair to conclude that studies make a fair and strong case for disparities between genders (despite the presence of gender neutral barriers) when it comes to the employability of “ex-offenders”. More research must be conducted to fully understand the nature of these findings and to contribute to an existing and limited body of literature on the matter. A first step in the right direction would be to develop literature surrounding this topic in the Canadian context more specifically as most of the data available stems exclusively from American academics and identifies patterns within the United States.

2.3 – RACE AND ETHNICITY

By contrast, the impact of race and ethnicity on employability has been endlessly discussed, making it a difficult variable to contest. As a result of its influence, this has also led some studies to not assess the variable of race because they recognize that it could negatively impact the validity of their data (Dixon, Storen & Van Horn, 2002).⁴ In Canada, Aboriginal and Indigenous people are greatly overrepresented in the prison system (Office of the Correctional Investigator, 2013a, 2013b). This same trend is readily observable among African-Americans, Latinos, and Hispanics in the United States (Harrison & Schehr, 2004; Kethineni & Falcone, 2007; Petersilia, 2001; Richardson & Flower, 2014). Concerning the relationship between race, ethnicity and employment, US data indicates that “African Americans are twice as likely be unemployed as whites (Hispanics are only marginally so)” (Pager & Shepherd, 2008, p. 187). They are also the

⁴ For more on this see Dixon, K.A., Storen, D., & Van Horn, C.E. (2002). *Work trends IX – A workplace divided: How Americans view discrimination and race on the job*. Retrieved from http://www.issuelab.org/resource/a_workplace_divided_how_americans_view_discrimination_and_race_on_the_job

least likely to receive a callback for an interview (Bertrand & Mullainathan, 2004; Decker et al., 2014), with Hispanics also experiencing similar prospects (Bertrand & Mullainathan, 2004; Decker et al., 2014). Even more telling is the statistic that “the wages of both blacks and Hispanics continue to lag well behind those of Whites” (Pager & Shepherd, 2008, p. 187). Such instances, remind us of the reality of most minority offenders and shed light on the difficulties they face when trying to find a job after being released from prison.

It is clear from these studies that race and ethnicity are variables that can negatively impact the ability of an “ex-offender” to enter the workforce. In the Canadian context, there is a serious gap in the research concerning other ethnic minorities in Canada and their entry into the prison system. The Office of the Correctional Investigator (OCI) reports similar patterns concerning Black offenders in Canada (OCI, 2013b, 2014). This reinforces the possibility that Black offenders as a sub-population may in fact be the second largest minority group behind Aboriginal and Indigenous offenders to be overrepresented within the correctional system. Additional studies exploring these patterns in Canada need to be investigated further in order to state conclusively whether Canada mirrors trends in the US. Irrespective of this possibility, the findings of the OCI on their own provide significant insight into emerging trends and patterns of incarcerated individuals and warrant further examination.

2.4 – AGE

Age is another variable discussed in literature as having an effect on the employability of “ex-offenders”. It has been reported that “most adult, nonviolent offenders are under the age of 40, with the bulk being under the age of 35” (Harrison & Schehr, 2004, p. 43). Additionally, younger “ex-offenders” are more likely to reoffend than their older counterparts as a result of difficulties obtaining employment post-release (Harrison & Schehr, 2004). Due to this constant cycle of “re-criminalization”, job prospects for young offenders remain somewhat of an unachievable goal for some. More specifically, young offenders, especially minority offenders, are viewed by private

sector employers as less desirable when compared to older offenders because of the perception that younger offenders present a potential risk if hired (Donzinger, 1996 as cited in Harrison & Schehr, 2004). These perceptions can induce a moral panic where the “public exhibits affective responses of despair, desire, and fear with respect to youth generally, and young offenders in particular” (John Howard Society, 1995, para. 2). These negative perceptions inevitably reduce the chances of young offenders to secure employment.

By contrast, since crime desists with age, older inmates, when released, are perceived as less likely to return to crime even if their ability to work becomes more difficult, and especially if the job available involves hard labour (Harrison & Schehr, 2004). It is also more detrimental for a middle-aged individual to lose their job (especially in their 50s) in comparison to a younger individual for example since “it is likely that such a person will never be able to get back into the labour market at a comparable level” (Sargeant, 2016, p. 1). From this information one can then conclude that young offenders are an important population to study since they are generally perceived as “undesirable” and as most likely to reoffend. Older released persons ultimately would appear more desirable as candidates for the workforce because their chances of returning to criminality are relatively low. Despite this, in some instances, they may be less desirable for their working abilities.

2.5 – EDUCATION

Another variable that characterizes inmate populations is low educational and skill levels (Dominguez Alvarez & Loureiro, 2012; Harrison & Schehr, 2004; Rhodes, 2008; Richardson & Flower, 2014). It was found that “offenders are three times as likely as the rest of the population to have literacy problems” (Canadian Association of Chiefs of Police, 2008 as cited in Decoda Literacy Solutions, n.d, para. 4). Additionally, “ex-offenders” are disadvantaged when seeking employment as they lack what are known as “soft” skills, skills such as writing applications and attending interviews (Social Exclusion Unit, 2002). Learning disabilities also characterize the

inmate population where a reported 10% are known to have this cognitive impairment (three times that of the general population) (Freeman, 2003). It is then no secret why the prison population is characterized by low levels of education when only about 34% of individuals with cognitive deficiencies are reported as even reaching the point of finishing their high school diploma or GED (Richardson & Flower, 2014). To exasperate the problem, many correctional facilities have cut programming and training because of a lack of empirical evidence to suggest that they contribute to a reduction in recidivism and increase employability (Harrison & Schehr, 2004). However, it has been emphasized that the success of programming and vocational training is dependent on many other factors, mainly the incentives for inmate participation (Richardson & Flower, 2014).

To conclude, the link between education and employability is not as clear as the link between other factors discussed (gender, race and ethnicity, age) throughout this section, despite strong arguments that support the assertion that equipping “ex-offenders” with the educational skills as well as adequate programming and vocational training before release may be an effective course of action. If anything, a future direction of research concerning this subject matter should focus on accurately assessing the effectiveness of these measures.

2.6 – SEEKING EMPLOYMENT WITH A CRIMINAL RECORD

The following section explores the various aspects of criminal records and how they play into decisions regarding “ex-offender” employability. It will also explore the relevance of past convictions, the type of offence, and finally the nature and length of the sentence.

2.6.1 – THE RELEVANCE OF PAST CONVICTIONS

Criminal records are a point of contention for both employers and “ex-offenders”, as many job applications require individuals to disclose whether they have been involved in criminal activity. Many offenders will be restricted from certain types of employment based on a tacit assumption

that “ex-offenders” should not work in an environment related to the offence committed.⁵ Even if employers disagree with this current practice, there is not much recourse, as the repercussions for failing to conduct a criminal record check can be serious; employers can be penalized for negligent hiring and/or retention, face restitution and/or fines (Kethineni & Falcone, 2007; Office of the Attorney General, 2004; Usry & Mosier, 1991). These practices suggest that a criminal record is part of the regular hiring process for many employers and is used as an initial screening tool to potentially avoid these repercussions. However, criminal record (CR) checks are used differently across state lines (Kethineni & Falcone, 2007), varying the level of difficulty experienced by “ex-offenders” to seek out employment opportunities. These inconsistencies would suggest that employers have ‘free’ reign when it comes to CR checks. However, this is not necessarily the case, as many rules and regulations have been put in place depending on the state to govern its usage (Kethineni & Falcone, 2007). In the United States, for example, 21 states regulate how employers use criminal records in terms of their relevance to the position or occupational licence the applicant is applying for (Kethineni & Falcone, 2007).

Nonetheless, certain American professions continue to bar “ex-offenders”, regardless of whether the crime committed has any relationship to the position or license sought (Kethineni & Falcone, 2007). Yet “ex-offenders” who may be seeking employment in the home healthcare sector are not subject to an automatic ban if they are living in the state of Colorado, Georgia, Kentucky, Idaho and lastly New York, but those living in Wyoming applying for a job in healthcare are subject to a background check (Legal Action Center, 2004). It is also worth noting that some states (Arizona, California, Illinois, Nevada, New Jersey, and New York) have gotten into the practice of awarding certificates of rehabilitation, or employing other methods to circumvent current occupational barriers (Legal Action Center, 2004). Meanwhile, a minority of states “require the applicant’s

⁵ To cite an instance, those convicted of sexual offences against children will never be able to seek employment relating to children, but for situations where there remains a grey area, there is no clear-cut procedure for employers to follow in order to make a decision that is both fair to the applicant and unbiased.

criminal history to have a ‘direct’, ‘rational’, and ‘reasonable relationship’, to the licence sought” (Kethineni & Falcone, 2007, p. 42).

Additionally, many countries have enacted legislation expanding the search powers of employers to obtain information concerning arrests and convictions. In Canada, the Criminal Records Act (1985) governs the manner in which criminal records are obtained by employers but is managed at the federal level by the Criminal Records Information Management Services, under the Canadian Police Information Centre (CPIC) (Department of Justice, 2016; Royal Canadian Mounted Police, 2016). In the United Kingdom, the Rehabilitation of Offenders Act (1974) provides employers with special privileges to inquire about past criminal history, thus placing “ex-offenders” in a position to prematurely disclose personal information (Rhodes, 2008). Comparably to the UK, in the United States, Title VII of the Civil Rights Act (1964) strictly prohibits an employer from disqualifying a job applicant solely on the basis of having a criminal record (Lexology, 2012). However, there exists other ways in which employers come to make decisions regarding persons with criminal records that can be used as factors to deny employment such as the interactional styles of applicants or other observed characteristics (Pager, 2003). Other factors include ‘trustworthiness’, ‘dependability’ and/or ‘future criminal behaviour’ which may influence the decision-making process (Harris & Keller, 2005; Stoll & Bushway, 2008).

Recently, there has been a proliferation of employers who request information regarding criminal records in the initial application stage. Various studies, including ones conducted in Los Angeles, California, and one in the North West region of England, demonstrated that the number of employers checking for criminal records has increased dramatically (Holzer et al., 2003b), and that more are insistent on gathering information on existing criminal records, with most asking regardless of the post being advertised (Brown et al., 2006). Additionally, a study by Harcourt and Harcourt (2003) found that two thirds of a sampled group of 300 organizations inquired about past convictions of applicants.

Given this expansion of powers, it is not surprising that some authors such as Lam and Harcourt (2003) emphasize that current evidence supports the idea that “ex-offenders” are actively discriminated against by employers when seeking employment. While our rights as citizens may appear to be absolute, the law can at any point limit them if need be, particularly in cases where rights are deemed to be in “conflict”; a situation in which this is prevalent concerns the rights of offenders (Lam & Harcourt, 2003, p. 240). This is potentially more of an issue for those who are imprisoned versus those convicted of minor offences because the latter individual in most cases will retain their freedom and rights, thus allowing them to live in the community and maintain employment, while the former lose their liberty and other rights are circumscribed (Lam & Harcourt, 2003). In this instance, the principle of “double jeopardy” becomes particularly important, as it should in theory “[protect] “ex-offenders” from being legally punished twice for the same [offence]” (Lam and Harcourt, 2003, p. 241). Following this principle, the authors suggest that “ex-offenders should not have to endure additional ‘punishments’ imposed by other groups in society in the form of life-long stigmatism or discrimination” (Lam & Harcourt, 2003, p. 241). Additionally, a criminal record is considered personal information that can be used against the “ex-offender”, even when the past conviction has little to no connection to the job or its requirements, ultimately demonstrating that the law prolongs its punishment by barring “ex-offenders” from the labour market (Lam & Harcourt, 2003). Here, the idea of “non-superiority” as referenced by Henley (2014) is worth discussing. In fact, the principles of “non-superiority” and of “less eligibility” (Rusche & Kirchheimer, 1939/2003)⁶ are like one another (this paper will emphasize the “non-superiority” principle), but the former if applied states that when the offender is released from prison, his well-being should not be ‘superior’ to that of the lowest individual among law abiding citizens (Manheim, 1939 as cited in Henley, 2014). When this principle is

⁶ For more information on this principle see Rusche, G., & Kirchheimer, O. (1939 [2003]). *Punishment and social structure*. New Brunswick: NJ. Transaction publishers.

adhered to, the consequences are harmful: “people who have already been punished by the criminal justice system [continue to be] unfairly discriminated against” (Henley, 2014, p. 22), adding what is another layer of officially sanctioned punishment as stated by Henley (2014) legitimized within the employment domain.

Others such as Grier and Thomas (as cited in Lam and Harcourt, 2003) maintain that the use of criminal records as a tool in the hiring process to disqualify candidates has “huge repercussions in the applicants’ job-seeking efforts... [it] can result in the loss of civil liberties and the invasion of privacy” (p. 241). Henley (2014) also suggested that “ex-offenders” are personified as “undeserving” when compared to other individuals applying for a job, which often makes matters worse considering these groups are existing targets for negative prejudices because of their perceived “riskiness”. The term “riskiness” here can be synonymous with the idea of ‘liability’ as mentioned by Lam and Harcourt (2003). Therefore, a criminal record is deemed to be “risky”, or in other words, a major ‘liability’, forcing insurance companies to consider whether to cover said individual or increase the premiums for the employers they insure (Henley, 2014).⁷

The above arguments support the idea that criminal records are viewed by potential employers as carrying a negative social stigma. Although this definition will be explored in depth at a later point in the paper, it would be wise to define stigma nonetheless. Goffman (1963) defined *stigma* as “an attribute that is deeply discrediting” (p. 3), and recognized that it is in essence “really a special kind of relationship between attribute and stereotype” (pp. 3-4). Additionally, *stigma* functions as a signifier to point to “a blemished person, ritually polluted, [that ought] to be avoided especially in public places” (Goffman, 1963, p. 1). With these points in mind it would be fair to conclude that *stigma* is the “process by which the reaction of others ‘spoils’ normal identity” (Nettleton, 2006, p. 95).

⁷ Additionally, concerning the issue of insurance, Bath and Edgar (2010) also found that 4 out of 5 “ex-offenders” had difficulties securing insurance because this meant having to pay exorbitantly high premiums.

The stigma appended to these individuals appears to be so strong that it is able to affect the manner in which employers view “ex-offenders” as legitimate and viable candidates for the workforce. As far as we know, Canadian literature surrounding this trend is severely limited, highlighting a major gap. One of the only studies, conducted by Davis (1980), reveals that Canadian employers responded extremely positively to the prospect of hiring a person with a criminal record: out of the 74 companies interviewed, only 22 (29%) reported consistently verifying the presence of a criminal record of potential candidates. The other Canadian study by Saunders, Leck & Marcil, (1992) reported that out of 304 job application forms 20% of those forms posed questions relating to a criminal record. By contrast, results from the United Kingdom and the United States offer a clear indication of the severity of the issue, uncovering the effects of negative attitudes towards “ex-offenders”. According to the Social Exclusion Unit (2002), approximately 75% of employers view individuals with criminal records as less favourable job applicants. This is further exemplified by Pager’s (2003) findings, detailing persons with criminal records as less likely to receive a callback from an employer. This points to a greater issue: the current practice that uses criminal records as a screening tool for employers is both questionable and problematic because it allows employers to use criminal records as a basis to disqualify a candidate in the initial stages. As a result, this can significantly reduce the number of potential applicants. Consequently, these practices do not facilitate re-entry into the labour force for “ex-offenders”.

2.6.2 – THE IMPACT OF THE TYPE OF OFFENCE

Beyond the criminal record itself, the type of offence in question also seems to have an impact on the employability of “ex-offenders”. Jensen and Giegold and Atkinson, Fenster, and Blumberg (as cited in Albright & Denq, 1996) have suggested that the majority of employers reported not using their knowledge of the nature and circumstances surrounding the past conviction to make a decision with regards to hiring. But at the same time, the studies of Atkinson et al., Dale, Tromanhauser, and Hulsey (as cited in Albright & Denq, 1996) all supported the premise that an

employer is more welcoming of an individual with a non-violent offence on their record; an idea that is also reflected in more current research as we will see below.

Most recently, McAlinden (2008) reported on studies conducted in England and Wales concerning the issue of employer concerns. The two major concerns identified were: “the type and number of offences committed and the relationship of the offence to the post for which they are recruiting” (Metcalf et al., 2001; Brown et al., 2004; Haslewood-Pócsik et al., 2008; McEvoy, 2008, p. 29-32, as cited in McAlinden, 2008, p. 15). It was also reported that among employers, there is an informal hierarchy of offences that dictate an employer’s perception of an “ex-offender” and their offences; sexual and violent offences were most serious, and offences against goods such as robbery and fraud, property and forgery, or offences related to honesty were identified as least serious (Apex, 1991; Rolfe, 2001; Brown et al., 2004; Haslewood-Pócsik et al., 2008 as cited in McAlinden, 2008). Employers sampled viewed offences concerning alcohol and traffic to be moderate in severity (Donlan and Withers, 1991; Buffrey, 1998; Conalty & Cox, 1999; Brown et al., 2004 as cited in McAlinden, 2008). The global trend does seem to suggest that employers would be the most accepting of criminal convictions relating to alcohol and traffic related, property, and drug offences, and the least accepting of persons convicted of violent and sexual offences. These studies provide a strong support for the idea that employers consider the crime committed in hiring decisions and an unspoken ‘hierarchy of offences’ (as discussed by McAlinden, 2008) as strong influences on whether an employer hires an “ex-offender”. However, to date there are currently little to no studies that confirm whether this informal “hierarchy of offences” operates among the employment domain in other countries, such as here in Canada, or the United States and United Kingdom.

The effect of the nature of the crime on employment presents an important question: how significant is the relationship of the crime to the job or position being filled to employers? Two reasons relating to these questions were ranked highest in the studies of Blanchard, Dale, and

Hulsey (as cited in Albright & Denq, 1996): “crime does not relate to job” or [to] “the nature of their products or work” (p. 124). It was reported that individuals convicted of white collar crimes had difficulty securing employment as the offences committed “were often against an employer or company” (Blanchard as cited in Albright & Denq, 1996, p. 124). The authors concluded that the relationship between the offence and job had a strong effect on employer attitudes: respondents who were open to the prospect of hiring an “ex-offender” rose dramatically from 12% to 47% if the offence committed had no relation to the job (Albright & Denq, 1996). Following this section, it can be deduced that the more removed the crime committed is from the job requirement, the more likely the chances of being hired.

It is worth noting at this point that it is very difficult to locate Canadian studies which examine the type of offence as well as the relationship of the crime to the job, as most of the articles, if not all, chronicle the American context. This obviously points to a gap in literature concerning attitudes and perceptions of Canadian employers towards “ex-offenders”. Overall, it would seem as though research examining this element remains in its infancy. To truly consider the implications, there must be exploratory research on this facet of “ex-offender” employability in the Canadian context.

2.6.3 – THE NATURE OF THE SENTENCE AND LENGTH OF TIME SERVED

The nature of the sentence and the length of time served also impacts the employability of persons with past convictions, but it is still a relatively under-researched connection. A study by Freeman (as cited in Dominguez Alvarez & Loureiro, 2012), suggests that individuals who have spent time in an institution significantly reduce their chances of securing employment. Those who have served time also face a more serious social stigma because “those who are imprisoned obviously lose their liberty, at least temporarily, and have their rights more heavily curtailed [...]” (Lam & Harcourt, 2003, p. 241). This may give rise to the misconception that those who have spent a significant amount of time incarcerated will be viewed by an employer as having committed the

most heinous of crimes, such as murder or rape.⁸ This negative perception could also influence whether an employer would hire an “ex-offender” when made aware of this information. All in all, it would seem as though persons with criminal records who have not been incarcerated, or were incarcerated for a shorter period of time would be more likely to be perceived in a favourable light, thus, making them more attractive candidates in the labour market.

In terms of the length of time served, a study by Giguere and Dundes (2002) reveals that responses were relatively split down the middle concerning the length of incarceration in terms of its impact on employability. Approximately 49% expressed that the length of incarceration was an important consideration, while 48% expressed that it was not an element of concern (Giguere & Dundes, 2002). Of those who reported that the length was an important consideration, half were of the mindset “that the length reflected the seriousness of the crime and the other half said that the length would affect how the ex-convicts adjust to the outside world” (Giguere & Dundes, 2002, p. 401).

The previous section detailed some of the obstacles persons with criminal records face when navigating the world of employment and how the perceptions of those with past convictions contribute to these difficulties. Inevitably, when those making hiring decisions are ill-informed, it can possibly impede “ex-offenders” from achieving professional integration. The following section will explore in depth the impact of employer attitudes, perceptions, and concerns and its effects on “ex-offender” employability.

⁸ In this regard, it is important to underline how differing geographical locations can contribute to differences in penalties. For instance, if we look at the stark differences between the US (depending on state) and Canada. These differences in penalties per geographical location and an individual’s expected lack of specific knowledge concerning the law might explain the assumption that seriousness is in fact equal to length of time spent incarcerated. If we were to look at mandatory minimums in the US concerning drug offences, employers could assume that an individual having spent 10+ years has committed a major offence, when in reality this could be related to drugs, whereas here in Canada, mandatory minimums have been deemed unconstitutional more recently and are not as prevalent.

2.7 – EMPLOYER-RELATED VARIABLES

The present section aims to look at the existing literature on employer's attitudes, perceptions and concerns regarding persons with criminal records. In theory, many employers have expressed that they would not hire "ex-offenders" under any circumstance, but in practice, empirical studies have revealed otherwise. This literature review attempts to paint a more holistic and accurate picture of the trends that exist concerning employer-related variables.

2.7.1 – EMPLOYER ATTITUDES, PERCEPTIONS & CONCERNS

Earlier studies investigating the effects of employer attitudes and perceptions on "ex-offender" employability by Tromanhauser (1976), Miller (1979), Whiting and Winters (1981), and Hulseley (1990), have demonstrated mixed results (as cited in Albright & Denq, 1996). A reason for the discrepancy of results in the above studies may be a result of using both local and regional data as sources (Albright & Denq, 1996). The more "dated" Canadian study by Davis (1980) concluded that just a little over 90% of employers responded favourably to the prospect of hiring an "ex-offender". Unfortunately, this negative trend has persisted, as almost all recent studies to date corroborate the assertion that employers predominantly have negative attitudes and perceptions of "ex-offenders" (Albright & Denq, 1996; Brown et al., 2006; Holzer, 1996, 2002, 2003b, 2004; Petersilia, 1999, 2001; SEU, 2002). However, an exception to this trend, a study by Giguere and Dundes (2002, *supra*),⁹ may bring this assumption into question. One could ask, however, if these differing results are due to certain factors, such as the method used by researchers, size of the sample, or specificities relating to the city of Baltimore.

Overall, such differing results between studies is surprising, which nonetheless suggests that more research needs to be conducted to make informed claims concerning the differences in employer attitudes and perceptions. An element that is similar to employer attitudes and perceptions but

⁹ Sixty-two managers and owners of private businesses in the Baltimore area were surveyed on the basis of a scenario outlining characteristics of John, a mock candidate. Most of the participants were willing to hire an "ex-offender", but doubted their ability to communicate with others and were weary of the potential the reaction of their clients if they knew that an employee was an "ex-offender".

relates more to the general concerns relating to the business itself and its well-being are equally as important to discuss. As we will see below, this is an element that is reported to affect employability of “ex-offenders”.

On a final note, most recently in academic scholarship, the topic of employer concerns surrounding “ex-offenders” has become an important issue. Bachmann (as cited in Kethineni & Falcone, 2007) highlighted some of the concerns in terms of workplace violence and loss of property: in recent years, the workplace has become an increasingly volatile environment, accounting for 8% of rapes, 16% of assaults, and 7% of robberies per year across the US. Additionally, a study by Hollinger and Davis (as cited in Kethineni & Falcone, 2007) concluded that where by the year 2000, total losses stemming from employee theft were estimated to be a little over \$30 billion. In line with these statistics, Lam and Harcourt (2003) suggest that by hiring “ex-offenders”, employers expose themselves and their customers to potential danger and provide them with an opportunity and location to commit future offences. The practical consequences of hiring an “ex-offender” may be harmful in terms of the unforeseen time and administrative costs related to hiring and training (Rosen, 2002, as cited in Lam & Harcourt, 2003). In all, this article makes interesting points and contributes to a fruitful discussion surrounding the issues of employer risk and liability should they hire persons with criminal records.

2.8 – FILLING THE “GAP”: CONTRIBUTION TO THE FIELD OF KNOWLEDGE

The literature review conducted suggests that there is much to be said about specific variables that influence the level of difficulty that “ex-offenders” face when trying to enter the labour market. Given the empirical evidence, it is clear that employers generally do not hold favourable attitudes and perceptions towards individuals with criminal records. However, what the empirical evidence fails to acknowledge, and studies have predominantly ignored, is the question of whether a criminal record acts as either a mitigating and/or aggravating factor. Further, the extent to which employers use information about past criminal history to ultimately make decisions with respect

to hiring needs to be understood. An article by Pager (2003) illustrates this exact point by suggesting that a criminal record is not the determining element. Indeed employers will form a perception based on other factors.

Additionally, studies concerning persons in conflict with the law and the workforce have emphasized the role of the specific variables and how they can contribute to a success or failure to obtain employment post-incarceration (Harrison & Schehr, 2004; Lukies, Graffam & Shinkfield, 2011; Richardson & Flower, 2014). Many studies have also highlighted issues with state statutes and laws (Kethineni & Falcone, 2007; Lam & Harcourt, 2003; Petersilia, 2001). Others, although very limited, have discussed exclusively the stigma surrounding the “ex-offender” label, and its role as a major barrier to securing employment (Dominguez Alvarez & Loureiro, 2012; Kethineni & Falcone, 2007; Winnick & Bodkin, 2008). Conversely, by only focusing on such a limited scope, the effects of social stigma and other social processes such as shame fail to be recognized. Research should continue to examine the role of stigma in past convictions more in depth, whether it operates as either a mitigating and/or aggravating factor, and the extent to which it may affect perceived employability of those with criminal records.

With that being said, my research aims to take a different approach in order to set itself apart from the current body of work on the subject. Aside from its contribution to the field of criminology concerning persons with criminal records and the workforce, this thesis hopes to gain insight into the extent stigma surrounding past convictions plays in hiring decisions and whether it acts as a mitigating and/or aggravating factor in this process. Additionally, this study hopes to make a significant contribution to the body of literature concerning this issue in the severely limited context of Canada. To the best of my knowledge, the present study would be the second Canadian study proceeding Davis (1980) to assess employer attitudes and perceptions towards PwCRs, and the second Canadian study proceeding Saunders et al., (1992) to address the prevalence of criminal record checks. This an extremely valuable and significant contribution to the field, since it stands

to make fully informed assertions concerning the hiring patterns and/or trends that characterize Canadian employers, which have been difficult given the limited available studies to date.

There is another distinguishing element to this research worth mentioning: the difference in methodological approach. Most, if not many of the studies conducted concerning the subject matter which span over the 1970s to mid 1990s have utilized similar methodologies with little variation. Specifically, “descriptive and bivariate statistical techniques such as percentage distributions, cross- tabulations and chi-square tests were often employed” (Anderson, 1981; Atkinson et al., 1976; Hulsey, 1990; Whiting & Winters, 1981 as cited in Albright & Denq, 1996, p. 119). Others conducted regularly mailed surveys (Davis, 1980), surveys with responses on a Likert scale and follow-up interviews after the first mailing (Albright & Denq, 1996), and even surveys with a hypothetical scenario (Giguere & Dundes, 2002). By contrast, I employ a qualitative approach, with a relatively low structured face-to-face interview. This allows for variation in responses and for the interviewer to probe the interviewee for further clarification on issues.

Hopefully this approach will allow me to identify other aspects in addition to a criminal record, that influence employer attitudes and perceptions of persons in conflict with the law, thus, leading to a better understanding of what makes PwCR desirable or undesirable candidates for the workforce, as our literature review suggests. At the very least, this thesis hopes to make society more aware of the challenges that persons with criminal records face, as a marginalized and excluded population while trying to achieve professional integration.

CHAPTER 3: THEORETICAL FRAMEWORK

In the last chapter, the current academic literature surrounding PwCRs and the workforce was reviewed. It was concluded that a gap exists in Canadian literature concerning the subjective experiences of employers in terms of their attitudes and perceptions toward PwCRs and how they perceive the employability of these individuals. Further, the absence of a meaningful discussion on stigma and shame as contributing factors to these experiences is missing. The next section hopes to expand on the theoretical framework grounding this study by first providing a detailed explanation of *symbolic interactionism* by Herbert Blumer (1969). Second, this section will discuss how *symbolic interactionism* is associated with *labeling theory* by Howard Becker (1963) and Goffman's (1963) *theory of social stigma*, and will conclude with Braithwaite's (1968) *theory of reintegrative shaming*. All of these elements will be explored in an effort to illustrate the social processes operating at the micro-level for persons with criminal records seeking employment.

To fully understand how stigma permeates micro-level interactions, I align myself with an *interpretive sociology* as exemplified in the work of sociologist Max Weber (1864-1920). An *interpretive sociology* allows me to focus on the importance of social action since it is primarily according to Weber (as cited in Camic, Gorski & Trubek, 2005) "concerned with the interpretive understanding of social action and thereby with a causal explanation of its course and consequences" (p. 6). Adopting such an approach would allow me to focus on individual human actors, an element which theorists such as Durkheim and Marx neglect as they focus on a macrosociology rather than a microsociology in comparison to Weber (Coser, 1977). Additionally, this epistemology would focus on the meaning that individuals assign to their actions (Coser, 1977). Following this, I will utilize micro-level theories including the *theory of social stigma* by Erving Goffman (1963) associated with Blumer's (1969) adaptation of *symbolic interactionism*, and complemented by the concept of *reintegrative shaming theory* by Braithwaite (1969). The layout of the following chapter will first explore the key facets of these theories to demonstrate the link between these concepts and the object under study.

3.1 – SYMBOLIC INTERACTIONISM

Symbolic interactionism (SI) is “a theoretical perspective for studying how individuals interpret objects and other people in their lives and how this process of interpretation leads to behaviour in specific situations” (Benzies & Allen, 2001, p. 545). In order to do so, it examines meanings that are created or produced from the interaction between individuals (Aksan, Kisac, Aydin & Demirbuken, 2009). In other words, its primary aim is to answer the question of: “Which symbols and meanings emerge from the interaction between people?” (Aksan et al., 2009, p. 902).

Herbert Mead (1863-1931) was the first to spearhead founding concepts of symbolic interactionism which were published posthumously in 1934. His ideas would also influence the development of the first and second Chicago School of interactionism. The first Chicago School centered largely on urban sociology with a unique focus on social disorganization with respect to criminality. It began around the 1900s, until around the 1930s, with input from notable authors such as Charles H. Cooley, W.I. Thomas, Frank Tannenbaum, and the young Blumer who would in 1969 formulate his own theory on symbolic interactionism. The second Chicago school began around 1950 with Becker and Goffman, in addition to Blumer’s students who worked on developing symbolic interactionism with a respect to deviance. As we will see, theories of both Mead (1934) and Blumer (1969) are an asset to this research as they focus on the interaction between individuals in specific situations and the various meanings as products of this interaction. To complement these theories, the works of Becker (1963) and Goffman (1963) will be referenced. To understand symbolic interactionism and the complementary concepts that are the theoretical foundation of this paper, I hope to explain each author’s ideas in order to demonstrate how they are interconnected and further relate to this project.

Mead’s (1934) initial theory that lead to the conceptualization of SI emphasized the role of others in the formation of our ideas of self. He develops this theoretical framework through the idea of

the looking-glass self,¹⁰ emphasizing the idea that we come to develop a sense of ‘self’ through our interaction with others. Mead would suggest that this sense of ‘self’ is not inherent to us, but rather develops over time and is part of an ongoing process. It would follow that the ‘self’ is then created, shaped and/or modified when the attitudes of the ‘other’ are internalized by the individual (Blumer, 1969). It also then follows that Mead’s (1934) assertion holds true: we see ourselves based on the way that others appear to see us.

As a result, we are always cognizant of how our own behaviour and actions can be interpreted by others, which can influence the perception that the “other” has of us, whether positive or negative. This internalization occurs primarily through one’s “participation in the conversation of significant symbols (that is language) and in other socialization processes (e.g., play and games)” (Cronk, 2005, para. 18). According to Mead “a significant symbol is a gesture (usually a vocal gesture) that calls out in the individual making the gesture the same (that is, functionally identical) response that is called out in others to whom the gesture is directed” (p. 47). In this sense, significant symbols make up communication (Mead, 1934). As for socialization, this is the “process through which a person (especially a child) acquires both the knowledge and the personality necessary to become a full member of a society” (Bruce & Yearley, 2006, p. 285). This process is often facilitated through informal activities (play and games) as established, but also through other agents of socialization such as peer groups and family (informal agents), as well as school, the workplace, religious institutions, and government (formal agents).

Ultimately, one’s self is thus a reflection of social relations with others (Mead, 1934). As one will see, Mead’s philosophy concerning SI paved the way for new theoretical considerations. Blumer

¹⁰ Cooley (1902) was the first to coin the concept of the ‘looking-glass self’ as the idea that an individual comes to develop a perception of himself/herself based on interaction with others.

would further develop his mentor's theories to develop three guiding principles of symbolic interactionism:

- (1) "human being acts toward things on the basis of the meanings that the things have for them...such things include everything that the human being may note in his world such as physical objects;
- (2) the meaning of such things is derived from, or arises out of, the social interaction that one has with one's fellows;
- (3) meanings are handled in, and modified through, an interpretative process used by the person in dealing with the things he encounters." (Blumer, 1969, p. 2)

In other words, human actors create and assign meaning to actions through interactions with others which are subject to constant change depending on the situation or context in which they occur. In addition, in a specific interaction each individual has a particular knowledge set, set of values, biases, expectations or things of importance that they wish to convey in a conversation. These elements set the limits and parameters of the interaction. Therefore, SI as a theory converges with the interpretivist sociology as outlined by Weber (1864-1920) as it focuses on the importance of the meaning created by human actors through interaction and its transformation into social action. Finally, meaning is created when there is a reaction to and interaction between individuals (Blumer, 1969).

In relation to the interaction between employer and a PwCR, the meaning of the interaction (whether it be positive or negative) according to the principles above, is dependent on how the employer reacts to, and interacts with the individual, in this case, on the basis of the potential knowledge of a past conviction, his own needs, or the legal consequences of hiring. Particularly, when the interaction takes place as direct contact between the employer and the individual, this particular context can create a number of specific interactions. It would then follow that SI can be utilized to examine the possible outcomes of this interaction. It is worth highlighting that the perception and attitude which the employer holds toward a PwCR, guides the employer's conduct,

which (relating it back to Blumer's third principle) is subject to evolution, modification and/or change at any moment during the interaction. The perceptions and attitudes held by the employer are the basis of this interaction and dictate whether it will have a negative and/or positive outcome. The Oxford Dictionary (2016) defines *perception* as "the way in which something is regarded, understood or interpreted", while *attitude* is said to be "a learned predisposition to respond in a consistently favorable or unfavorable manner with respect to a given object" (Fishbein & Ajzen, 1975, p. 6). These terms fit into the interactionist framework because they are created, produced, and even reinforced through interactions between people at the micro-level. These aspects allow for the consideration of this research that does not observe the concrete interactions, but rather, the perceptions and attitudes of employers.

It is also important to point out that the interaction between employer and individual can be through indirect contact, for instance, when the employer conducts a criminal record check. In this case, the reaction to what it may reveal can only be understood by zeroing in on what informs and dictates this perception. This is where Becker's (1963) work on *labeling theory* (also known as societal reaction theory) and the notion of the *label* fits into the current research project. Becker's theory is vital to this project as it draws on symbolic interactionist traditions. Becker (1963) aimed to understand deviance at its core, particularly how one comes to be labeled as deviant. Through his research, he concluded the following:

"[...] social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders. [...] deviance is not a quality of the act the person commits, but rather a consequences of the application by others of rules and sanctions to an 'offender'. The deviant is one to whom the label has successfully been applied; deviant behaviour is behaviour that people so label." (Becker, 1963, p. 9)

For Becker (1963), the focus remains on the deviant group, but more specifically, how the dominant group in society and its social agents append a label to those who engage in an act that

others label as deviant. Here, labeling is understood as a process and not a state of being inherent to the individual. Without the labeling by the dominant group, the individual and his behaviour will not be perceived as deviant. The label of *deviant* functions as a way of identifying an individual who has engaged in any act judged as departing from the norm. Rather than being identified by other social statuses (this paper will return to this idea) that an individual may occupy, they are subsequently labeled with respect to the behaviour that is perceived negatively.¹¹ On this note, this research hopes to uncover how employers react to the presence of a criminal record (cf. perception) and whether this is viewed as their ‘master status’ despite their other attributes (cf. attitude).

Similar to the idea of labeling, Goffman’s (1963) theory of stigma also fosters an understanding of how and why an employer could potentially hold negative perceptions and attitudes towards those with criminal records, and engage in stigmatizing and/or discriminatory behaviour. At the end of this section, the interconnections between Goffman, Mead, Blumer, and finally, Becker will be illustrated.

3.2 – STIGMA

Emile Durkheim (1938), coined as the ‘founding father’ of sociology, is considered to be the first to introduce the concept specifically with respect to crime and deviance. He asks us to:

“Imagine a society of saints, a perfect cloister of exemplary individuals. Crimes, or deviance, properly so called, will there be unknown; but faults which appear venial to the layman will create there the same scandal that the ordinary offense does in ordinary consciousness. If then, this society has the power to judge and punish, it will define these acts as criminal and will treat them as such. For the same reason, the perfect and upright man judges his smallest failings with severity that the majority reserve for acts more truly in the nature of an offense.” (Durkheim, 1938, pp. 68-69)

¹¹ To put this into context, we could use the example of the CEO of a large mining firm convicted of embezzling money from the company. Before his conviction, this individual was most likely perceived as a business man, colleague, father and/or friend. Now, after being subsequently labeled, his master status becomes that of “felon”, “ex-con”, or “ex-offender”. These labels become his/her primary identity. Any other identities occupied in the past will now be eclipsed. Any future interaction that this individual may will be tainted by his new “master status”.

Durkheim's (1938) work on crime and deviance also suggest that while crime and/or deviance are a 'normal' part of society, citizens will nonetheless be shocked at its occurrence. Additionally, his work on crime and deviance posits that individuals who engage in law breaking behaviour do so not because of criminogenic conditions, but rather because they reject the social norms and values of society (Durkheim, 1938). While Durkheim does not situate the notion of stigma in his work "he opens up a way towards understanding it as a phenomenon in human relationships" (Mlilo, 2011, p. 38).

Later conceptualizations of stigma by Goffman (1963) would begin to recognize the concept as a phenomenon that permeates social interaction. However, the major difference between the work of Durkheim (1938) in comparison to that of Goffman (1963), is that the latter favours a microsociology instead of a macrosociology. Goffman (1963) would successfully advance the concept of stigma into a full-fledged theory and define it as the process by which an attribute is deeply discredited by society. In some instances, "[a stigma] is also called a failing, a shortcoming, and a handicap...It [also] constitutes a special discrepancy between virtual and actual social identity" (Goffman, 1963, pp. 3-4). In this sense, *normal identity* is understood as the identity of the individual before they are stigmatized by those of the dominant group, while a *virtual identity* is society's perception of an individual based on their own assumptions and set of beliefs, while an *actual social identity* is what the individual embodies in reality (Goffman, 1963). Since the *virtual* and *actual social identity* are in conflict with one another it would appear as though it causes a fracture in one's normal identity (Goffman, 1963), thus lending support to the idea that *stigma* is the "process by which the reaction of others 'spoils' normal identity" (Nettleton, 2006, p. 95). Here we see a connection between this idea of stigma and Mead's (1934) concept of the 'self' as relational: by this token, the individual may eventually internalize their *virtual identity* and come to perceive themselves as others do. Using Goffman's assertions, the said stigma is therefore a gap between these two identities.

Numerous types of stigma were explored by Goffman (1963) in his work, including: physical scars (leprosy) or physical disabilities, tribal stigmas (fictitious or real) that are a part of a particular ethnic group, religion or nationality, and deviations in personal traits (alcoholism, mental illness, drug addictions). Of particular interest are deviations in personal or character traits. The presence of these traits can result in the individual being labeled as a *deviator*, since this identity deviates from the norm (Goffman, 1963). *Deviators* can be considered to have a “spoiled” identity because the stigma applied can prevent them from achieving social acceptance among the *normal* group (Goffman, 1963). *Normals*, as defined by Goffman (1963), are those who do not share the particular attribute that prompts stigmatization. In turn, *deviators*, when stigmatized, experience exclusion and alienation as a result of this ‘spoiled identity’ at the hands of *normals*. When applied to the subject at hand persons with criminal records can be likened to *deviators* because having a criminal record “deviates” from the norm of what is acceptable.

For PwCRs, in this case, the attribute is not readily visible and is usually hidden; in fact the criminal record is only knowable through interaction. When an employer comes to find out that a potential candidate has a past conviction on their record, s/he constructs an idea of who that person is; this is what Goffman (1963) refers to as “normative expectations”. Unsurprisingly, “normative expectations” of those with criminal records may be the possession or lack of certain character traits, skills, or abilities for example those reported in Dominguez Alvarez & Loureiro, (2012), Harrison & Schehr, (2004), Richardson & Flower (2014), SEU (2002) in addition to the potential of employers making assumptions based off the interactional style or other observed characteristics of persons with criminal records as noted by Pager (2003). In the same fashion, “normative expectations” can also foster an automatic association or assumption between the “ex-offender” label and a more serious offence.

Finally, the ideas brought forth by Durkheim (1938) and later expanded by Goffman (1963) cluster around the premise that “society has the power to judge and punish” (Durkheim, 1938, pp. 68-69), and consequently, uses this power to discredit an individual by applying a stigma onto their identity. Applying this premise to current research, if an employer’s reaction to persons with criminal records is negative, employers effectively take on the role of “judging” and “punishing” by applying a stigma to the person’s identity, thus in turn spoiling the individual’s “normal identity”.

The connection between *symbolic interactionism*, *interpretivist sociology*, and *social stigma* becomes clear. All focus on human actors (at the micro-level) and the meaning they give to the interactions between human actors and other people in particular situations. Here, the connection to Becker’s (1963) labeling theory must be acknowledged, where, much like with *interpretivist sociology* and *social stigma*, there is a focus on examining the interaction between human actors and the interactions that occur between individuals. Here, *labeling theory* allows us to make the connection to stigma as a negative label appended by the dominant group through interaction.

The notions of stigma, attribute, and deviator are extremely relevant in cases for persons with criminal records. A criminal record is an attribute that is perceived negatively which can in turn breed ‘avoidance’ and ‘discriminatory’ behaviour (Hannem, 2008). According to Goffman’s (1963) theory, this negative attribute is seen as undesirable by *others*, who in this case, can equate to employers, as they often apply a stigma to the individual. The *deviator* may not initially see themselves as such, until they are given that label, feel the consequences of that label, and subsequently internalize that label (Goffman, 1963). However, if we consider the shared knowledge or awareness in the business community surrounding the stigmatizing nature of criminal records, an inquiry should be made into the extent of which an employer will subscribe to this narrative and choose to append the stigma. Further, will employers use the presence of a criminal record as an initial screening tool or as a mitigating or aggravating factor in hiring

decisions? The latter situation would result in employers actively and automatically removing PwCRs from the pool of considered applicants. As shown above, these individuals upon release from prison or after serving a sentence in the community inevitably will find themselves operating at a place of disadvantage. How can one then be forced to present a “tainted” image of themselves to a prospective employer? This would be a precarious situation if the employer most likely has formed preconceived notions based on prevailing stereotypes, which include the perception that persons with criminal records may pose a greater liability for their company, may not possess the skills to interact with clientele, and lack a variety of “soft” skills (Giguere & Dundes, 2002; Kethineni & Falcone, 2007; Lam & Harcourt, 2003; Social Exclusion Unit, 2002).

At this point, introducing the concepts of discredited and discreditable stigma is important. According to Goffman (1963), a *discredited* stigma is when an individual “assumes his differentness is known about already or is evident on the spot” (p. 4) in comparison to a *discreditable* stigma where the individual is under the impression that their stigma “is neither known about by those present nor immediately perceivable about them” (p. 4). In theory, persons with criminal records can possess both a *discredited* and a *discreditable* stigma. With a *discredited* stigma, the question becomes: will employers apply the stigma? More specifically, would these individuals receive a callback, or, if as the application stage continues and a criminal record check is completed, would they be rejected from the applicant pool? For those with a *discreditable* stigma, by contrast, it may require the employment of stigma management strategies to manage this stigmatized identity as best as possible. Goffman (1963) calls these attempts to manage or conceal stigma as “passing” in public as someone who is *normal*. According to Linton (2006), “passing may [also] be a deliberate effort to avoid discrimination or ostracism [...]” (p. 166) and a mechanism to protect oneself from society’s rejection. In reality, how difficult is it to conceal the stigma? If we take into account that many job applications requests involve information regarding past criminal history in either the initial stages, or as the application process unfolds, it would seem difficult. In all, a criminal record as either a *discredited* or *discreditable* stigma is

dependent on the hiring process undertaken by the employer. While it is not my goal to explore these elements, this part of the interaction between PwCR and employers is important to recognize because the outcome of the interaction is very much dependent on the type of stigma at play.

3.3 – REINTEGRATIVE SHAMING THEORY

In terms of what can be conclude so far, there is a social awareness among employers surrounding criminal records, wherein lies a stigma. This stigma is further emphasized through behaviour known as *shaming*. In the case of persons with criminal records, the first process of what is known as shaming is done by the court system and sentencing process. In this sense, it can be argued, that the act of *shaming* is an extension of *stigma* (in particular the *shaming* potentially engaged in by employers). This element will be discussed further in depth through the lens of Braithwaite's (1989) *reintegrative shaming theory*.

Braithwaite (1989) developed the *reintegrative shaming* theoretical model as a response to the idea of crime at the individual and community level (as cited in Hannem-Kisch, 2004). At the core of the theory is the concept of *shame*, mainly, the idea that if perpetrators are to be successfully deterred from committing offences in the future they must be made to feel guilty about their actions (Braithwaite, 1989 as cited in Hannem-Kisch, 2004). In order for this to work, shaming must be done in a manner that ensures that the offender is welcomed back into the community rather than further alienated from it (Braithwaite, 1989 as cited in Hannem-Kisch, 2004).

Following this perspective, *reintegrative shaming theory*, highlights the notions of crime, shame and reintegration (as cited in Hannem-Kisch, 2004). Although all three of these tenets are important, for the sake of the subject of this paper, the primary focus here will remain on the concept of *shame*. This concept is defined as “all social processes of expressing disapproval which have the intention or effect by invoking remorse in the person being shamed and/or condemnation of others who become aware of the shaming” (Braithwaite, 1989, p. 100). Braithwaite maintains

that shame is used as a deterrent to ensure that members of a society follow societal rules and norms (as cited in Hannem-Kisch, 2004). Shaming, comes in two forms: shaming coupled with a phase of reintegration, known as *reintegrative shaming*, and shaming that is stigmatizing in nature, known as *disintegrative shaming* (Braithwaite 1989, as cited in Hannem-Kisch, 2004). With the former, following the denunciation of the act, there is a conscious attempt to “reintegrate the offender back into community of law-abiding or respectable citizens through words, gestures of forgiveness or ceremonies to decertify the offender as deviant” (Braithwaite, 1989, pp. 100-101). Reintegrative shaming practices can be characterized by sentencing circles, commonly used by Aboriginal communities in Canada, and Family Group Conferencing as seen in New Zealand (Hannem-Kisch, 2004).

Sentencing circles within Aboriginal communities operate with a common aim of: “developing a consensus on how to repair the harmful results of an offence” (Justice Education Society (JES), n.d.). Specifically, the members who may be a part of the healing circle can include individuals from the community, elders, and in certain cases the victim – however their consent must be obtained first (JES, n.d). Also, a discussion surrounding the impact of the offence on the victim, community and other relationships of the offender may take place (JES, n.d). Last, the sentencing circle aims to examine the root causes that led the offender to commit the offence (JES, n.d). Comparably, Family Group Conferencing consists of a conference between the victim and the offender, in addition to their family and friends (National Institute of Justice (NIJ), 2007). The goal is to come to a resolution concerning the criminal offence in question; however, in order for this conference to take place the offender must be willing to admit guilt (NIJ, 2007). In both cases, there is a process of reintegrative shaming: naming the harms, expressing disapproval, becoming aware of the impact of the offence, and coming to a resolution upon which both parties agree.

Disintegrative shaming, on the other hand, takes place when the individual and the act committed are identified as having violated community norms and/or values, resulting in the individual being

either rejected or not welcomed back into the environment by their peers (Braithwaite, 1989 as cited in Hannem-Kisch, 2004). In this sense, our criminal justice system is said to engage in *disintegrative shaming* through the courts and sentencing process as the individual and his act are denounced. The offender experiences a ‘doubly’ amplified process of stigmatization as a result of a conviction and by the act of being sent to prison (Hannem-Kish, 2004). *Disintegrative shaming* is particularly damaging because the focus is on how “evil” the individual is, thus, the reasoning for why it is often ‘degrading’, ‘cruel’ and ‘punishing’ (Braithwaite, 1989 as cited in Hannem-Kish, 2004). For individuals attempting to achieve professional reintegration, the issue of *shame* perpetuated by the criminal justice system is pertinent. Through both the court and sentencing process PwCRs face the amplified experience of *disintegrative shaming*.

If we examine the link between *reintegrative shaming* and Goffman’s (1963) concept of *stigma*, it can be concluded that both exercise a level of deterrence, but each process achieves a very different outcome. If employing *disintegrative shaming*, the focus will nonetheless remain on the individual and how they are a “bad” person, rather than denouncing the act itself, which will not achieve deterrence. Rather, this is why Braithwaite (1989) advocates for *reintegrative shaming*, as the shame that emanates from knowing that an act that violates community norms and has the potential to negatively impact others in that community is sufficient to deter a person from engaging in the similar behaviour in the future (as cited in Hannem-Kish, 2004). Comparably, *stigma* could exercise a level of deterrence as well but with a very different and negative outcome. Indeed, following Goffman (1963), as once the individual’s normal identity is “spoiled”, they can become further alienated and ostracized by this identity. Thereafter, the individual may internalize the perception of others and embody the new identity given to him or her, and possibly still be deterred from engaging in deviant activity. Finally, from this context we can understand how *disintegrative shaming* is an extension of *stigma*.

It is important to understand that employers exercise similar powers as those of the criminal justice system (court system and sentencing process). When a PwCR applies for a job, or is awarded an interview, feelings of uncertainty and anxiety can develop if they have previously faced shame. Furthermore, many of these individuals have previously gone through disintegrative shaming (by the court system and criminal justice system) and may have feelings of alienation and social exclusion. Thus, when they come into contact with employers, these feelings could be further exacerbated. If the employer outright rejects the application and the applicant does not receive a callback or senses in the interview process that the employer is not approving of their criminal past, it would constitute another phase of *disintegrative shaming*. If an employer were to consider a candidate with a criminal record, or to eventually hire an individual with a criminal record, the employer would have engaged in *reintegrative shaming* as opposed to *disintegrative shaming* where the PwCR is not welcomed back into the workforce (community). Given what we know about the role *labeling* plays in the function of *stigma*, here, *disintegrative shaming* would constitute a secondary “wave” or phase of stigmatization or stigmatizing behavior toward the individual, as the first wave already came from the court system and during the sentencing process. Whether employers will choose to subscribe to the narrative concerning criminal records and consequently, engage in *disintegrative shaming*, is yet another question. Given this possibility, it is imperative that we understand an employer’s thought process, and how they legitimize or justify their perceptions and attitudes towards PwCRs.

The aim of this section was to establish a well-grounded theoretical framework that would ultimately legitimize and support the research questions of this study. To begin it was stated that a focus on the interactions of social actors at the micro-level was a primary goal, best studied through an *interpretivist sociology* lens, as this framework focuses on the meaning created through interactions. It is imperative to remind those reading, that as a researcher, my focus has been entirely on meanings, and the sense given by employers through the hiring process, a topic lacking in Canadian literature on PwCRs and employment. Next, the notion of *symbolic interactionism*

was identified as an approach that examines “how individuals interpret objects and other people in their lives and how this process of interpretation leads to behaviour in specific situations” (Benzies & Allen, 2001, p. 545). *Labeling theory* was briefly discussed as a theory that highlights that no act is inherently deviant until it is labelled as such and applied. We then followed these assertions by theorizing stigma and explained how it often permeates micro-level interactions depending on the type of stigma occupied by the individual in question (*discredited* vs. *discreditable*). To end this section, a discussion on the level of deterrence power that *shaming* and *stigma* can exercise, further demonstrated the complexity of the issue. The section then concluded by stressing that a stigma surrounding criminal records exists and is commonly shared knowledge between employers and that *shaming* is an extension of stigma, that not only comes from the court system and sentencing process but also during the hiring process between employer and person with a criminal record.

3.4 – GUIDING RESEARCH QUESTIONS

The manner in which one frames a research question is highly dependent on the purpose of the research in question (Hesse-Biber & Leavy, 2011). A major purpose of this project is descriptive, meaning that at its core, is a desire to “investigate an under-researched aspect of social life” (Hesse-Biber & Leavy, 2011, p. 10). General research questions that deal with a descriptive purpose tend to ask the following question: “What are the salient actions, events, beliefs, attitudes and social structures and processes occurring in this phenomenon?” (Marshall & Rossman, 2011, p. 69). Nonetheless, the final aim of my research is to understand the subjective experiences of employers in terms of their attitudes and perceptions toward PwCRs and how they evaluate their employability, which will in turn fill a major gap in the literature concerning the subject matter.¹²

¹² From a sociological standpoint, choosing *employers* as research subjects had a major purpose; I consider *employers* to be important social actors in our society because they are gatekeepers to the workforce, since they control the flow of persons in and out of the employment domain. Additionally, considering humans are defined by “what they do” which refers to one’s occupation, *employers* can “make or break” one’s ability to secure employment and eventually develop a sense of self/identity/self-worth. Lastly, it was also important to give a voice to *employers* as stakeholders in society.

Using a theoretical framework of *symbolic interactionism*, *stigma*, and *shame* will allow me to seek out answers to the following set of research questions:

- What are the attitudes and perceptions of employers regarding persons with criminal records entering the workforce?
- How do employers evaluate the employability of persons with criminal records entering the workforce?

3.4.1 – OPERATIONALIZATION OF CONCEPTS GUIDING THE RESEARCH

Gaining insight into the thought process of employers is central to this research. The terms and concepts guiding this project are: *attitude(s)*, *perception(s)*, *evaluate*, and *employability*. The terms *attitude* and *perception* are understood to be as follows:

Attitude: “a learned [relatively stable] predisposition, to respond in a consistently favourable [positive] or unfavourable [negative] manner with respect to a given object” (Aiken, 1980; Fishbein & Ajzen, 1975, p. 6)

Perception: “the way in which something is regarded, understood, or interpreted” (The Oxford Dictionary, 2016)

The concepts *evaluate* and *employability*, however, go beyond their simplistic definition, as here they function rather as concepts which can be rooted in the theoretical framework and notions of symbolic interactionism. According to Merriam-Webster Dictionary (2016), the definition of the word *evaluate* is to “judge the value or condition of (someone or something) in a careful and thoughtful way” or “to determine or fix the value of”. This definition of *evaluate* elicits interactionist notions as the focus is on how people interact with one another in a given context. Further, if one takes note of the keywords *judge/determine*, and *value/condition/fix the value*, these are actions that an employer performs in a particular context – the hiring process, further giving meaning to the situation that they are a part of. As such, this is where the notion of *employability* come into play, which serves as a barometer for how employers determine whether or not to hire

an applicant. The concept of *employability* lacks a clear and concise meaning, as there seems to be a limited amount of literature that explores this definition. However, a definition by Hillage and Pollard (1998) cites employability as one's ability "to gain initial employment, maintain employment and obtain new employment if required" (p. 2) which appears to be the most fitting for this research. Most importantly in this definition is the element of "[gaining] initial employment" (Hillage & Pollard, 1998, p. 2). A potential applicant may be viewed as employable if the employer identifies skills (whatever they may be) required to perform the tasks specific to the job, however this is not a sufficient condition to be employed or offered a job (McQuaid & Lindsay, 2005).

The above suggests that other factors may be at play in this decision-making process, and ultimately, can negatively or positively affect the outcome of this decision. We will see throughout this paper how a criminal record does just that. This study also aims to also uncover if there is a subtler or more nuanced reasoning behind an employer's decision to hire or not to hire a person with a criminal record. Ultimately, this concept will prove to be useful when trying to comprehend how employers make decisions in terms of hiring and will also shed light on aggravating or mitigating characteristics. With all things considered, depending on the perceived employability of an individual, the notions of *stigma* and *shame* may or may not play a significant role.

CHAPTER 4: METHODOLOGY

The preceding chapter outlined the theoretical framework guiding this thesis. This research situated itself in an *interpretive sociology*, as the concept of social action created between human actors, and the meaning assigned to these actions are at the core of this study. Further, the tenets of *symbolic interactionism*, *labeling theory*, *social stigma theory*, and *disintegrative shaming theory* proved to be most effective in understanding the social processes underlying the research questions. The following chapter discusses the methodological approach employed. To begin, I discuss the paradigm that influenced and guided the line of inquiry in this work, corresponding epistemological and ontological assumptions, and the importance of reflexivity throughout the research process. On this basis, I then built my methodological approach with a detailed description of: (1) the research design; (2) the sampling frame; (3) interviews; (4) ethical considerations; (5) data collection; (6) the data analysis technique employed; (7) strengths and limitations of the data analysis technique; and lastly, (8) issues of generalizability.

4.1 – CONSTRUCTIVISM AND ITS ASSUMPTIONS

When conducting qualitative and/or quantitative research, it is important to appropriately select the paradigm that will inform and guide the process of inquiry. To re-iterate, a paradigm is a way of thinking that influences how a researcher will in turn perceive and interpret their data (Guba & Lincoln, 2004). What makes each paradigm unique is its responses to three fundamental questions relating to *ontology*, *epistemology*, and *methodology*. In this section, I will stress the importance of those questions. The ontological and epistemological questions specifically refer to an individual's *Weltanschauung* or worldview (the English equivalent) which is defined as “a comprehensive conception or apprehension of the world especially from a specific standpoint” (Merriam-Webster Dictionary, 2016; Paludi, 2013, p. 359). In this regard, the terms ontology and epistemology refer to “our beliefs about reality and our beliefs about knowledge within that reality [respectively]” (Allison & Pomeroy, 2000, p. 92). According to Guba and Lincoln (1994),

ontology seeks to answer “what is the form and nature of reality, and therefore, what is there that can be known about it?” (p. 108), while *epistemology* seeks to answer “what is the nature of the relationship between the knower or would-be knower and what can be known?” (p. 108). The current research project is concerned with *ontology* as it seeks to understand the attitudes and perceptions, as well as how employers assess the employability of persons with criminal records. As it aims to understand this perception which is based on lived experiences, a social constructivist perspective will be adopted. The constructivist perspective emphasizes “how different stakeholders in a social setting construct their beliefs” (Guba & Lincoln, 1989 as cited in Schutt, 2011, p. 86). When stakeholders do this, their beliefs ultimately form their perceptions, defined as “the way in which something is regarded, understood, or interpreted” (The Oxford Dictionary, 2016). Further, this perception informs one’s social construction of reality in which social actors define what is real, or what is true to them (Berger & Luckmann, 1967). Following this, one can conclude that individuals, like employers, construct their reality concerning the hiring of persons with criminal records based on the perceptions (or beliefs) which they believe to be true.

In order to illustrate and understand these beliefs, the *epistemology* of constructivism maintains that “findings” are literally created as the investigation proceeds” (Guba & Lincoln, 2004, p. 27) between the researcher and participant. Consequently, the perceptions of the employers of interest for this study will be under a constant state of flux, as the dialogue will deconstruct and reconstruct them, therefore ultimately shaping their outlook. For this reason, “constructivists argue that knowledge and truth are created, and are not discovered” (Klenke, 2008, p. 22). Here, the researcher is not attempting to find an absolute truth, or to assess the truthfulness of a particular claim. In contrast, the ontological perspective maintains that “realities are apprehendable in the form of multiple, intangible mental constructions, socially and experientially based, local, and specific in nature [...] and dependent for their form and content on the individual persons or groups holding the constructions” (Guba & Lincoln, 2004, p. 26). As such, researchers who wish to investigate social processes at the micro-level can uncover how social actors construct their

experiences and view the perceptions of their experiences to be true. Despite its merits as a theoretical process, this has not prevented academics from criticizing this paradigm's apparent denial of reality when in essence, it denies only the assumption that "we can rationally know a reality beyond our experience" (von Glasersfeld, 2001, p. 10).

The notion of imagining reality beyond our own is at the very core of my research, as the objective is to understand how employers make sense of their world, and how they build a perception of person with a criminal record based on that worldview. The "reality" in question would then explore whether an employer's perception and worldview then translate into hiring or not hiring an applicant with a past criminal conviction. Further applying the constructivist line of inquiry of Guba and Lincoln (2004) and von Glasersfeld (2001) to my research, one could suppose that the social construction of a person with a criminal record would differ from employer to employer, as their worldviews are different. This does not suggest that one account in comparison to the other is any more or less "true" (Guba & Lincoln, 2004). The 'truth' or validity of the statements throughout this research is not a point of focus because each constructed reality is treated as being as 'informed' and/or 'sophisticated' as the other (Guba & Lincoln, 2004). By shedding light on each of their accounts, I will be able to provide a more accurate and representative picture of the underlying social process of stigmatization and shaming that may be taking place. To conclude, it is important to reinforce that constructions held by these employers are dynamic and are subject to change over time especially when competing constructions are juxtaposed beside one another in points of discourse (Guba & Lincoln, 2004). What this statement suggests is that an employer's social construction of persons with criminal records may change during the interview with the researcher when faced with questions challenging or bringing into question aspects concerning their thought process.

Situating oneself in the constructivist paradigm also requires the researcher to consider the importance of their own voice. Therefore, it requires the voice of the researcher be that of a

“passionate participant” in the research process (Lincoln, 1991 as cited in Guba & Lincoln, 2004, p. 34). This entails engaging in an active dialogue with their research subject. When conducting interviews with various employers and assessing how they socially construct their perceptions of persons with criminal records, a researcher must openly and actively question their thought process, but not in a manner which doubts their accounts. Rather, the goal is to prompt them to rethink their previously held constructions, thus, giving credence to the idea of “passionate participant” while also striving to be the facilitator of “multivoice’ reconstruction” (Guba & Lincoln, 2004, p. 34). Should the relationship between the researcher and subject be “interactive” and “inseparable” (Klenke, 2008, p. 29), the researcher will be able to successfully examine the constructed reality of the participant under study.

In such a case, constructivism in particular is complementary to qualitative research, as this research aims to gain understanding of underlying reasons, opinions and motivations which also complements the aim of constructivism considering it “emphasizes how different stakeholders in a social setting construct their beliefs” (Guba & Lincoln, 1989 as cited in Schutt, 2011, p. 86). Further, a qualitative approach spearheads “an inquiry process of understanding a social or human problem [...] conducted in a natural setting” (Creswell, 1994, pp. 1-2), which is also complementary to the goals of constructivism. This specific role of the researcher also calls for the practice of reflexivity.

4.2 – REFLEXIVITY IN RESEARCH

Engaging in an activity of reflexivity or self-reflection throughout the research process is a key component of qualitative research. This process is defined as a “process of a continual internal dialogue and critical self-evaluation of researcher’s positionality as well as active acknowledgement and explicit recognition that this position may affect the research process and outcome” (Bradbury & Jones, 2007; Guillemin & Gilliam, 2004; Pillow, 2003; Stronach et al., 2007 as cited in Berger, 2015, p. 220). Reflexivity is particularly important because the researcher

is considered to be the “instrument” used to collect and analyze data (Glesne, 1999; Merriam, 1998; Russell & Kelly, 2002; Stake, 1995 as cited in Watt, 2007, p. 82). Consequently, engaging in this exercise is advantageous and renders the work more credible and increases validity. To assess the validity means to ensure that the study measures what it purports to measure and the truthfulness of the results (Joppe, 2000 as cited in Golafshani, 2003). Lincoln (2002) said it best: “a text that displays honesty or authenticity ‘comes clean’ about its own stance and about the position of the author” (p. 333). In other words, the ultimate goal of reflexivity is to openly and formally acknowledge common external influences: gender, race/ethnicity, socioeconomic status and sexual orientation (Berger, 2015). By acknowledging how one’s values and beliefs (including knowledge and biases) permeate the research process, the researcher increases the rigor, quality, and accuracy of the research, in addition to the credibility of the findings (Berger, 2015; Lincoln, 2002).

Performing this exercise on myself, I know my own characteristics as an investigator may impact the process of inquiry. As a woman of colour, I have recognized that my experiences in some capacity are similar to those experienced by persons with criminal records. The experiences may not be as negative or as frequent but I can specifically empathize with feelings of marginality and exclusion resulting from a negatively perceived label. Furthermore, I can empathize from experience, in terms of how stigma operates and how a label often becomes someone’s master status. These points are essential to my research as I will be conducting interviews with individuals who may not be socially aware that they perpetuate these feelings of alienation and exclusion for persons with criminal records who seek employment. During my interviews, it is imperative that I do not project my feelings onto them. In addition, it is important according to Pillow (as cited in Berger, 2015) to engage in a conversation with my research subjects in a manner that is ‘non-exploitative’ and ‘compassionate’, despite my personal feelings about hiring practices and/or policies. Although it may prove difficult to keep these points in mind, it is crucial that I not strive to remain ‘detached’ and fully ‘objective’ as this can affect the quality of my work in general

(Lincoln, 2002), but more pointedly during my interviews as this may be detrimental to my research. Lastly, it is my duty to accurately represent the thoughts and experiences of the research participants by stating what they say rather than “putting words in their mouth” as I will be drawing conclusions from an analysis of verbatim quotes at a later time.

4.3 – RESEARCH DESIGN

A research design is informed by its theoretical framework and research question(s). My holistic and qualitative approach to representing this data, the philosophical standpoint of constructivism (*ontology and epistemology*), and theoretical perspective detailing *labeling, stigma, and shaming* have informed my chosen methods design. By adopting such an approach, two elements become increasingly clear: (1) this approach views “research as a process rather than an event” (Hesse-Biber & Leavy, 2011, p. 7) and (2) the researcher as cognizant of how his/her own beliefs can particularly affect the methodological framework (Hesse-Biber & Leavy, 2011). With that being said, this research project is descriptive and “the best way to gather this kind of data is directly from the population in which we are interested” (Hesse-Biber & Leavy, 2011, p. 10). Ultimately, this will allow me to answer the research questions at hand, and collecting data through interviews will lead me to “thick descriptions” (Geertz, 1973) – an element which I elaborate on in the following section.

4.4 – BUILDING THE SAMPLING FRAME

The participants in this study were selected based on a variety of inclusion criteria. First, the research subjects had to be employers, but more specifically business owners and/or hiring managers as these individuals are typically responsible for making decisions concerning the hiring of staff and would be more likely to share insight into the topic under study. Second, these individuals had to be from non-franchised establishments, as participants of franchised companies may run the risk of (1) responding in a manner that is in conflict with company policy regarding hiring (Giguere & Dundes, 2002); (2) giving a response that reflects well on the company instead

of sharing with the interviewer their true feelings regarding the hiring of persons with past convictions (idem) and (3) not being entirely truthful about the hiring tendencies of the company to not appear “anti-offender/reform/reintegration”. Additionally, seeking permission to interview these types of establishments may take more time to secure given the potential legal ramifications of participation. Third, issues relating to accessibility (including time and finances) led me to build a sampling frame of participants with businesses in Ottawa, Ontario for a variety of reasons. The fact that no studies to date were conducted in this city and that I was able to find English-speaking employers supported this choice. However, the limitations of conducting research in only one city are important to consider as well, this element will be discussed in the last chapter of this thesis.

The sample size for this study was eight participants; this number was chosen as it was thought to most likely achieve theoretical saturation. By saturation, it is specifically meant that results of a sample would be closely the same for the entire group rendering the possibility of sampling more participants from this population unnecessary. Since our research questions concerned Canadian businesses, issues of generalizability and transferability will also be discussed at a later point in this chapter. Nonetheless, the issue of sample size and limited data, and its effects on data analysis, according to Glaser and Stern as cited in Charmaz (2006), do not present serious issues since “grounded theory methods aim to develop conceptual categories and thus data collection is directed to illuminate properties of a category and relations between categories” (p. 18). By searching for concepts, categories and linkages, qualitative research assumes that it would be unlikely that a larger sample would reveal more crucial information, themes or points of view that would radically change the findings (Savoie-Zajc, 2007), which is the principle of theoretical saturation. Therefore, conducting a relatively limited number of in-depth/intensive interviews is sufficient. The last important point concerning the sample concerns diversification. Achieving diversification is another objective of this research and will be achieved through multiple interviewee accounts, which will then translate into varying perspectives.

Consequently, a sample size of eight intensive interviews was deemed appropriate, but of course depending on the content of the interviews, this number could have been adjusted throughout the interview process. Based on the inclusion criteria, I was able to develop a sampling frame similar to that of Crawford and McBride-Owens' (2014) study which sought to measure attitudes of HR managers towards "ex-offenders" with online degrees. The way in which the researchers set out parameters for selection and to achieve diversification was through varying the sample by the size of business. In terms of selecting the specific number of businesses per industry size, seeking two of each made it an equal playing field and guaranteed that at least one business satisfied each size type, therefore, allowing comparisons to be made. The participants were selected based on the following characteristics:

4 HR managers or owners of a small sized business

2 HR managers or owners of a medium sized business

2 HR managers or owners of a large sized business

It was decided that a distribution of 4-small, 2-medium and 2-large sized business would be ideal, as the likelihood of finding small businesses to interview in comparison to larger businesses may be easier as larger businesses may not be allowed to participate due to the potential legal implications. In addition, small businesses may not be constrained by these legal implications, to the same extent as a large business. Considering I was working with such a small sample, I chose not to diversify my sample based on age and gender of the owner or HR manager. Although both characteristics may have been relevant, I could not guarantee that I would be able to obtain such a balanced sample by age and/or gender of owners and/or HR managers. I did, however, believe that it would be much simpler to diversify the sample based on the industry type. In terms of selecting the specific number of businesses per industry size, seeking two of each made it an equal playing field and guaranteed that at least one business satisfied each size and type, therefore, allowing comparisons to be made if need be.

To recruit participants, a purposive sampling procedure was employed where “particular settings, persons, or events are deliberately selected for the important information they can provide that cannot be gotten as well from other choices” (Maxwell, 1997, p. 87). Considering my subject matter concerned employers (businesses), my immediate thought was to build a sample using Canada 411 - Find a business, through YellowPages.ca., a useful tool that provides addresses and contact information of businesses, products, and services. It also allowed one to search for businesses by industry type whether it be primary (resource extraction), secondary (manufacturing), and tertiary (service sector). The types of employment searched for in the primary sector were forestry, fishing, agriculture; automobiles and construction for the secondary sector; and for the tertiary sector, retail and food services. Using these key terms gave me the ability to search for specific businesses based on industry type which would in turn allow me to further diversify my sample. The initial list of recruited and potential participants was approximately between fifteen to twenty businesses that at first glance satisfied the inclusion criteria. I also created a backup list of other participants following the design of Crawford and McBride-Owens (2014). I noted their contact information in an excel spreadsheet to keep all relevant information organized.

Following the regulations set out by ethics office at the University of Ottawa (see below), the formal recruiting process began with the mailing of recruitment letters with a secondary copy sent to the business email address (if applicable) of each establishment. In the same email, a letter of information aimed to help participants make an informed decision with regards to participation in the study. Participants were not sent the interview guide prior to the interviews because the question themselves were not sensitive in nature, and therefore, did not require a great deal of thinking beforehand to answer appropriately. I also thought that providing the interview guide to interviewees ahead of time might stifle or “kill” the spontaneity of the interview. Additionally, these issues may potentially compromise the reliability and outcome of this research.

Despite employing a purposive sampling method, this method was unsuccessful in yielding participants for my research during the initial stages. This prompted me to instead utilize the referral technique of snowball sampling where “members of the target population are located they are asked to provide names and addresses of other members of the target population, who are then contacted and asked to name others and so on” (Dixon, Singleton & Straits, 2015, p. 165). This method proved to be tremendously effective because my subject matter is rather polarizing and highly debated. To expand on this point, according to Biernacki and Waldorf (1981) snowballing sampling is particularly suitable for studies that focus on deviant behaviour where “moral, legal, or social sensitivities surrounding the behavior in question [...] pose some serious problems for locating and contacting potential respondents” (p. 144). By using a chain referral technique where I began by asking a family friend who was themselves a business owner for suggestions on who to approach within the business community, I was finally able to recruit employers from a variety of fields who were willing to share their experiences on such a controversial issue as the hiring of persons with criminal records. At this stage, I was mindful of each recruited employer and the type of industry that each business corresponded to. I also made a conscious effort to ensure that I had at least one employer from most of the industry types listed earlier in this chapter (resource extraction, goods producing, and retail and food services). Interviews officially began in mid-November, 2015 and ended in early September, 2016.

4.5 – THE INTERVIEW PROCESS

During this time period, I conducted eight intensive one-on-one and low structured interviews with English-speaking and non-franchised businesses in the Ottawa area. In accordance with the research questions, the two questions posed to my interviewees were as follows (see interview guide in Appendix D):

(1) *What in your opinion is an ideal employee (for your business)?*

(2) If a person with a criminal record were to apply for an entry-level position, how would you consider/approach this application?

The first question aimed to make the interviewee comfortable and to ease them into the more intense questions that follow in the second part of the interview. Here, I focused on building a positive rapport with the interviewee and helped them to feel at ease. The second question was more specifically aimed at introducing the topic of criminal records, and to see how the interviewee would react to a line of questioning on this subject matter. Asking the questions would allow me to most definitely gain insight into the attitudes and perceptions of employers towards PwCRs, and perceived employability.

The interviews ranged between one to two hours in length, were audiotaped and subsequently transcribed. Supplementary hand notes were taken during interviews to jot down other important elements. Low structure interviewing with two guiding open-ended questions proved ideal, as it allowed for variation, the free flow of ideas, and unanticipated insight from participants. In addition, it did not bombard the subject and overwhelm them to a point where they would feel pressured to answer the questions posed by the interviewer. One-on-one interviewing also proved to be rewarding as I could develop a rapport with my subject because of the openness required to answer the questions, which in turn led me obtain rich and “thick descriptions” (Geertz, 1973) or descriptive accounts of participant experiences. This was further facilitated by conducting the interviews at the business of the participant in a private conference room, office or location desired by the participant. This ensured privacy between myself and my interviewee and gave me the ability to concentrate on forming a close connection with my subject with little to no distraction. Although time permitted to conduct more interviews for this project, I felt as if I had achieved theoretical saturation between the fifth and sixth interview. It was decided with the input of my supervisor to continue interviewing until I completed the projected eight interviews. Nonetheless, after these eight interviews, I noticed that “[no] additional research samples [added] any new information to [my] understanding of [my] theoretical constructs [...] Rather, additional studies

simply [confirmed] what [I] already [knew]” (Auerbach & Silverstein, 2003, p. 102), confirming that theoretical saturation had been reached. This ultimately confirmed that sampling more participants from this population was unnecessary and that it would be highly unlikely that more significant information would radically change the analysis.

4.6 – ETHICAL CONSIDERATIONS

Ethical considerations are an integral part of a qualitative research process. As a researcher one must protect participants at all costs and ensure that their safety is a priority. I submitted to the Office of Ethics and Integrity at the University of Ottawa an application for a minimal risk review of my research which took between five to seven weeks to receive feedback. This type of review, according to the Research Ethics Board (REB), “is intended for studies which pose minimal risk to the participants' rights and welfare and comply with the relevant standards relating to such matters as free and informed consent, privacy and confidentiality and appropriate balance of risks and benefits” (University of Ottawa, n.d, para. 1). On May 25th, 2015 full ethics approval for this research was granted by the Research Ethics Board.

To return to the idea of protecting participants, there were several ways in which this was ensured throughout the research process. Subjects were informed about the nature of the study through a letter of information. This letter outlined the specific nature of the project, including potential risks such as harm or discomfort, and how participation would contribute to the project's goals. In addition, participants were given the opportunity to follow-up with any questions or concerns by providing contact information of myself and supervisor on the letter of information. By signing the attached consent form the participant confirmed having read the letter of information and agreed to participate. Next, mutually agreed upon times, dates, and locations of interviews were finalized.

Before starting the interview, I explained to the subjects that participation in the study was completely voluntary. Participants were instructed that at any point they could opt out of the study whether it be before, during, or after initial participation. I stressed the importance of confidentiality and anonymity in the study as I was operating under the assumption that with my subject matter that this would potentially cause anxiety for some participants. I understood many of the individuals would naturally be interested in protecting the integrity and reputation of their business so this was understandable. I gave them pseudonyms to do so, and these same pseudonyms were used within the paper when discussing verbatim quotes. Participants were also reminded that interviews would be transcribed and quoted verbatim in the findings section of the research and at no point would they be given the opportunity to review the transcripts of the interview at a later time. I also mentioned to the participants that I would be taking supplementary notes in addition to the audio recording. Lastly, participants were informed that confidentiality was further guaranteed by the secure storage of all interview data throughout the duration of the project and its subsequent destruction, and that access to the data was only given to me and my supervisor. These measures seemed to alleviate most if not all initial apprehension felt by interviewees.

4.7 – DATA ANALYSIS

After conducting my interviews, the first major step of my analysis involved transcription of the eight recorded audio files. By doing so they are transformed into written form for a more attentive and detailed examination by linking the contents with analytic notes and/or coding them (ten Have, 1999). I used InqScribe, a transcription software, to aid this process. After transcription, I was able to pair the transcription with the supplementary hand notes taken during the interview to gain a better and more comprehensive understanding of the interviewee's thought process. The second step of my data analysis included the coding of data using Grounded Theory (GT).¹³ Earlier in the research process I had made the decision to use Thematic Analysis but later changed direction

¹³ It would be pertinent to clarify that the data analysis was partially inspired by a Grounded theory approach (specifically the coding), however the research design employed as a whole does not follow its rules completely.

because I found that it was too restrictive and that often the context of the data had the potential of being lost. Grounded theory by contrast is an inductive methodology where a theory is generated from a data set, rather than confirming or refuting a pre-existing theory explaining a phenomenon (Hesse-Biber & Leavy, 2011). Therefore, choosing GT as a method of data analysis proved a better choice for a variety of reasons. For Charmaz (2006), the logic of grounded theory informs the data collection method employed by the researcher, in addition to the theoretical framework guiding the research. As such, it is important to also choose or design a method that can “advance your emerging ideas” (Charmaz, 2006, p. 16). Given this research and the logic it follows, it is ideal to use open-ended questions in order to prompt interviewees to divulge relevant information concerning the subject matter (Charmaz, 2006). The second reason for choosing GT, like the first, is that it complemented my data collection method of intensive interviewing, because both are “open-ended yet directed, shaped yet emergent, and paced yet unrestricted” (Charmaz, 2006, p. 28). This is where Charmaz (2006) believes Blumer’s (1969) interpretation of ‘sensitizing concepts’ comes into play, as “these concepts give you initial ideas to pursue and sensitize you to ask particular kinds of questions about your topic” (p. 16). This is also particularly useful in cases where the research is using an open-ended interview structure because those very same concepts will accomplish the same task and will help the interviewer guide the conversation. Lastly, grounded theory as an analytical method requires that researchers take on a more active role in both the data collection and analysis stage, resulting in “researchers [having] more analytic control over their material” (Charmaz, 2006, p. 28).

The coding process can be conducted in a variety of ways as grounded theory coding is very flexible. Nonetheless, I followed various steps outlined by Corbin and Strauss (1990) and Charmaz (2006), as I found that they were the clearest and provided examples to illustrate the phases in practice. The first phase of coding was *initial* or *open* coding. It is a phase that involves “[trying] to see actions in each segment of data rather than applying preexisting categories to the data” (Charmaz, 2006, p. 47) and where the researcher describes what the interviewee is doing (the

actions) with their statements (Charmaz, 2006). Additionally, in *line-by-line coding* the research uses verbs ending in -ing- and words to describe the actions of the interviewee (Charmaz, 2006, pp. 48-50), which involves going line by line through the text and coding it accordingly (Glaser, 1978). The objective of this phase is to expose the researcher to new insights by thinking of the data in a different way (Corbin & Strauss, 1990). While doing so, the researcher compares events, actions and interactions, and eventually can assign conceptual labels to them (Corbin & Strauss, 1990). The second phase of coding - *axial coding*, involves the process by which “categories are related to their sub-categories, and the relationships tested against data” (Corbin & Strauss, 1990, p. 13). The goal here is essentially to “sort, synthesize, and organize large amounts of data and reassemble them in new ways after open coding” (Creswell, 1998 as cited in Charmaz, 2006, p. 60). The third and final phase of grounded theory is *selective coding*, where “all categories are unified around a ‘core’ category, and categories that need further explication are filled-in with descriptive detail” (Corbin & Strauss, 1990, p. 14). The coding of 8 interviews yielded 256 initial codes. These codes were then transformed into 50 general categories and were further reduced into 6 major ‘core’ categories. These themes would later be given unique titles, as well as sub-theme titles if needed, to clearly delineate the differences between themes and sub-themes. This process of compiling, organizing, and sorting was aided using FileMaker Pro.

4.8 – STRENGTHS AND LIMITATIONS OF GROUNDED THEORY

As with any analytical tool or method there are both strengths and limitations; grounded theory is no exception to this. A major criticism of grounded theory is the practicability of the method. GT may not be a practical method for researchers transcribing recordings of interviews with strict deadlines as this may prevent them from attaining a “genuine grounded theory analysis with its constant interplay of data collection and conceptualization” (Bryman, 2015, p. 580). As a novice researcher, this was the case for me; I believed that a more genuine grounded theory analysis could have been developed but I believe that considering the type of constraints of this project, GT allowed for an overall worthwhile attempt. Another limitation, surrounds the issue of coding: it is

often an overwhelming, labour intensive and time consuming process (Myers, 2009). In my case, the coding process was not nearly as time consuming as it would have been without the aid of File Maker Pro. This program allowed me to gather, sort, and synthesize my data more efficiently. The process of abstracting and encompassing concepts may prove to be difficult and overwhelming for those who are not familiar with this data analysis tool, which may result in the researcher failing to successfully identify the most important ideas and themes (Hussein et al., 2014). Another limitation is the “risk that the data collection could be too unfocused” (Goldkuhl & Cronholm, 2010, p. 190). Should the researcher remain too unfocused during this phase, this may result in the collection of a copious and conflicting data set (Goldkuhl & Cronholm, 2010). To avoid feeling overwhelmed I asked my supervisor for advice on how to approach organizing my data, and researched for any coding manuals that may help guide the process.

Nonetheless, the advantages of grounded theory are numerous and outweigh the disadvantages of this technique. One of the most appealing features of grounded theory is its suitability for particularly small-scale research (Denscombe, 2010). For researchers like myself conducting research alone and operating on a strict financial budget, this approach is worthwhile. The second most appealing feature of this approach is its inherent flexibility with qualitative data collection methods and data sets (Denscombe, 2010). An advantage that is also worth noting concerning grounded theory is the fact that it is a methodical approach to analyzing data. As noted by Glaser (1978), this approach is defined “as systematic generation of theory from data that itself is systematically obtained from social research” (p. 2). This sentiment is also shared by authors Corbin & Strauss (1990) who describe grounded theory as “a qualitative research method that uses a systematic set of procedures to develop an inductively derived [GT] about a phenomenon” (p. 24). Another appealing aspect of grounded theory for researchers is that the “analysis starts as soon as data collection begins in the first interview” (Allan, 2003, p. 8). Glaser (2002) expands on this issue by stating that the researcher can use this as an opportunity to make note of any concepts that capture their attention during this initial stage. Lastly, as an aide to researchers during the data

analysis stage, computer software can be used in the coding and sorting of qualitative data (Denscombe, 2010), which I made use of during this process (FileMaker Pro).

4.9 – GENERALIZABILITY AND TRANSFERABILITY OF FINDINGS

The issue of generalizability is important to discuss when conducting qualitative research, even though it has traditionally been criticized for “its lack of ability to generalize its findings to larger populations” (Hesse-Biber & Leavy, 2011, p. 53). Anyhow, qualitative methodological literature has a disregard for generalizability because there exists a “widely shared view that it is unimportant, unachievable or both” (Schofield, 2002, p. 202). Also according to Denzin (as cited in Schofield, 2002, p. 202), it is argued that generalizability is rejected by many because it is not the goal of qualitative research:

“The interpretivist rejects generalization as a goal and never aims to draw randomly selected samples of human experience. For the interpretivist every instance of social interaction, if thickly described (Geertz, 1973) represents a slice from the life world that is the proper subject matter for interpretive inquiry...Every topic...must be seen as carrying its own logic, sense of order, structure, and meaning.”

With this in mind, the aim of my research was to “develop conceptual categories and thus data collection is directed to illuminate properties of a category and relations between categories” (Glaser & Stern, 1998 as cited in Charmaz, 2006, p. 18). The diversification of my sample ensured that I captured a wide range and variety of experiences therefore helping me to achieve this aim. So, the research attained “analytical generalizability” where the results obtained in this study are potentially transferable to other “situations on the basis of analytical claims” (Yin, 2003, p. 19). This research can be transferred to a similar context within the city of Ottawa, and to some extent other urban contexts in the province of Ontario, as they have the same, if not similar, economic and social policies, and thus far, most likely have the same economic and criminological trends. This sample, however, is too focused on one area to assert with confidence that the results are transferable to other Canadian environments. In any case, the focus was on “developing an

adequate description, interpretation, and explanation of [the subject]” (Maxwell, 2012, p. 79) under study. This study, regardless, based on the trends observed hopes to be regarded, as making a serious and legitimate contribution to a general theory on the phenomenon (Maxwell, 2007). The next chapter will explore the process undertaken to analyze the rich and “thick descriptions” (Geertz, 1973) of interview data obtained through one-on-one interviews with various employers.

CHAPTER 5: FINDINGS

Chapter 4 established the varying components of the methodological approach that structured this qualitative project. The present chapter discusses the most important themes to emerge in my interviews with employers regarding their attitudes and perceptions towards persons with criminal records. Furthermore, this chapter aims to situate the obtained results in the context of my research thus far. As outlined in the preceding chapter, the research questions guiding this project were as follows:

- *What are the attitudes and perceptions of employers regarding persons with criminal records entering to the workforce?*
- *How do employers evaluate the employability of persons with criminal records entering the workforce?*

Any results presented in this chapter are those which are the most relevant to the research questions presented here and in my introduction. Results that emerged during the coding process that were not relevant to the research questions were not entirely discarded but were simply left out of this section.

Six major and overarching themes emerged during interviews with my participants. The first concerns the necessity of conducting criminal record checks, coupled with the issue of privacy and disclosure of these records. In the second theme, a sense of whether employers see criminal record checks as a justifiable measure was determined. The third theme highlights the hiring of persons with criminal records as a complex issue that involves conditions and challenges set out by employers when navigating a situation, especially where the presence of a criminal record is revealed. The fourth explains the interviewees' evaluation of the role of broader society in the issue at hand. The fifth focuses on the views and feelings of the employer about the professional reintegration of those with criminal records. The last highlights the perceived distinction or similarities between the "ex-offender" and "person with a criminal record" label. These themes in

my opinion best encompass the most important aspects of my thesis and enable me to successfully answer the research questions posed.

5.1 – TO CHECK OR NOT TO CHECK: CRIMINAL RECORD CHECKS AS A NON-ROUTINE PRACTICE & THE UNDERLYING CONCERNS OF PRIVACY AND DISCLOSURE

This first section is concerned with understanding whether employers in the sample used criminal record checks as a part of their businesses' hiring process. A major theme that emerged from the data concerned: (a) the prevalence of criminal record checks, and (b) the extent to which this information should be made known to the employer. These issues will be explored in this order as interviewees explicitly spoke out first about measures that were implemented in their own business and second about their feelings towards these measures if they were implemented in their own establishment.

Interviews with the sampled employers in the city of Ottawa revealed many interesting insights concerning this theme. All participants but one stated that they currently do not conduct criminal record checks and have not in the past. The only employer that made a diverging statement explained that it is standard practice for their company to verify criminal records during the hiring process. The business in question is a small heating ventilation and air conditioning company, co-managed by Donna and Eric. Although Donna and Eric were interviewed together, Donna, expressed this clearly:

They cannot, you cannot have a criminal record in order to work for any [inaudible], for any contracts. You need to provide a crim- your criminal reference check. You also cannot be bonded by your insurance... (Donna, Co-manager, heating ventilation and air conditioning company)

We've always had it yeah...[pause] Because you're entering people's homes right? You can't have a criminal record when you're entering somebody's house. Your insurance

won't uhh cover you. (Donna, Co-manager, heating ventilation and air conditioning company)

This employer highlights the difficulties that a past conviction can create when dealing with the bonding of employees in this industry. Any employee working for such a company per their proper company policy, would be required to pass a criminal record check, as this is the only condition under which an employee can legally enter a client's home and provide a service. For this reason, entering a client's home is therefore contingent on being bonded. From these statements, it would appear as though the inability to bond an employee presents a major issue for Donna and Eric and is a sufficient condition to deter them from hiring a person with a criminal record. When Donna stated that "you also cannot be bonded by your insurance" or that "your insurance won't cover you" she distances herself away from the decision-making process. By doing so, she highlights her lack of choice in the matter: an insurance company would not bond an employee with a criminal record and employers, therefore, ultimately cannot employ such a person. Based on this response, it can be concluded that it is not the business that stands in the way of hiring that candidate. Further, the presence of a criminal record for this business would impact their ability to be bonded in order to perform their duties. If that is the case, the employer is not willing to consider the individual in question if this condition set forth by a third party (the insurer) cannot be met. Ultimately, balancing the needs of the business versus the needs of the employee becomes somewhat irrelevant; the needs of the business in this case take priority at the end of the day.

In comparison, the other employers expressed differing responses concerning criminal records verifications:

I think it's a great idea yeah it is you know honestly it never even occurred to me. (Anna, Owner, wine pressing and supplies)

Umm it's something that I haven't thought of or had to (Marcia, Co-owner, clothing boutique)

I've never checked...even If I had it didn't matter, well nothing...Nothing led me to believe that it was a wrong thing I guess...No I never checked that...and before you

talked to me about it I never even considered it all...maybe my company does it? I don't know! (Alexa, Farmer)

Unless it's wanted...there's nothing binding me to do that. (Laura, Owner, fashion and beauty supplier/barber and hair salon)

Umm we would both umm now the staff that we had were of course people that we knew, so the last two girls ended up that they were uhh customers, they would come here from time to time, so I got talking to them so that's how that came about. I've never really had to advertise, you know, staff needed, so I've always found, we've always found, that uhh, you know that way, and we also knew the lady that we hired as our cook, so we knew her yep. (Susan, Owner, breakfast and lunch eatery)

It's to the point where not only can I not run a criminal record check because I don't have any justification in the work that we do right? Unless I was able to say to say I'm worried about espionage people are going to take our code and take it somewhere else but I mean... what we do is not rocket science so I can't I don't think it could be justification to run criminal background checks...I'm going to check to see if you're a spy? (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

I wouldn't wanna know either because I I don't I wouldn't find out if I have. I know I probably would, if I had two candidates with the exact same thing and they are labeled criminal record no criminal record there's there's always a pull there's no matter how open minded or how for front thinking whatever the situation I think people are always going to pull to that other situation and if you don't know you can't form bias and that's a huge part of of recruiting and hiring people is there's always level for bias to be formed and you can't ask questions around them so you don't form that bias so that you're hiring them based on the skills that they have and the person that they are that day that they are sitting in front you (Ashley, Recruiter, eCommerce solutions integration firm)

In comparison to the mandatory criminal record check outlined by Donna, the accounts given by Anna, Marcia, Alexa, Laura, and Susan, demonstrate that conducting a criminal record check for many of the interviewed employers is not necessarily a standard practice. Anna, Marcia, and Alexa describe the idea of conducting criminal record checks as somewhat of a foreign concept, in the sense that they appear to be unfamiliar with this procedure. Similarly, Laura echoes this trend by stating that there is nothing compelling or requiring her to do so. If it was required, on the other hand, then she may in fact conduct a check. In fact, many of the respondents either did not think to conduct, or were never in a situation requiring them to conduct a criminal record check on their

staff. Following the interviews, one would deduce that essentially a lack of awareness, interest and/or necessity would underlie such an avoidance.

It is important to also note the difference in the response of Susan with respect to the other participants interviewed. As an employer who never had to formally advertise if help was required, she (and her former partner) resorted to hiring people known in their social circle. “Nepotism,” then, appears as another reason not to conduct checks as potential employees may be hired through “word of mouth” rendering criminal checks in this case purposeless. Those hired through these means are suggested by someone close within the employer’s network, so they are assumed to be trustworthy individuals, yet these individuals hired may nonetheless have criminal records. The last participant, Jessica, stated that her company does not conduct criminal record checks because there is no reason that would justify this measure because of the work that her company specializes in (e-commerce). She further suggests that this may pose a problem primarily if someone was charged with an offence relating to espionage where they could potentially steal the code at the center of their technology and bring it to another firm. Even this potential threat, it would seem, is not necessarily serious enough to warrant this measure being implemented. Jessica’s colleague Ashley said that she wouldn’t want to know if someone applying for a position had a criminal record given the position she is in as recruiter. Knowing this information may severely bias her perception and this is something as a recruiter she wants to avoid. Rather her focus is on the skillset the individual is bringing to the firm. Based on Ashley’s point about refraining from asking certain questions as a recruiter, by not asking about a criminal record it would make it virtually impossible to form a bias in that regard. Ashley recognizes that it is human nature to want to choose the “safer” option (hiring a person without a criminal record versus one with a past conviction) but in her position, it is imperative that she not form a bias as it can hinder the hiring process. What should matter to employers is how the candidate presents themselves at the time of the interview.

Another point of interest in this section was the apparent lack of knowledge for two employers concerning the limits surrounding what can be asked of candidates during interviews, specifically whether employers can be privy to information concerning a past conviction:

I've never done that, and I've never asked. I never even thought of asking, but I wouldn't ask because technically well it's not that it's not my business but I don't think you can ask, you're allowed to ask at an interview? (Alexa, Farmer)

And you know you can't ask those questions in an interview. Can we? I don't think you can. You can't even ask them their age now. It's discrimination... (Anna, Owner, wine pressing and supplies)

That's another point you may want to- I have the same issue. It's hard enough to find people as it is okay. Okay so. But you know what in all fairness too I'm [inaudible] if you haven't signed a consent form that's different. But verbally I don't think I can ask them that. (Anna, Owner, wine pressing and supplies)

The responses given peel back the layers of this theme more concretely. Alexa reveals that aside from never having conducted a criminal record check, she wouldn't feel at ease asking because she sees this information as being privileged. In addition, she is not certain that in her position this is something that can be asked of someone that you are looking to hire in an interview. Similarly, Anna shares the same feelings of uncertainty and states that an employer cannot ask a candidate about their age because as far as she is concerned it is discriminatory to highlight the sensitivity of the matter. Lastly, Anna underscores that establishing the presence of a past conviction without a consent form is a different situation, but is uncertain as to whether this information can be obtained verbally when no consent has been obtained by the employer. As per the responses given by the two interviewees, it would appear as if both participants are uncertain as to whether this information is public knowledge or they are entitled to know as employers. The responses given by the interviewees also highlight a potential lack of awareness as to the limitations of knowing such information or simply a lack of interest. If it was a major concern for either participant, it may have been verbalized during the interview. On the other hand, one employer seemed to demonstrate her knowledge of boundaries as an employer:

You cannot discriminate because because of umm [a] criminal record you can't unless it impacts the job (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

Jessica maintains that one cannot refuse to hire a person with a criminal record unless the offence strictly impacts the position they would be asked to fill. From this answer, it appears she is committed to honouring and respecting this principle. It would also appear that Jessica is confident in knowing the rules governing her behaviour as an employer.

Looking at previous literature on the topic would suggest that Canadian studies examining this issue are rather limited. Davis (1980) showed that in Nova Scotia, of the less than 1/3 (29%) of the 74 companies interviewed, only 22 reported consistently verifying the presence of a criminal record of potential candidates. The same trend was observable in Saunders et al., (1992), as it was found that 1/5 (20%) of the evaluated job application forms in the cities of Montreal and Toronto had a question relating to criminal record (Lam & Harcourt, 2003). Findings from this research contradict the current American, and British literature that suggested otherwise. This was particularly demonstrated in Pager (2003, *supra*), Holzer et al. (2002, 2003a, 2003b, 2004, *supra*), Burke (2004), Brown et al. (2006, *supra*), and Rhodes (2008, *supra*), which all highlighted a similar trend: employers were interested in knowing whether a past conviction existed and had a variety of measures in place to reveal this information. What can be essentially concluded here is that the results obtained in this project are most in line with previous studies conducted in Canada, and contradict those from the United States and Britain. This convergence is important to highlight as this further suggests that from a global standpoint Canadian hiring practices and/or trends have continued to produce the same outcomes, or that they do so in at least the Ottawa area.

In addition, findings concerning the bonding of employees has been discussed in American literature by Henley (2014), who briefly highlighted the issue of bonding for individuals with

criminal records in the United Kingdom. He noted that an insurance company can use the presence of a criminal record as a reason to: (1) refuse to insure a (prospective) employee or (2) insuring an individual would result in the employer paying an extremely high premium. This is echoed by Bath and Edgar (2010, *supra*), who found that 4 in 5 persons with criminal records had trouble obtaining insurance, and if they managed to find an insurer would have to pay a much higher premium than a regular employee without a criminal record. For the most part, the Canadian academic literature surrounding bonding and those with criminal records is virtually non-existent, however, information concerning bonding and criminal records is worth discussing. Following my own data (see Donna's statement), one cannot be bonded as an employee if one has a criminal record. The insurance is touted as the root of the issue ("it won't cover you"). However, according to the John Howard Society (JHS) (2013):

"Being bonded means that the employer has paid insurance against the risk of employees committing crimes, such as theft. Most people are insurable even if they have a criminal record. However, depending on how serious and what the charge was, and who the insurer is, it will cost the employer more to insure that person. If having the person bonded is too expensive for the employer, that person will not be hired."

The considerations highlighted in the statement made by Donna do not mirror the narrative stated by the JHS, but underscore the complexity of the issue surrounding insurance, bonding, and employers all the same. The potential of being charged a higher premium would be a major deterrent for many businesses, as this means increased costs. In many cases, it is understood that the decision to bond or not to bond, irrespective of the situation, is at the discretion of the insurance company but the employer also has a choice whether to pay a higher premium to retain that employee.

There are many important aspects that can be concluded from this section. The results show that most employers in this study do not prioritize the verification of criminal record checks when hiring new employees. In addition, for most, this is an aspect concerning their business

that has not been given a serious thought, further suggesting that it is not a primary concern. This further suggests that an employer's primary concern is not to find elements in the applicant's background that could easily eliminate them from the hiring pool. For the lone employer in this sample who stated knowing whether a past conviction exists as important, in their industry, this is only because it can cause a barrier to obtaining insurance or being bonded by the company.

5.2 – WHAT'S THE BIG IDEA? QUESTIONING THE PURPOSE OF CRIMINAL RECORD CHECKS

The previous theme discussed whether criminal record checks were a part of the hiring process for the employers in this sample. The next major theme which has gone relatively undiscussed in current literature concerns the attitudes and perceptions of employers with regards to criminal record checks. This following section sheds light on this unique theme and helps to uncover to what extent employers in the sample favour this measure and why. Gaining insight into this thought process is important, as a common assumption may be that employers agree with the measures in place or neglect to think critically about them.

This study was able to elicit pointed opinions regarding criminal checks as a practice in the hiring process and obtained mixed results. Susan, when asked whether she would implement this measure in her own business, seemed to be quite matter of fact in her response:

Oh sure they do that to Santa Claus! (Susan, eatery owner)

Susan frames her answer as if criminal record checks as a screening measure are routine. Further, her response was not one of surprise, as she referenced with ease to a situation where this was applicable— men who dress up as Santa Claus in the mall. Essentially, this is something that we would not question, and effectively, her response gives one the sense that she understands this procedure as being an expectation and just a part of the process. For other participants, such as

Anna, and Donna and Eric it appeared to be a decision that seemed to be a matter fact, especially for their own businesses:

Well, you know what because I am dealing with alcohol. Well if I'm convicted of doing illegal acts that tells me that if they give me this license to manufacture wine that I'm going to be bootlegging. (Anna, owner, wine pressing and supplies)

Eric: We've always-

Donna: We've always had it yeah...[pause] Because you're entering people's homes right? You can't have a criminal record when you're entering somebody's house. Your insurance won't uhh cover you.

Me: Do you agree with the policy that's in place?

Donna: Yes.

Interviewer: 100%?

Donna: 100% (Donna and Eric, Co-managers, heating ventilation and air conditioning)

Anna, an owner of a wine pressing and supplies business, felt this measure to be justified given her type of business. To explain her stance, she outlined how dealing with alcohol on any premise requires a licence as per city regulations. To obtain this licence, you cannot have a past conviction on your record as it speaks to your character and the likelihood of engaging in illegal activity with said licence for example the “bootlegging” of wine. For Donna and Eric (as seen in section 5.1), criminal record checks have been a part of the process since their father first started running the business. In addition, they agree wholeheartedly that this is a fair practice because of the industry and that company policy must be adhered to. On the other hand, one employer Anna, expressed frustration and questioned its purpose:

Anna: Umm every volunteer that we had, we had a list of volunteer and I had to go because I was the president that year of the club I had to go myself to the police station with that list and have a background check on everybody. On volunteers...because we volunteer we do activities for children. Okay

Interviewer: Yep

Anna: I protested it I didn't-

Interviewer: Mhm

Anna: One because nobody knew about it, no consent and two my argument is that I knew everybody in the community everybody had been a part of that club for a long time

Interviewer: Mhm

Anna: I just thought it was wrong, why? Why they are volunteers? If they were hired and paid and and or if they were in charge they were in charge of babysitting children uhh okay maybe, I'd wanna know if they were a sex offender or something but volunteers? Like? (Alexa, Farmer)

For her, criminal record checks are baseless for a variety of reasons: (1) in her position as president of the club she has known many of the volunteers for a long period and could essentially speak to each and everyone's character, and (2) the assumed roles of these volunteers did not require a criminal background check – if the volunteers were specifically in charge of babysitting children, as she states as an example, then she could see the justification for such a measure. Alexa's recounting of an instance where she operated as a manager of a club raises an interesting point. In her position as club manager she was responsible for the volunteers, yet in her capacity as a vendor she operates as an employer/hiring manager, so ultimately the question one must pose is to what extent these two roles are then comparable. In the former, she was responsible for ensuring that each volunteer satisfied the requirements of a criminal record check but was not responsible for hiring them in the initial stages. In the latter, she is responsible for interviewing and the hiring of staff. Essentially, the roles described are different which may explain the participant's outright aversion to this measure. The last participant, Jessica, emphasizes how she just cannot justify running a criminal record check on her employees. The most damage someone could cause to her company is if someone were to, for example, steal the programming codes or if they were secretly spying on her business. In the interview, when expressing her position, she appeared to almost laugh at the possibility:

Unless I was able to say to say I'm worried about espionage people are going to take our code and take it somewhere else but I mean...what we do is not rocket science so I can't I don't think it could be justification to run criminal background checks...I'm going to check to see if you're a spy? (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

Overall, most participants interviewed for this study except for one participant did not express reservations about criminal record checks. This result concerning the outlier of the employers sampled mirrors the current literature on the subject that details why an employer may use and endorse such measures. American studies by Harrison and Schehr (2004) and Kethineni and Falcone (2007) touched on the idea that depending on the state or federal laws in place, an individual can be barred from working in several occupations, especially those that require licensing, as a result of a past conviction. In these cases, it is not the employer himself that has imposed this restriction, rather it is state or federal law which the employer again must follow or if not in some cases, face dire consequences, so it would naturally make sense that employers would want to avoid negative consequences. This is similar to what Donna and Eric were alluding to when they said that any employee that is licenced in an HVAC trade has to be able to fulfill the demands of their contract. If they cannot be bonded, they cannot therefore enter people's homes to do their job and complete the required contract because of their criminal record. A licenced individual with a criminal record can still encounter major problems when they are required to be bonded by an insurance company.

What can be concluded from the results concerning this theme converges with the conclusion obtained in the previous section. The employers in this sample expressed mixed rationales concerning the use of criminal records: while most found it to be justified, only one participant did not agree with its usage. Still, questions regarding the use of criminal record checks did not elicit responses about individuals with criminal records but rather elicited responses concerning how these checks were a part of a policy meant to protect the business in some capacity, a theme which will be discussed in the next section. Lastly, it is important to note that until now, the findings of this chapter conclude that most employers in the sample do not verify whether an applicant has a past conviction on their record, in comparison to the previous section in which it was determined that the interviewees favoured this measure all the same. This trend brings to the forefront an element of cognitive dissonance on the part of the interviewed considering the contrast between

the views espoused in theory and what occurs in practice. Most importantly, if employers overwhelmingly agree with conducting criminal record checks why have these measures not been implemented in their own establishments?

5.3 – WHEN IT COMES TO HIRING, THINGS AREN'T ALWAYS “BLACK OR WHITE”

As previously observed, most employers interviewed do not conduct criminal record checks, yet generally view criminal record checks in a favourable light. With this knowledge in mind, it would be difficult to assume whether this would then translate into a willingness to hire persons with criminal records. As we will see in the next section this possibility was confirmed. All the same, the third theme concerned the employability of persons with criminal records and whether this was in fact a serious possibility or consideration for the interviewees. Sub-themes relating to this premise emerged during the interviews concerning: (a) specific conditions under which PwCRs would be hired, (b) tolerance for minor offences and aversion to major offences, and lastly, (c) evaluating potential loss of profit due to hiring a PwCR.

This third theme allowed me to answer a very important question concerning much of my research on persons with criminal records and how they are viewed (positively or negatively) by employers, and whether they are ultimately willing to hire them in a Canadian context. It is also important to note that this was not necessarily without conditions for some employers, but overall there was a willingness by almost all employers to hire these applicants.

All of the interviewed employers were very forthcoming with specifying under what conditions they would hire PwCRs if given the opportunity:

It depends on the nature of the crime. (Anna, Owner, wine pressing and supplies)

Yeah yeah...umm I think uh someone with a record umm you're going to sort of uhh look at it. Right? Uhh so uhh you you know it's something you want to ignore, it's something you want to be, something you have to be aware of, but it really depends on what kind of a record, how long ago, I mean, is it because they they were caught smoking pot when they were 18, couldn't care less. That wouldn't have any bearing on uh on on my decision. (Susan, Owner, breakfast and lunch eatery)

If it's something like that and the person was 25 years old and they did something silly with a bunch of friends when they were 14 and even for something bigger too I would think whether they had the reason. Whether they could is that because of age the immaturity and they did not have the maturity then would they have done the same thing? (Marcia, Co-owner, clothing boutique)

Umm...I guess it really depends umm...what they did. (Alexa, Farmer)

For employers Anna and Alexa, the nature of the offence is of interest because it appears to be a deciding factor for hiring by their standards. To be clear, as per their statements, these participants want to know about the offence and the details surrounding it. In comparison, Susan states that if the criminal record is present, she would “look” at it. This is an interesting point, considering that a criminal record check does not specify the offence that the applicant was convicted for.¹⁴ In this sense when Susan refers to “looking” at the criminal record, this naturally does not suggest “looking” or “reading” in the most literal sense, rather, she instead attempts to find out and take it into consideration. Even so, it is something that should not be ignored, and the time elapsed between the conviction and the present is important. Marcia expressed a similar opinion as Susan, and referenced a situation where age is important to take into consideration with regards to the offence. The age at which the offence was committed for Marcia signifies a level of maturity or immaturity. From this statement, it would seem as though the younger the individual when the offence was committed, the lower the perceived level of maturity linked to the offence. Therefore, if the individual had been older they may not have made the same decisions or acted in such a way resulting in a conviction on their record. Lastly, Marcia’s response could be interpreted as her

¹⁴ Ottawa Police Services. (2010). Criminal Record Check. Retrieved from http://www.ottawapolice.ca/fr/contact-us/resources/CriminalRecordCheck_e.pdf

perceiving an individual who committed an offence at a young age as much more “redeemable” and worthy of a second chance and opportunity as they most likely have learned from past mistakes. With this thought process, she could justify ultimately hiring an individual who committed an offence at a younger age. In all, these excerpts signal that employers in this sample had certain conditions under which they would hire PwCRs. Armed with this information, employers would be able to decide depending on the nature of the crime if the criminal record is ultimately an aggravating or mitigating factor. This element is explored next and reveals how employers regard certain offences when compared to others.

The following subtheme concerns the high level of tolerance towards those convicted of minor offences and a lower level of tolerance for those convicted of major offences. The aversion to major offences, and leniency towards minor offences remains an issue as expressed by business owners, Alexa, Marcia, Jessica, and Susan:

But I mean with someone who is arrested for let's say murder and spend 20 years in jail. Would they come out into society and look for a job right away? Or would they have to do a reintegration to society program first? Or? (Alexa, farmer)

Yeah I mean people with violent violent history I mean I would not expose the community (Marcia, Co-owner, clothing boutique)

Murder, major theft (stealing) okay because once you still once you'll steal again, it's just normal. Umm hmm geeze. But people you know like then even murder if you are intending to kill someone then no. (Anna, Owner, wine pressing and supplies)

If the guy was charged with murder because he got angry and stabbed somebody at a bar yeah probably not...I probably would not want them here because I would be concerned about the safety of other employees but again if its if there are specifics circumstances for that murder your husband was abusing you your girlfriend was abusing you whatever umm I'm not going to be too concerned about that. (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

I'd be a bit nervous I think...but minor minor crimes uhh...uhh pfft wouldn't be an issue...more serious crimes... (trails off her statement and frowns) (Susan, Owner, breakfast and lunch eatery)

So I wouldn't classify it as a major major a major would be like uhh umm murder or uhh like uhm like everything in that class, like accessory blah blah blah. Umm...it would be to me anyways...uhh major offence would be anything to do with fraud as well. (Alexa, Farmer)

Alexa questions whether the contact between someone who spent a considerable amount of time incarcerated and the public would be immediate upon release. In her mind, she sees two possibilities: (1) seeking employment immediately upon release or (2) a delay where the individual is required to participate in an integration program upon release before being allowed to seek employment. In another statement, Alexa classified being an accessory to murder as a major offence, and anything relating to fraud. Marcia's response highlights the same apprehensions concerning the individual's contact with public but is more to the point; it is about a risk that she is just not willing to take as a business owner. Anna also expresses an aversion to hiring those convicted of major offences. She qualifies this statement by listing the offences of murder and major theft which she also equates to stealing. Anna also includes attempted murder or conspiring to commit murder as unacceptable. It is of interest to note that Anna lists sub-categories of murder. By doing so, it is possible that is she trying to emphasize that any offence relating to murder even if the individual fails to commit the offence or simply aids in planning of the offence, in her eyes is major. Comparably, Jessica mentions the offence of murder and provides two situations in which murder would be unjustifiable, and justifiable respectively. A situation in which it would be unjustifiable is if the offence seemed careless, for example, "he got angry and stabbed somebody at a bar", versus a justifiable situation where "your husband was abusing you [or] your girlfriend was abusing you". So, for Jessica, murder is not a "black or white" offence, it depends heavily on the context. Lastly, Susan expressed her opinion concerning major offences while visibly frowning, trailing off at the end. Her response suggests that she may have wanted to elaborate more during the interview but opted not to. Overall, most interviewees remain apprehensive about the offence committed should the individual have a criminal record. The trend of major offences being viewed most negatively is ever present in this sample of employers.

In terms of participant views towards minor offences, a minor offence constitutes the following for certain participants:

Eric: Maybe something they did when they were younger, you know they were influenced by another person they weren't

Donna: Wasn't their choice...

Eric: Either wasn't their choice or they did it in a group setting. They were pressured into doing it or...and they have a criminal record for it (Donna and Eric, Co-managers, heating ventilation and air conditioning company)

Umm minor would be uhh like uhh intoxicated publicly something like that or uhh like minor offence minor offence. (pause). Umm maybe medium I'd say anything pretty much related to drugs cause its becoming more common... (Alexa, Farmer)

Business owners Eric and Donna gave similar responses to what was expressed by both Marcia and Susan concerning the age at the time the offence was committed. Earlier, Marcia and Susan discussed engaging in criminal activity at age 14 and the smoking of pot at 18 respectively. They acknowledge that when they think of minor offences they tend to associate them with an offence the individual most likely committed when they were young. The person involved may not have had the agency and may have been coerced or influenced into engaging in the behavior. Whereas in comparison, Alexa outlined her examples of minor and major offences and even includes an example of a middle/moderate level offence; something which no other participant brought to the interviewer's attention. For Alexa, a minor offence would be an offence such as public intoxication, and a middle level offence would be any offence related to drugs.

The minor/major offence dichotomy has been noted in past academic research in North American and British literature except for the idea of middle (moderate) level offences. Again, in this sample, minor offences were listed as public intoxication, middle offences as drug offences, and finally, major offences as murder, attempted murder, conspiring to commit murder, major theft, and fraud. The opinions expressed by the employers in this study reveal mixed results concerning this aspect of attitudes and perceptions toward minor and major types of offences and seem to either converge

or diverge from the data obtained in current literature on the matter. Most, if not all the employers in this sample expressed an aversion towards past convictions involving murder; this is exactly in line with previous literature by Giguere and Dundes (2002, *supra*), Holzer (2003, *supra*), and, in the studies of Apex, Rolfe, Brown et al., and Haslewood-Pócsik et al., as cited in McAlinden (2008, *supra*). In terms of assigning a level of severity to other types of offences, there is minor divergence between literature and the results obtained. Interestingly, one participant Alexa views fraud as being a major offence. This is worth noting, as participants in Giguere and Dundes' (2002) study viewed it as minor, and it was reported in the studies of Apex, Rolfe, Brown et al., and Haslewood-Pócsik et al., as cited in McAlinden (2008) as being less serious and signalling an issue regarding dishonesty. In addition, Alexa viewed drug offences as being a middle level type of crime, while Giguere and Dundes (2002) also found that this was rated very low on the severity spectrum of offences. Despite the varying attitudes and perceptions towards certain types of offences, what can be concluded is that the responses given in this study do not necessarily reflect what has been traditionally found in the literature. This further reinforces the notion that all employers are not the same in terms of how they perceive a PwCR's offences. Given the aversion to certain offences versus others, it is important to highlight that employers in this sample expressed apprehensions about what is at stake in hiring a person with a criminal record – specifically the potential losses that their company may face. As to what type of losses these often constituted was not always clear as we will see in the next section.

Another significant sub-theme concerns challenges associated with potentially managing a person with a criminal record. Many of the participants highlighted the challenges in being fair to the business and fair to the potential employee simultaneously. This is where this research evaluates to what extent the hiring of a person with a criminal record would impact the business. This was voiced by most participants in the sample but each participant highlighted a different element. Anna, for starters, voiced her opinion on the matter as:

It's the same type of thing. With experience if you are a business owner and you went through some of the things that we've gone through you think twice about who you hire, when, and if all that. And it's not because we're not wanting to help them reform. It's just that you're afraid. You're afraid of what your loss will be. (Anna, Owner, wine pressing and supplies)

Anna's response highlights the impact of previous negative experiences with persons with criminal records on perceptions. In her case, these experiences prompted her to think more carefully about whom she ultimately hires. However, she does not want her choice to be interpreted as not wanting to help individuals reform, rather it should be interpreted as someone with past negative experiences having the right to feel apprehension concerning this possibility. Essentially, Anna faces a dilemma – she must ask herself what her priority is. Is she willing to put her energy into supporting reform for these individuals while neglecting the needs of her business or listen to her conscience? Susan articulates a similar dilemma as the one faced by Anna:

Well...umm you know it's a very tough...you want to give people a chance right? But you also have to be fair...to your business. You have to be fair to your customers. Uhh and you have to what if your customers find out that this person that's a serving uhh serving them is an ex-murderer? What kind of impact you think that's gonna have on the business? (Susan, Owner, breakfast and lunch eatery)

Her response demonstrates the true complexity of the issue by underscoring how employers often perform a type of “balancing act” when faced with these types of choices. It is clear from Susan's response that she values giving employment opportunities to those in need, however, this does not supersede the best interest of one's company in addition to the well-being of customers. At the root of her response is most likely a level of fear and apprehension in which she uses past experience to justify her feelings. Susan like others, highlights the challenges that may arise from hiring persons with criminal records. Participant Marcia also echoes the statements made by Anna and Susan, but as a business owner focuses on the importance of the “bottom line”:

But...if its um something that [has] a negative impact on the business I would have to reconsider because I said at the end of the day I'm out there to umm gain umm to

make a living and I'm there to have a business a successful business um if a person is having a negative impact and all that I would have to reconsider. (Marcia, Co-owner, clothing boutique)

Marcia does not want to jeopardize the social status (“a successful business”/ “negative impact”) of her company in addition to any other losses she may incur. Any decision that could affect the bottom line of the business is worth assessing. Contrary to all other statements made by other business owners in the sample, the statement by Alexa is the only one which highlights the importance of skills regardless of a criminal record:

Yeah... pros it's like you said they have all the skills, so why why uhh (pause) why look why look further? and trying to find let's just trying to find someone without a record who has nearly no skills that I'd rather take the skills person. (Alexa, Farmer)

Here, Alexa is referring to the fact that choosing someone with a criminal record who has the skills is an advantage and thus does not have to look further for a candidate. Possessing a criminal record in this case is not a sufficient condition for her as an employer to reject a prospective employee.

Given these results we can come to an agreement that challenges regarding the management of a person with a criminal record weigh heavily on the minds of most employers in this sample. This decision presents a dilemma as they want to be fair to both customer and employee but this is more difficult than anticipated. Participants also acknowledged that employing persons with criminal records may bring about negative outcomes. If they had poor experiences with PwCRs then this may also lead them to be less likely to want to hire them, despite having a desire to help these individuals reform. What can be taken away from this is that for the employers sampled, when it comes to potentially hiring a PwCR, the challenge is deciding what they value more. Are the needs of the business a higher priority than helping individuals with criminal records reform and giving them the opportunity to succeed? This question is more of a practical question than an ethical one, and from the responses given, the choice made seems to lean a little more in favour of the business.

The hiring of persons with criminal records and the loss of business profit is a theme that has previously been discussed in literature. A national study by Hollinger and Davis (as cited in Kethineni & Falcone, 2007) concluded that by the year 2000, employee theft attained \$32.2 billion. These sentiments concerning employees as liabilities and the issue of loss of profit are echoed in the work of Lam and Harcourt (2003). According to the authors, hiring “ex-offenders” puts employers and customers in a precarious situation, and provides persons with criminal records with an environment to monopolize and commit future offences in (Lam & Harcourt, 2003) leading them to ultimately conclude that the unforeseen costs associated with “bad” hiring decisions are extremely distressing (Rosen, 2002 as cited in Lam & Harcourt, 2003). Nonetheless, these statistics highlight what “could” happen rather than what “will” happen, and any employer reading such figures may be frightened by these assertions without thinking more critically. In fact, these statistics may negatively reinforce this notion of “danger” and “risk” associated with PwCRs and may increase feelings of apprehension amongst employers.

As previously mentioned, most participants in this study reported not having a procedure in place to verify past convictions of prospective employees. When specifically asked how they would react should they become aware that an employee has a criminal record, some participants had the following to say:

This should be kept under privacy or secrecy. We don't have to ridicule that person or stigmatize that person. (Laura, owner, fashion and beauty supplier/barber and hair salon)

No, because they have proven themselves. I mean you know you I'm not going to kick someone to the curb that's been loyal and working for me for a year and have never had problems with that person. I mean um would I be happy about it? Wouldn't be happy about it but you have to kind of you know work with what's at hand you know? (Susan, Owner, breakfast and lunch eatery)

No no I would not definitely not I would like to know more about it definitely and how long has it been. Has that person been rehabilitated or maybe it wasn't anything really something that they've done when they were umm 20 years you know when

they were way young. I think I would have to judge and [inaudible] definitely. And then decide from what I found out whether it's a person to keep or [to give them the] benefit of the doubt (inaudible). But it would not be an automatic fire. (Marcia, Co-owner, clothing boutique)

If you were working here and you robbed a bank, we couldn't fire you because it had nothing to do with what you do here. I think if anyone here was to find out that someone else had a criminal record it would be a very confidential conversation because of the defamation of character which like you can't do that. so if you're working here and you come to me or someone comes to me and says or someone externally tells [Jessica] or I that you as an employee have a criminal record of robbing a bank whatever it is...we maybe would bring you in and just let you know we know that but if we cannot we can't discriminate on based on that because you because it has nothing to do with what you do day to day here but it would probably not probably it would definitely be kept confident because it we don't know how the rest of the employees would react to that information so it would not be something we would want someone to know about it would kept very behind closed doors I would think. I would I would assume I would hope that it was me in that situation anyways that it was kept that way because it doesn't define what I do here on a day to day basis. (Ashley, Recruiter, e-Commerce solutions integration firm)

Susan asserted that firing an individual after discovering a criminal record is out of the question. Her own experience with the employee would speak volumes and would be used as a reference point for a true measure of character. While the information may come as a shock, it is important to Susan that she manage the situation to the best of her ability. Of course, she would not be content with hearing such news, but she must deal with the situation at hand. Susan's response also suggests that a criminal record does not invoke an immediate dismissal of the employee, as it does not define who they are or act as their "master status", considering she has known the employee for a duration that has put her in a position to attest to their character. Equally, Marcia expressed that should this information come to light she would like to know more pertaining to the context (details) surrounding the offence. The fact that both Susan and Marcia would not automatically fire an employee should they discover the presence of a criminal record speaks volumes. This contradicts a possible assumption that a criminal record necessarily signals the "worst" or most heinous of crimes committed, therefore, prompting employers to not even bother considering a candidate, consider the context of the offence, or to dismiss the employee.

In line with the other participants regarding not automatically firing an employee and working towards a resolution, Ashley explains that if she were to become aware of this information on her own or through another employee, it would be a conversation that would be kept heavily “under wraps”. Here, we see that for this employer it is important to treat the employee with respect and dignity despite the presence of a criminal record. This information should be kept strictly confidential as it could defame someone’s character should it be made public. To address the situation, speaking to the employee one-on-one and re-assuring them that a CR would not jeopardize their position in the company would be the first step. Next, stressing the importance of keeping this information confidential between employer and employee is ideal, as the reaction of others in the office may not be necessarily positive. Ashley only hopes that if she was in a similar position that others would not view her criminal record as what defines her work as an employee. The needs of the employee are as important in this case and based on this response, do not necessarily supersede the needs of the business. Further, the employee’s contribution to the business and their ability to do their job are what matters most, rather than viewing an event that happened in the past as a defining one’s character. Most importantly, Ashley also rejects the idea that a criminal record would in turn define the individual and become their “master status”.

For two other employers sampled, this question was answered indirectly, but accents the issues surrounding the management of information concerning a person with a criminal record:

Eric: Depending on the story, the charge, what he was convicted for or what they were convicted for sorry. If it was, yesterday or 25 years ago you know?

Interviewer: Mhm so-

Eric: All these aspects have a certain influence right? (Eric, Co-manager, heating ventilation and air conditioning company)

Interviewer: Yes, the context is super important to you?

Since we know that employers Donna and Eric cannot hire those with criminal records due to

issues of bondability, they provide an example using another position within the company an (administrative staff member) to illustrate their point. When thinking of whether they would hire an administrative staff member with a criminal record, Eric expressed interest in knowing the context of the conviction, as well as when the offence was committed. Jessica, should she come to discover an existing employee who had a criminal record, expresses a view different from the others:

I probably wouldn't talk to them unless I felt the criminal record was something that could affect the job. If it's not going to affect the job why is it my business really? Why is it my business how is that going to affect me here? (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

It is worth highlighting that Jessica would not even take the opportunity to speak to the individual one-on-one, unless the offence related to the job. This is not the instance in which Jessica has emphasized the importance of this connection. If the employer cannot demonstrate a connection between these two elements, then in her opinion it does not justify discriminating against an individual with a criminal record. Here, we see the employer respecting the balance between the needs of the company and the needs of their employee quite effectively.

For Alexa, should she discover that a potential applicant rather than a current employee has a criminal record she would proceed in the following manner:

I would I would try them out for sure. You give uhh [a] probation period which can be (pause), two weeks it could be three weeks its really it's it's not like signing a contract but you put it in writing that okay your probation period is two weeks and then at the end of this two weeks I will tell you for sure yes or no if you're continuing with us or no it doesn't work. For example, as opposed to giving someone maybe a month two months' stuff like that, our season is 6 months right? So... (Alexa, farmer)

Alexa felt as though implementing a probationary period for that individual may be the most effective way to deal with the situation at hand. At the end of this period she would inform the

person whether he or she was to be kept on or let go. However, in her business this period cannot be any longer than two months, as the work season is typically six months in duration. One can see that Alexa is willing to work towards a positive outcome, and deal with the situation in the best way given the needs of her business. Again, we see that another employer has balanced the needs of the business and the needs of the employee quite efficiently. Given the responses, this sub-theme has uncovered valuable information regarding how employers are likely to behave in a situation where they are made aware of an employee having a criminal record. Responses given were overwhelmingly positive and demonstrate that businesses are inclined to manage the situation to the best of their ability.

A common limitation concerning the employability of PwCRs is the lack of existing literature on the employer's perspective on criminal records. Since most of the research conducted done is either quantitative and uses a survey format, or is qualitative but tends to paraphrase and not rely on direct quotes for their findings, it hard to get a sense of the larger context surrounding the answers provided by respondents. Through the open-ended questions format, as employed in this research, one can get a more detailed point of view of employers. Another limitation of other research is that one cannot in most cases see the interview guide used in the research which would give a clearer indication of the line of questioning/inquiry employed to obtain data.

In this section, it was concluded that the hiring of persons with criminal records is not a simple decision to be made, and despite the willingness displayed by participants, there remain conditions to hiring these individuals. Some of these conditions were related the nature or context surrounding the offence, as well as the severity. For others in the sample, this issue was not raised during the interview.

Many participants in the sample expressed concern about their potential losses as result of hiring a person with a criminal record, however, it was not explicitly specified as to whether this was

specifically always financial as some also mentioned social ramifications such as the potential loss of customers. It was also shown that should a person with a criminal conviction be hired and their record subsequently discovered while employed (as in most cases employers had not checked or were not aware of a criminal record), for most employers this would not constitute an automatic dismissal. In this case, the situation would have to be handled with sensitivity and a decision would ultimately be made by considering both customer and employee. Lastly, most employers when asked about how they would navigate a situation where the presence of a criminal record was discovered would act with an increased amount of discretion before coming to a decision about whether that person should remain an employee or be let go. None of the respondents indicated that the presence of a criminal record would result in an automatic firing or termination for the employee. These results especially demonstrate a favourable attitude and perception towards persons with criminal records. Given this information, it is not surprising that participants perceive society as creating barriers for PwCRs, as analyzed in the next section.

5.4 – TIME FOR AN ATTITUDE CHECK: SOCIETY AS “GATEKEEPERS” TO THE WORKFORCE

So far, the themes explored in this chapter have addressed many aspects related to the prevalence of criminal record checks: their purpose and conditions for hiring, but up until now, the themes have neglected to address the role of society in shaping the attitudes and perceptions towards and employability of persons with criminal records. This section will address the role of society in the problems associated with the professional integration of persons with criminal records. The following sub-themes will be covered in the order they first appeared in the interviews: the attitudes and perceptions of society as a barrier and the role of society in facilitating re-entry of PwCRs into employment domain. The first issue surrounds how society’s attitude and perception towards this population creates a direct barrier for employment. Alexa zeroes in on this point immediately:

Because society is not as receptive as we are, they'd be like omg hired an ex-convict like to society it it the issues are bigger than they seem. Like, people make people make big deals out of no deals, mhm. (Alexa, Farmer)

Her response is quite telling because we can get a sense of how she perceives this issue. Alexa does not see the hiring of “ex-offenders” as a controversial issue in comparison to most (“like to society the issues are bigger than they seem”). People tend to over-emphasize or exaggerate the issue (“make big deals out of no deals”). Alexa draws attention to another important point in this next statement:

Like I said earlier, society sees them as bad people as criminals and really they're not criminals they have a criminal record like I guess there there's a need to change people's perceptions umm...(pause). (Alexa, Farmer)

For Alexa, those who have criminal records are typically viewed by society as embodying what it is to be a “criminal” and recognizes that is solely a label created and given to others by the criminal justice system. Alexa also points out the need for a cognitive shift on the part of society to see PwCRs differently to change the status quo, which will result in a change in the way of thinking about this population. This idea, in turn, suggests that by treating the hiring of PwCRs as atypical (as not a regular occurrence and out of the ordinary), society nonetheless creates unwarranted fear around the issue. Additionally, this continues to perpetuate the “us” versus “them” mentality where things are often exaggerated and blown out of proportion. Comparatively, Eric highlights the impact of stereotyping in his statement:

But I also think that when you have 10% of the working class, the working people who have criminal records...like that's a huge chunk and I don't think you'll be able to ever change society's [perception] of that- like I I would assume that umm society will always have a negative connotation and they will not want to do in their own power to change that negative connotation because people are scared. People are scared of criminals right? (Eric, Co-manager, heating ventilation and air conditioning company)

Firstly, the manner in which Eric quantifies the number of persons in the working population who supposedly have criminal records is matter of fact (“when you have 10% of the working class...who have criminal records”). It would appear as though he confounded the statistics concerning the percentage of the population that have criminal records in Canada (as this was discussed earlier in the interview) with the amount of working class people who have criminal records in Canada – a statistic that was not mentioned nor discussed during the interview. The fact that Eric also identifies the working class as the group of individuals as having criminal records is concerning. This assumption is very important to take note of, as the working class by definition is “the social group consisting of people who are employed for wages, especially in manual or industrial work” (Oxford Dictionary, 2016). Is it possible that Eric is assuming that the 10% of the population who have criminal records belong exclusively to the working class? If this is the case, how many other employers may have the same understanding of this statistic? This begs the question as to what has informed his answer. Next, he asserts that it is incredibly difficult to change the perceptions of the general public and that they will always hold such negative views toward this population. In addition, he also highlights that the general public will not want to change their perception since they are scared of “ex-offenders”. Eric’s response also points towards his recognition of the powerfulness of fear and how it often functions as the basis for negative attitudes and perceptions of these individuals. Yet, Eric repeats his statement in the form of a question when he says “people are scared of criminals, right?” as if he is searching potentially for the interviewer to agree with or validate his statement. This potentially signals that he has subscribed to a common narrative that he may not be sure of himself, or “buy” into completely. This would prompt me to wonder as to whether this is truly his stance on the matter. Two of the employers in this sample stated that society in terms of its views create a barrier for the employment of persons with criminal records. Respondents also highlighted that in many cases society amplifies the issue thus perpetuating negative attitudes and perceptions surrounding these individuals which ultimately legitimizes the fear that greater society has towards this marginalized group.

To conclude, there is an abundance of literature detailing how the attitudes and perceptions towards those with criminal records, are negative, and thus create barriers to achieving professional re-integration. The findings obtained here suggest that employers recognize the role of broader society in influencing whether PwCRs are successful in obtaining employment. While studies on the topic such as that of Albright and Denq, (1996, *supra*), Petersilia (2001), Giguere and Dundes (2002), Holzer (1996, 2002, 2003b, 2004), Pager (2003), Brown et al. (2006), and SEU (2002) have demonstrated that employers generally having negative attitudes and perceptions of these individuals, contrary to literature, most employers in this sample displayed positive attitudes and perceptions and thus, reported a willingness to hire those with past convictions. Additionally, participants acknowledged how professional re-integration can often be impeded. This presents a stark contrast to the American and British literature listed above, but mirrors the Canadian results reported in Davis (1980). Therefore, it can be established that most of the employers interviewed do not share the predominantly negative attitudes and perceptions as described in the literature. This further supports the notion that hiring tendencies in Canada have remained unchanged and overwhelmingly positive. As this theme underscored the attitudes and perceptions of society as creating a barrier for society, another significant theme emerges that singles out society as needing to play a role in facilitating the re-entry of those who have been in conflict with the law.

In addition to the notion of society being perceived as “gatekeepers” to the workforce, is the notion of societal responsibility. More specifically, the perspective that society has a responsibility to facilitate the re-entry of persons with criminal records into the labour market. This was expressed by many of the respondents interviewed:

Well, well every human being you know, business people, people who hire and umm, neighbors, everyone has to share- do a bit you know (Susan, owner, breakfast and lunch eatery)

Eric: Society

Donna: Society and umm maybe I guess on a government level there should be some sort of responsibility with that? (Donna and Eric, Co-managers, heating ventilation and air conditioning company)

Alexa: I think it would be the government

Interviewer: Mhm

Alexa: The government should have some type of if they don't already have an agency (Alexa, Farmer)

It's the responsibility of the government, and people in the community, and social services they all fall under the government, the churches, we all have to chip in you know (Laura, owner, fashion and beauty supplier/barber and hair salon)

That's not going to happen I think it needs to be the other way where I cannot run a criminal check on [Taylor] until I get the permission from the body here are the reasons. here's the justification I have to run a criminal record [check] on all candidates and I have to get the permission from that body before I can do it. (Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

Marcia: No I mean in the states they have to so many people are in prison are having [criminal records] for practically nothing you have a social...umm they really have to do something for those people they have to get a social consensus something they like it I would not say humanitarian but at least they have to do-

Interviewer: So you think it's their responsibility to deal with that situation then.

Marcia: Well yeah to help out. You put people in prison, it's not cheap to put people in prison so they money could be used a different way.

According to Susan, many social actors in society (employers, ordinary citizens etc.) have to share the responsibility of addressing this issue. Conversely, participants Eric and Donna, as well as Alexa and Laura, would agree that the government should bear the responsibility of facilitating the re-entry of PwCRs. Alexa, however, is more specific on what exactly the government should do to help. Based on her response, if there is no government agency that exists to address this issue then one should be created and take on this responsibility. Laura's response is also specific as she discusses the importance of government intervention, and identifies the social services branch of government to take on this task. Additionally, she names the larger community, and even religious institutions, as needing to take part in addressing the issue. Lastly, Laura expressed similar feelings as Susan in the sense that she truly believes that everyone has a role to play in addressing the issue

(“everyone has to share - do a bit, you know?”), which Laura echoes with her response about “chipping” in and helping one another. Similar to the response given by Alexa and Laura, Jessica appeals to a governing body to regulate criminal record checks to ensure that they are used justly and appropriately in the hiring process:

That's not going to happen I think it needs to be the other way where I cannot run a criminal check on [Taylor] until I get the permission from the body here are the reasons. Here's the justification I have to run a criminal record [check] on all candidates and I have to get the permission from that body before I can do it.
(Jessica, Director of Finance/Human Resources, eCommerce solutions integration firm)

The statement made by Jessica where she states that “it needs to be the other way around...” is in response to a suggestion made by the interviewer concerning PwCRs appealing their cases to a governing body if an application was rejected after a criminal record check by an employer during the hiring process. Here, Jessica thinks that limits should be placed on what the employer can do and makes them more accountable in terms of justifying why they need to run a criminal record check to the governing body. We can see here that the employer should operate within their limits and fairly. Overall, the onus appears to be placed strictly on the employer to act appropriately.

Lastly, Marcia draws attention to the reality that many Americans with criminal records face when she references the idea that many individuals are incarcerated for “practically nothing”. This may be about those incarcerated for minor offences or offences she would not consider to be severe in nature. Marcia frames this as a pressing issue that can be addressed only if there is consensus, highlighting the immense cost of incarceration, and how these funds would be better served if used in other areas. In all, most of the participants in this sample characterize broader society as needing to play their part in the professional reintegration of PwCRs whether it be recognizing the impact of attitudes and perceptions, the implementation of a governing body to regulate criminal record checks, or holding employers to a higher standard with regards to acting appropriately and fairly

during the hiring process. Most of the interviewed employers demonstrate a level of recognition or awareness not necessarily expressed in other studies concerning the attitudes and perceptions towards PwCRs which is rather refreshing. They appear knowledgeable on the complexity of the issue.

There is a gap in the literature concerning employers and who they perceive as responsible for addressing the issue of re-entry of those with criminal records. This is an area of research that would benefit from a more thorough examination as participants in this sample expressed pointed views on the matter. In conclusion, these findings suggest that most of the interviewed employers view society's negative perceptions and attitudes towards persons with criminal records as limiting their access to employment opportunities. This would appear to bring into question the assumption that most employers are not socially aware of the impact and effects of such a mindset on employment opportunities. Most of the employers here also assign responsibility to greater society to address the issue of professional re-integration for PwCRs. However, while Anna did not express an opinion on this issue, she offered some words of advice instead. Anna believes that persons with criminal record are presented with a dilemma, and for this reason should "think twice" because a criminal record essentially brands you for life. The following theme will discuss the importance of giving those with PwCRs opportunities for redemption and the awareness shown by employers concerning the reality faced by PwCRs.

5.5 – WALK A MILE IN THEIR SHOES: "SECOND CHANCES" AND EMPATHY

Very much aligned with the previously discussed theme of societal responsibility in addressing the issue of "ex-offender" re-entry, is the importance of "second chances", compassion and understanding shown by employers with regards to the difficulties surrounding professional re-integration for persons with criminal records. It is important to note here that the latter sub-theme concerning "second chances" was brought up spontaneously by participants and was not elicited through a pre-determined question in the interview guide. The first theme revealed through the

interviews concerned idea of “second chances”, and profound understanding of the reality plaguing those with past convictions. While it is important to specify that not all participants mentioned the issue of “second chances”, of those who discussed this element, telling responses were brought forward. A first participant, Alexa, stressed the importance of a “second chance” and cites her own experience to support her claim:

I am a firm believer of that, because someone gave me a second chance and I'm all better now. So that's how I run my show (laughs). But it depends, I mean I don't uhhh...I don't know...It all boils down to if they are good with the public I think.
(Alexa, Farmer)

In her case, Alexa credits her belief in “second chances” because of being given one herself, the positive impact on her life and how it ultimately has contributed to her present success. However, she emphasizes that hiring an individual with a criminal record is solely dependent on whether they can be at ease with the public. Toward the end of another interview, Marcia surprisingly and unsolicitedly and un-prompted by the interviewer, said the following:

And I believe in second chance[s] too [for] people... (Marcia, Co-owner, clothing boutique)

The timing of her response is most likely related to the question that was asked; how her family including her children and extended family would see this issue. It is possible that this triggered an emotion in her, thus, giving rise to her compassionate response. Having looked back at the transcript there is nothing blatant that would suggest that her answers were solicited as the research did not prompt her in any way to discuss the notion of “second chances”. This is incredibly important because it suggests that the feelings held by the participants are genuine. Similarly, this idea of “second chances” resonates with Susan, but she also highlights the need to recognize the harsh reality of those with criminal records:

Well, what I'm saying is what I'm saying is here a lot of the times its all- its technicalities, some people get caught uhh whether because you know they're poor, if it's a racial thing, or uhhh being uh you know being at the wrong place at the wrong time umm but then you have people in society in my opinion are criminals and

they don't have a criminal record and they've managed and they've never managed to get caught, so what I guess I'm saying is a lot of the times just because these people have criminal record uhh you know you shouldn't throw the book at them. They they they deserve a chance. (Susan, owner, breakfast and lunch eatery)

Susan demonstrates her knowledge of characteristics often defining those who have been in conflict with the law: racialized and marginalized populations, which are also characteristics that have a profound impact on one's decision-making abilities. Susan also maintained that there is a fine line between who is a "criminal" and not, which is often based on your ability or inability to evade prosecution. For those who are eventually caught, she maintains that they should be given a chance and should not be punished to the full extent of the law. In all, Susan's response demonstrates her commitment to considering all applicants, as she recognizes these individuals "deserve a chance" despite the earlier "balancing act" discussion typically done by employers when deciding between employing a person with a criminal record while remaining fair towards the business and customers.¹⁵

All other participants in this study discussed feeling empathetic towards the reality that individuals face because of their criminal records: Eric's statement also echoes that of Susan, in terms of giving those with criminal records the opportunity to redeem themselves:

Eric: Just because you know they've had a bad experience or something happened to them in their past.

Interviewer: Mhm

Eric: You know you still have to give people a chance. you can't just dismiss because they did one wrong thing 10 years ago or 20 years ago. (Eric, Co-manager, heating ventilation and air conditioning company)

Eric maintains that one poor choice or set of actions should not define an individual for the rest of their life. This next participant, Anna, reveals that as an employer she sympathizes with individuals

¹⁵ Refer to page 103 for details on previous analysis of the statement made by this participant.

trying to access the workforce, but the circumstances and severity of the offence will always play an important role in how she perceives one's employability:

To be quite honest with you I feel sorry for some of these people because some of them are just born into lifestyle and there's no way out. And even if they try, like they get a lot of doors being slammed in their face too. even though they are trying to change. and I'm one of those people that would slam the door in their face depending on the severity of their crime. but it it all depends, you know I would would I hire them no? But if given a circumstance where they explained to me what they've done. and if they were young and stupid it depends on the severity of what their crime was I'd probably give them a chance but it depends on the crime. (Anna, Owner, wine pressing and supplies)

Anna underscores the idea that individuals in conflict with the law are usually born into a precarious lifestyle that is a part of a vicious cycle which makes it very difficult to leave the cycle. Employers make it more difficult for those trying to leave such a lifestyle by not necessarily hiring them. Anna recognizes herself as an employer who has engaged in this type of stigmatizing behaviour, but suggests a way to potentially circumvent this barrier: the prospective person being hired could take the opportunity to explain their offence. However, if they were young and made a poor decision, the severity of the offence would hold a lot of weight in her decision to finally hire them. The responses given by Susan, Eric, Alexa, and Anna, except for Marcia, can be separated into two distinct thought patterns. The statements made by Marcia, Susan, and Eric speak more generally, without referring to the hiring process. In fact, their statements appear to be more empathetic and personal and it would suggest that they are humanizing persons with criminal records in attempt to justify the answers given. In comparison, Alexa and Anna speak more about the hiring process. Moreover, this may suggest that while they may believe in "second chances" for persons with criminal records, the implication of hiring such individuals does play a role for each employer in whether they would ultimately be hired. Based on these responses, one could determine that two distinct discourses have emerged from the data concerning this sub-theme.

Once again, it is shown that a gap exists in the literature concerning employers believing that PwCRs should be given opportunities to redeem themselves in addition to demonstrating a considerable amount of empathy given their difficulties finding employment. This is another area of the research that would benefit from more thorough examination, considering there appears to be the misconception that most employers have negative views of PwCRs, as reported in Albright and Denq (1996), Petersilia (2001), Giguere and Dundes (2002), Holzer (1996, 2002, 2003b, 2004), Brown et al. (2006), Pager (2003), and SEU (2002), thus, making them appear to be detached and lacking empathy. However, in the Canadian context, this assumption has been challenged by Davis (1980), who reported a 92% willingness rate to hire persons with past convictions. The last theme that will be examined concerns the “ex-offender” and “person with a criminal record” labels, a theme that was common among most participants but seems to be unrelated to the other themes obtained.

5.6 – WHAT’S IN A NAME? THE “EX-OFFENDER” VERSUS “PERSON WITH A CRIMINAL RECORD” LABEL

The following theme explored the “ex-offender” versus “person with a criminal record” label and how this was perceived by employers in the sample:

Yeah. I think uhh the way it sounds a person with a criminal uhh record its person you want to find out more what was the crime. Uhh when you tell me an ex-con you pretty well put in front of me that that person was in prison they done. So its umm...It's a fine line because of the way it's presented the minute you said ex-con I would not. To me it's someone who has done prison someone who has committed a crime but when you said criminal record which is exactly the same. That person you could say had a criminal record but it's the way it was presented. (Marcia, Co-owner, clothing boutique)

For Marcia, a criminal record signifies wanting to know more about the offence, specifically the context in which it occurred. The term “ex-offender” (“ex-con”) indicates the individual in question has gone to prison for committing an offence. By contrast, a person with a criminal record

for her also indicates the idea of having “done prison”, but the way in which it is presented signals a difference between the two labels. It is unclear as to what particularly makes these labels different given how they are presented. During the interview, the interviewer ensured to keep a neutral tone. In hindsight, it would have been ideal to probe this answer. Another participant, Alexa, describes how she perceives these terms differently:

So it it would make people say negative things about it mhm as opposed to has a criminal record it could be uhh viewed as less less intense or ...(pause) Like someone can have a criminal record because of a traffic violation doesn't mean they are a violent person but as soon as I think you hear ex con oh this person is violent for example. (Alexa, farmer)

She highlights that people perceive the “ex-offender” label more negatively as opposed to just person with a criminal record which is viewed more moderately. She states that criminal records do not necessarily signify a past conviction for only a violent offence, and how for some individuals hearing “ex-con” automatically signifies a violent offence:

Donna: Ex-offender meaning like they definitely committed a crime and they umm I find I the ex-part more negative

Interviewer: Okay

Donna: Whereas criminal record like yeah that maybe they just broke a small law, but they mean a lesser law (Donna, Co-manager, heating ventilation and air conditioning company)

Donna explains that the “ex-offender” label signifies the commission of a crime; the “ex” part of the term being entirely negative. Whereas, person with a criminal record signals breaking a minor (“small”) or major (“lesser”) law. When prompted to give examples of a “small” or “lesser” law, she opted not to give an answer. Another participant, Anna, was very pointed in her answer when asked to offer her perspective:

Well when people say ex-offender I think of that as a child molester. You know I never really thought of it. Ex-offender. He's done something, but I don't know what. And ex-convict, you've been convicted of something, you've been you have a record, I

don't know if the ex-offender has a record too. Am I on the right track? No. (Anna, owner, wine pressing and supplies)

The term “ex-offender”, prompts Anna to immediately think of a child molester, but she clarifies that she also has never given the label a serious consideration. As she begins to give it more thought, she states that the “ex-offender” label does not give any insights into specifics of the offence. Even so, she is uncertain whether the term “ex-offender” means a criminal conviction on their record. Overall, Anna’s conceptualization is not entirely clear and fully developed as she remains irresolute of the difference. Anna’s response demonstrates an overall lack of certainty on either meaning of the label. Conversely, for Susan, criminal record is very pejorative, while “ex-offender” appears to be more moderate:

Somehow, criminal record kinda really puts it out there...criminal (grunts and puts emphasis on the word). An offender...well...you know. Seems a little minor I know it isn't but they're the same thing aren't they? (Susan, Owner, breakfast and lunch eatery)

Out of all the participants interviewed, Laura was the only employer to perceive the labels of “ex-offender” and “person with a criminal record” as being the same:

Criminal record can be something petty or something bigger and ex con the same thing basically they are all the same (Laura, owner, fashion and beauty supplier/barber and hair salon)

She emphasized that “criminal record” does not signal an offence or the severity, it could range from anything from minor (“petty”) to major (“something bigger”). From this response, one could say that Laura perceives “person with a criminal record” as being ambiguous. When asked about the “ex-offender” label, she expressed the same thoughts, stating that it too, does not signal an offence or severity.

While there is an abundance of literature on how employers perceive “ex-offenders” more generally, there is virtually no literature addressing whether they conceptualize the “ex-offender” and “person with a criminal record” labels differently. Considering that these terms are not mutually exclusive, but are viewed as such, it would be worth exploring how employers come to view these terms in a particular manner, as demonstrated in this sample. Ultimately, these findings illustrate that each employer in this sample has their own conceptualization of the labels “ex-offender” and “person with a criminal record”. Nevertheless, two participants highlighted the incredibly pejorative nature of the term “ex-offender”. These findings reveal that most of the employers in this sample perceive “ex-offender” and “person with a criminal record” labels as diametrically opposed, and therefore, as signifying differing meanings. These perceptions affect how a potential applicant is evaluated in terms of perceived employability since each term functions as an indicator signalling the severity or nature of the crime committed. This in turn informs how the employer will then decide to come to a decision with respect to hiring.

This chapter aimed to give an account of the various themes that were revealed during interviews with employers in the city of Ottawa in terms of how they evaluate the employability of those PwCRs as well as their attitudes and perceptions of this sub-population. The proceeding chapter will provide a more detailed analysis of the findings with respect to the theoretical framework that guided this research, in addition to a comparison with existing literature.

CHAPTER 6: DISCUSSION

It is important to remember that the purpose of this thesis was to assess the attitudes and perceptions of employers in the Ottawa area towards persons with criminal records and their perceived employability. This was accomplished through conducting eight one-on-one low-structured interviews with employers. From these interviews, six major overarching themes emerged during one-on-one interviews: criminal record checks as a non-routine practice, the purpose of criminal record checks, the complexity of the issue of hiring persons with criminal records, the role attributed to society to address professional re-integration for persons with criminal records, the importance of giving persons with a criminal record a “second chance”, and the differences between the “ex-offender” and “person with a criminal record” (PwCR) labels.

This chapter aims to situate the previous findings in a broader context and offers an in-depth interpretation of the social processes that underline this research. This will be explored as follows: a brief discussion of the major findings, a brief overview of the major trends in the data, a discussion on the extent to which the theories guiding this research were applicable, followed by an evaluation of the contribution to the current field of knowledge, the limitations and strength of the research, and lastly, a discussion on the direction for future research.

6.1 – RECAP OF MAJOR FINDINGS AND COMPARISON TO THE LITERATURE

The first major finding that is worth discussing concerns the premise that most employers in the sample did not conduct criminal record checks on their prospective employees. The exception to this however, was one employer who was constrained by company policy which did not allow under any circumstance a person with a criminal record to be hired due to the nature of work they were performing (contracting). These findings are in direct conflict with the assertions made in American and New Zealand literature (Harcourt & Harcourt, 2003; Burke, 2004; Holzer et al., 2002, 2003a, 2003b, 2003c, 2004, *supra*). However, this result does reinforce the assertions made in the Canadian literature by Davis (1980, *supra*) and Saunders et al. (1992, *supra*). Therefore, the

finding related to this specific premise, mirrors the trends observed in earlier data and suggests that the approach of Canadian employers, or at least in the city of Ottawa, has remained relatively consistent over time and diverges from the results obtained in other countries such as the US and UK where there has been a proliferation in CR checks.

Another major finding regarded the mixed attitudes and rationales concerning the use of criminal record checks. Most employers in the sample acknowledge little to no issue with criminal record checks as most thought it was justified. The justifiability of record checks for most stemmed from the fact that it was regarded as a measure that protects the business. One participant in the sample, however, expressed a negative reaction to this measure as she could not understand the justification of its use in her line of work. These responses did not necessarily elicit a discussion surrounding the potential for a person with a criminal record to do harm, but rather again, are regarded as an important way to protect one's business. The results obtained in this section uncover that most employers interviewed expressed little to no reservation regarding criminal record checks, something that has not necessarily been explored in previous literature. These results do, however, contribute to the assertion that certain employers sampled use these measures because of the requirement of state or federal laws or standards governing them, as noted by Kethineni and Falcone (2007) and Harrison and Schehr (2004).

The next major finding from this research suggests that the hiring of a person with a criminal record is not a simple nor straightforward decision for an employer. Most of the interviewees in this sample indicate a willingness to hire a person with a criminal record, however, it is subject to various conditions. Some of these conditions noted were: the nature, severity and/or the context surrounding the offence. Another element that appears to weigh heavily on the minds of employers is the fear of potential loss. Interestingly, it is unclear as to whether this loss is primarily financial for the employers interviewed, as the potential loss of customers is also discussed as being a concern. Lastly, when employers were asked about how they would react should they come to

discover that an employee had a criminal record, most employers in the sample stated that the presence of a record would not result in an automatic dismissal. Many pointed out that the decision on how to proceed would be carefully deliberated, in one instance, discussed with the co-owner, and/or a decision would be based on the overall experience with the individual to date. The available literature on the topic reveals that: (1) hiring persons with criminal records is typically not an option from the start, and/or (2) that employers are highly unlikely to even consider this possibility, a trend that was observed in Albright and Denq (1996), Petersilia (2001), Giguere and Dundes (2002), Holzer (1996, 2002, 2003b, 2004), Brown et al. (2006), Pager (2003) and SEU (2002), but this trend was not supported in the Canadian study by Davis (1980).

The fourth major finding is employer knowledge or awareness of the effects of society's negative perceptions and attitudes towards persons with criminal records, and how these effects limit potential employment opportunities. These results are new to literature on the employability of PwCRs as they reveal more into the thought process of employers. Specifically, it demonstrates that most interviewed employers within the sample have a social sensitivity about the treatment of persons with criminal records trying to obtain employment, and believe that everyone has a role to play in addressing the issue.

The subsequent finding complements the previous one, as it highlights the importance employers give to second chances, in turn, drawing attention to the empathy and understanding shown with regards to the reality that persons with criminal records face when attempting to re-integrate professionally. This presents a stark contrast to much of the negative views of the general public and larger society. All the employers in this sample discussed one of the two elements described. Similar to the previous findings, this theme in particular brings forth new assertions, as this theme has not been explored in literature.

The last finding to emerge from the data is how the sampled employers conceptualize the labels “ex-offender” and person with a criminal record. Most employers have their own conceptualization of these labels, and these labels are ultimately viewed differently from one participant to another. However, what is common among each is that, in most cases, the label of “ex-offender” is thought to be more stigmatizing. These findings, too, bring new insight to the existing literature, as this has not been previously discussed. Rather, what is present in the literature is how employers and others members of society generally perceive “ex-offenders”, and not the comparison to the label PwCRs.

6.2 – MAKING SENSE OF THE DATA: BREAKING THE STEREOTYPE OF THE “HEARTLESS” AND “UNCARING” EMPLOYER

The employers interviewed in this sample were all socially aware of the stigma surrounding criminal records not all engaged in fully stigmatizing behaviour. Most employers stated that they were willing to hire persons with criminal records and did not have a formal policy or procedure in place to verify for past convictions. The act of partial stigmatization, however, did come into play in two scenarios.

Based on the multiple accounts given by participants, the hiring process for most employers sampled is a process that may be different from other employers within the city of Ottawa. If a PwCR applies for a job, whether advertised online, applied in person with a resume, or word of mouth, none of the interviewed businesses except for one following the interview would screen the applicant to see whether they have a previous conviction. The employer would first request an interview and after assessing if the applicant has the necessary skills for the job would see whether they are a “good fit,” and then subsequently hire the applicant. At no point does the employer ask the candidate if they have a criminal record or conduct a criminal record check. This can be supported by the fact that, as stated by many participants, they are not certain as to whether they can be privy to information of this nature, simply do not think of this possibility, or have reason to

ask. One can see from this scenario that the employer is solely interested in whether the employee has the necessary skills to carry out the required duties of the position.

In the second scenario, where a PwCR applies for a job, discloses their criminal record to the employer or the employer after hiring said individual comes to discover that the individual has a past conviction, the outcomes are somewhat different. Instead of rejecting the applicant or automatically firing or dismissing the employee, employers in the sample are adamant on knowing the context surrounding the offence to be able to decide under what conditions they would hire someone with a record or allow someone to remain an employee in their establishment. This decision-making process is highly motivated by the idea that those with criminal records should be given a “second chance”, and that broader society must take responsibility in helping to ensure their professional reintegration.

Based on these findings, it is deducible that employers in the sample depart from the mold of the typical employer given their attitudes and perceptions with regards to the hiring practices of PwCRs and how they see themselves interacting with these persons. The next issue to be addressed in this chapter concerns the theoretical framework employed and its impact on understanding the social processes at play.

6.3 – THEORETICAL FRAMEWORK REVISITED

As discussed in the previous chapter, Goffman’s (1963) work on *stigma*, and Braithwaite’s (1989) work on *shame* are at the core this research project. This section examines the extent to which the chosen theories were applicable to my findings.

6.3.1 – STIGMA

At the beginning of this research, it was theorized that *stigma*, or the “process by which the reaction of others ‘spoils’ normal identity” (Nettleton, 2006, p. 95), plays an integral part in the hiring

process. In many instances, it was also thought that the criminal record itself, is essentially a “character blemish” and a *discreditable* stigma, one that can be revealed and is not already known to the employer. This appears to be dependent on whether the employer is privy to this information before meeting the prospective applicant. Many, if not most employers, are generally socially aware of the stigma that surrounds criminal records. This research project uncovered the extent to which employers within the sample subscribe to this negative perception regarding CRs and append that stigma to their prospective employees during the hiring process. It was found that most employers sampled, except for one, reported not checking potential hires for criminal records nor having a policy or procedure in place to check. Therefore, in the initial stages of the hiring process, most interviewed employers do not append a stigma to persons with criminal records since they are not actively seeking to exclude these individuals from the applicant pool. A criminal record check, in this case, is not an exclusionary mechanism or tool. Rather, most of the employers interviewed express having no objection to hiring a person with a criminal record, under of course, some conditions which relate specifically to the nature, severity, and type of offence committed. The employer feels this information would allow them to make a more informed decision concerning whether to hire the individual in question. From what is observed, the behaviour exhibited by most employers in the sample supports the notion that a partial stigmatization is appended to persons with criminal records, but occurs after they have presented themselves and been considered. Participants did not deny these individuals the opportunity to “get their foot in the door”. What is apparent is that the intensity and weight of said stigma is significantly reduced when the needs of the business are a priority. This observation also reinforces the notion that stigma is not absolute and can vary in intensity and severity depending on the employer. In all, these interviews reveal a genuine interest and overwhelmingly positive attitude and perception on the part of employers to consider candidates despite their criminal records.

6.3.2 – REINTEGRATIVE SHAMING THEORY

The second important theory guiding this research is the theory of *reintegrative shaming* by Braithwaite (1989). Earlier in this thesis, I suggested that employers may engage in *disintegrative shaming* (negative), rather than *reintegrative shaming* (positive). Generally, the first wave of shaming comes from the court system as well as the sentencing process (Hannem-Kisch, 2004). It is at this point that the individual in question is shamed and is either rejected or is not reintegrated back into the environment by their peers (Hannem-Kisch, 2004).

As far as it can be deduced, Braithwaite (1989) does not acknowledge or specify what constitutes “a larger community” explicitly, but from this researcher’s understanding, it is those who are important to the individual in question. Here, this paper proposes that this “larger community” includes employers and their businesses because at some point or another access to employment will be a necessity and priority. These social actors indeed are not necessarily formal institutions like the courts, yet they function in a similar fashion. Both act as gatekeepers: “someone who controls access” (Merriam-Webster Dictionary, 2016). In this case, that access is to the employment domain. This is where the second wave of stigmatizing behaviour (*shame*) comes into play. Earlier, it was proposed that when individuals with criminal records apply for a job they run the risk of experiencing *disintegrative shaming* which causes further anxiety because of a past conviction. As a result of their criminal record, they are often rejected and subsequently not welcomed back into the social domain of employment, thus hampering their chances of professional reintegration. As such, it would not be without merit to say that employers and their respective businesses indeed act as “gatekeepers,” hampering an individual’s ability to integrate professionally post-conviction because of their negative attitudes and perceptions of criminal records. However, the results obtained in this study suggest otherwise.

As already demonstrated, most employers in this sample do not conduct criminal record checks which suggests that the process of *disintegrative shaming* which often occurs in the beginning of

the hiring process did not take place. There is a willingness on the part of the employer to know more should questions surrounding a criminal record arise as this information would help them to make a more informed decision. Additionally, most employers in the sample expressed that an automatic dismissal is not something they would feel comfortable doing should they come to discover that an employee had a criminal record. These results further support the idea that employers in the sample reject the idea of engaging in *disintegrative shaming*.

6.4 – CONTRIBUTION TO THE FIELD OF KNOWLEDGE

In the early stages of planning this thesis, I did not foresee or fully understand the broader implications of this research despite the major changes occurring within the current government at the time. Since the passing of Bill C-10 (Safe Streets and Communities Act) back in March 2012, major changes have taken place. These changes included, but were not limited to: an increase in the price of the application fee to apply for a pardon, restricting applicants that have more than three convictions for indictable offences on their record and those convicted of child sex offences from ever applying for a pardon (Bronskill & Cheadle, 2013). Every one of these changes made it increasingly difficult for those who have been in conflict with the law to keep their records separate from other types of regular background checks. Since then, Bill C-10 continues to impact the lives of those individuals, and exacerbates the stigma and shame from potential employers as discussed in this thesis. These changes to the legal system made the need for this thesis even more pressing and further emphasized the relevance of the subject matter.

This thesis also makes a valuable contribution to the field of criminology from the Canadian context, since the study of “ex-offenders” and employability has hitherto been over-saturated by American and British literature. Despite the prevalence of American literature concerning the overall attitudes and perceptions towards PwCRs, the findings in this research converge only with one recent American study, as seen in Giguere and Dundes (2002) who found that more than half of respondents indicated a willingness to hire an “ex-offender”. Comparably, research by Holzer

(2002, 2003b, 2004), found that employer's attitudes and perceptions remain unchanged and their level of interest towards hiring "ex-offenders" remains low. In terms of British literature, the Social Exclusion Unit (2002) concluded that most employers expressed that they would treat a candidate with a criminal record in comparison to one without more favourably. In addition, a study by Brown et al. (2006) found that more than half of employers indicated a desire to know whether the individual had a past conviction which suggests this is information employers would like to be made aware of. Lastly, and more importantly, the results obtained mirror an older Canadian study by Davis (1980), where over 90% of employers indicated a willingness to hire persons with criminal records further demonstrating a stable and consistent trend regarding the views of Canadian employers, and specifically for those sampled in the city of Ottawa. The results obtained in this study concerning the prevalence of criminal record checks also mirror the results obtained by Saunders et al. (1992), where only a small portion of job application forms had questions relating to a criminal record. This suggests that generally employers are not overly concerned with needing to be aware of this information. It is worth noting that a comparison between the present study and the study by Saunders et al. (1992) reveals a similar positive trend. Considering all the information given, one could strongly hypothesize that hiring patterns in Canada, in comparison to the United States and United Kingdom, are generally more favourable toward persons with criminal records and have a more positive set of attitudes and perceptions towards this population.

Although this paper has made a successful attempt to address the gap in the literature in regards to the Canadian context, it is imperative that more research be conducted on this issue. It is evident that the Canadian context has suffered, as this research project (again to the best of my knowledge) is the second academic paper after Davis (1980) to examine attitudes and perceptions of employers and its effects on perceived employability, and the second or most likely third after Saunders et al. (1992) to examine the prevalence of criminal record checks among employers more broadly. In addition, this paper zeroed in on the extent to which *stigma* plays a role in hiring decisions, or what other mitigating or aggravating factors influence this decision, something both earlier studies

neglected to highlight. This paper also explored the concept of *shame* and its role in hiring practices. In addition, to the previous points made, this study has generated new academic research in Canada with regards to hiring practices. The positive results obtained in this research reinforce the notion that Canadian hiring patterns have remained relatively constant and positive since the last Canadian study. This can be a great incentive for others throughout the country to potentially see that many businesses are willing to hire individuals with criminal records. Also, these businesses can see that while their concerns are valid and shared by many of the employers in this sample with regards to hiring applicants with criminal records, there is also a consensus amongst those interviewed that this sub-set of the population deserve to reintegrate professionally despite a criminal record. On a last note, it is extremely important that I acknowledge how grateful I am to the employers in this city who agreed to take part in this study despite their initial apprehension. Without their consent, subsequent participation, and willingness to be open and honest about the topic, this research would not have been possible and able to make such a significant contribution to the field. The next section of this chapter highlights the strengths and limitations of the research project and how these concerns were appropriately addressed.

6.5 – STRENGTHS AND LIMITATIONS

As a researcher, it is important to take a step back and assess the strengths and limitations of one's work as this is a form of reflexivity. There are two limitations to this work worth considering: the sample size and the generalizability of results. The first limitation is that of sample size. As previously mentioned in the methodology chapter, a purposive sampling technique was first employed and then later changed to a snowball sampling technique to build the sampling frame. A purposive sampling technique was employed when I initially had reached out to the John Howard Society of Ottawa but was told that they could not provide me with any information regarding employers due to resource and privacy concerns. Additionally, when I reached out to the Centre de placement spécialisé du Portage (CPSP) I never received an appropriate follow-up or acknowledgment to my request via email from a special contact I was provided with.

The justification for the eventual switch to the snowball sampling technique was simple: given the nature my subject I was aware that I might continue to face increased difficulty recruiting participants. In all, a total number of eight participants were successfully interviewed for this research project. Although it was not required that I have a specific number (even though my goal was eight participants) recruiting participants in the beginning was extremely difficult. My first wave of recruiting included sending out thirty and more recruitment letters that included the letter of information and consent form. This was the preferred method as I was employed during core business hours, making it difficult to reach home in time to meet with employers before they closed their establishments. When I could, which was only in some instances, I would approach businesses personally and give them a brief explanation of what my research entailed. I was frequently met with, what some would call, resistance, since many had formed an opinion about what the research entailed and would respond with “*Well... I don’t hire people with criminal records so what’s the point in talking to you?*”¹⁶. I would politely counter this statement and explain that their point of view as employers was nonetheless valuable and that it would be important that we get the opportunity to hear their voice. In most instances, this was not enough to gain their consent to participate, so I politely thanked them for their time and left. Irrespective of this issue, I was able to pique the interest of some employers who eventually agreed to participate. Another issue that arose concerned the delay in contact with those who did agree to initially participate. For some reason, many of those individuals did not respond to my follow-up email to confirm participation. Despite this lack of communication, on two separate occasions, I sent another set of follow-up emails as a final offer and reminder. In the end, naturally, I abandoned

¹⁶ It is important to note that while my sample may appear to be biased it is not; I mitigated the potential for this by creating a recruitment letter (see Appendix A) which broadly stated that I had interest in all types of participants: at no point in the recruitment letter does it specify the type of answers/participants that are desirable. Participants, Donna and Eric, despite not hiring persons with criminal records, still agreed to participate. Ultimately, anyone who refused to participate had other reasons for doing so.

these employers as a possibility when I did not hear back from them as I was working with a strict deadline to complete all interviews.

The issues faced during the recruiting process were not at all surprising. As a researcher, I had prepared myself for this possibility, since I had read in previous studies that suggested this may pose problems. With this information in hand, I attempted to mitigate these potential issues as much as possible. In all fairness, it made sense that employers may not want to dialogue with a researcher regarding the hiring practices of their company in fear that this information may be divulged or revealed to the public. Further, if this information was to come out it could negatively impact their business. I can guarantee that businesses did not want to be perceived as “anti-offender”, or “anti-reform”, or be perceived as lacking compassion towards a group of people in society. As a researcher, I worked hard to ensure that issues of confidentiality and/or anonymity would not arise for those who I did manage to recruit successfully. Lastly, to mitigate potential recruitment issues, I began as early as my schedule would allow towards the end of August 2015.

This next limitation is that of generalizability. Many researchers would ask the question as to whether the results obtained from this data are generalizable to the greater Canadian population. As discussed, the sample is too focused (on the city of Ottawa), to allow for the generalization of results to the Canadian population without more exploration. Considering this, energy was focused on comparing the results to the literature. This comparison led to a strong hypothesis: that Canadian hiring patterns have remained relatively constant and positive since the last two Canadian studies. However, as previously noted, socioeconomic policies have radically changed since the time the two earlier studies were conducted, in 1980 and 1992 respectively. Consequently, further research is needed in other social and economic contexts as well as other provinces to ascertain as to whether the results are transferable. Moreover, this study was concerned with obtaining in-depth accounts and varying experiences to obtain a diverse sample, not to have a representative sample.

Overall, this study garnered in-depth interviewee accounts, which in many respects would allow one to generalize about the obtained results.

Despite its limitations, the strength of this research lies in its ability to contribute to a field of knowledge regarding persons with criminal records and employment that is severely lacking a Canadian perspective. This research adds to a pre-existing and rather limited body of literature and provides a “fresh” set of statistics from the 21st century. A last strength of this research is the interviewing technique used to obtain data. Many, if not most, of the academic studies concerning the topic, employed structured, semi-structured interview techniques, or even surveys, leaving little room for variation of participant responses. They may also have employed quantitative statistical techniques to tally results. This study employed a relatively low structured interview with open-ended questions allowing for respondents to discuss aspects that were important to them. Employing this method allowed me to uncover many findings that were not discussed in literature. Finally, using this technique also gave rise to “thick descriptions” (Geertz, 1973) of interview data which made for a much more enjoyable coding experience and fruitful analysis. The next part of this paper will address the broader implications of the findings obtained.

6.6 – BROADER IMPLICATIONS OF FINDINGS

Much earlier in this paper the issue of persons with criminal records and employment was deemed a social and criminological issue – my position since then remains unchanged. The positive responses garnered from employers in this sample at the very least demonstrate that more meaningful changes are needed to help facilitate the re-entry of those with criminal records into the workforce as the reality is that employers in the industry are willing to facilitate their professional integration. Furthermore, these findings must be capitalized on in the sense that this is a major stepping stone for connecting employers who are willing to hire persons with criminal records. If other employers across Canada are made aware of these positive findings, this may propel them to consider how their hiring practices may or may not be conducive to professional

reintegration for persons with criminal records. Even more importantly, bridging the gap between these groups (employer and person with criminal record) is an important first step. A question that remains, however, is at what point should this connection be facilitated: before or after a sentence is given to an individual? The media often reports that programming offered in Canadian federal institutions is limited and in recent years funding for others has been greatly reduced or cut all together. For those serving their sentences in the community, this is equally important. For the incarcerated, this gap should be bridged while the person is serving their sentence at which point life skills should be acquired within the institution and preparations should be made to find employment before release. For the persons serving their sentence in the community, they should be put into contact with organizations who help find them suitable employment. As some of these measures are currently being implemented, the focus perhaps should be made on strengthening the resources already in place. Ultimately, taking a proactive approach to addressing this issue rather than a reactive approach is bound to be more effective.

While the findings of this thesis provide renewed hope and confidence, particularly in the Canadian context, concerning the willingness of employers to hire persons with criminal records, many of the concerns echoed in the literature surrounding the professional reintegration of these individuals were concerns raised in my own research. Certain barriers remain impenetrable. Even though employers responded positively to the prospect of hiring persons with criminal records, the conditions surrounding employment are ever present. Ideally, as researchers, the hope is to see all persons with criminal records reintegrate professionally but the stigma associated with certain offences i.e. violent offences, sex offences, and offences against children still elicit negative reactions in comparison to others. The stigma surrounding these types of crimes may only be reduced if one changes attitudes, perceptions, and narratives concerning risk, security, and the perceived danger posed by these individuals.

The above leads to the question of how do we balance the idea of re-integration and risk but in a manner, that is fair to both employer and person with a criminal record? Furthermore, how do we ensure that criminal record checks are not used as a discriminatory tool? These are questions that my thesis did not cover, but should be addressed in future research. Many of the participants highlight a need for some type of societal intervention to address this issue. As someone who works for a federal ombudsman which champions offender rights and who has plans to pursue a career in law, a potential solution to address this issue came to mind. Just as we have various ombudsman offices which are charged with investigating and addressing complaints of maladministration of violations of rights, we could potentially implement similar laws and regulations to regulate criminal record checks in Canada as are currently practiced in certain US states. This would ensure that should an employer refuse to hire an individual with a criminal record that it be justified in writing. At this point, then, if the applicant is not satisfied with the decision, s/he can bring his case forward to an ombudsman. Here, the ombudsman can serve as a special advisory/oversight committee that would specifically deal with these complaints on a case by case basis. This special ombudsman could be staffed with various important professionals, such as lawyers, retired judges, representatives from social justice and non-profit organizations, as well as business owners, and community members. This may ensure that persons with criminal records are given fair opportunity and are not discriminated against based on a criminal record.

6.7 – DIRECTIONS FOR FUTURE RESEARCH

Moving forward, research pertaining to this topic should move away from obtaining data through solely quantitative means and employ more qualitative laden methodology to capture the employer narrative. In fact, a mixed method approach is ideal to examining this subject. Though such an approach is ideal it should be recognized that it is often expensive and more time consuming which may not be feasible for novice researchers, but for experienced researchers may be within their means. Capturing “thick descriptions” (Geertz, 1973) of interview data allows the researcher to flesh out important information to answer the guiding research question(s). Moreover, using

strictly an open-ended question format would allow the research to potentially uncover themes not previously revealed via other types of interview structures. Furthermore, much is to be gained from this interviewing technique as it allows the participant to discuss what is important to them rather than be asked questions which may feel pre-scripted, don't allow for elaboration and/or that are leading. An open-ended question format also allows for increased variation in responses, and the opportunity for the interviewer to prompt and probe the interviewee.

Another direction of future research may be to replicate this study on a larger scale. This could be done by increasing the number of participants interviewed, and targeting many metropolitan cities simultaneously in one province and between provinces, like the studies conducted by Davis (1980) and Saunders et al. (1992), to see whether trends are constant under different conditions and in other environments, thus, increasing transferability. This would allow researchers to conclude more generally about Canadian employers as it would be a more holistic sample to draw conclusions. A last direction for future research should involve conducting the same research, but to vary the interviews by industry to draw conclusions about the attitudes and perceptions toward PwCRs and industry sectors, in addition to how they assess the employability of persons with criminal records.

CONCLUSION

The discussion chapter successfully highlighted the most important findings of this research. However, as we bring this thesis to a close there are some major conclusions worth noting. First, the hiring of persons with criminal records is a complex issue for all the employers sampled as it was shown that many factors influence this decision. However, this did not limit this researcher's ability to flesh out important nuances from the conducted interviews. The process allowed the guiding research questions of this project to be successfully answered and clustered around the following three assertions: (1) criminal record verifications are seldom used by employers to check

for past convictions; (2) employers are willing to hire persons with criminal records (under specific conditions), and (3) employability is primarily based on whether the candidate in question had the skill set required to carry out the duties of the position, making the presence of a criminal record a secondary consideration, rather than an outright aggravating factor for hiring.

In terms of the theoretical framework that guided this research, it proved to be applicable to this research project. More specifically, the concepts of *stigma* and *shame* were useful tools in understanding the social processes occurring in the interviews. Additionally, the qualitative approach used in this project proved to be most effective, as this research project sought to understand the “social meaning people attribute to their experiences, circumstances, and situations...” (Hesse-Biber & Leavy, 2011, p. 4). By fleshing out the meaning from the data set and focusing on words rather than numbers, a qualitative approach made more sense than a quantitative one. Last, conducting a relatively low-structured interview with open-ended questions allowed the participant to feel at ease, a variation in answers, and gave the researcher the opportunity to prompt and probe the interviewee for clarification.

This research project also re-affirms what we already know about the employment of persons with criminal records in terms of its social and criminological significance – for persons with criminal records professional reintegration is an important issue. As for addressing this issue of reintegration for those with past convictions, a potential solution could be to shift part of the responsibility from correctional bodies, and place it more in the hands of community organizations ultimately giving them more financial resources, autonomy and control. This, of course, would need to be done with the full support of government funding, both at the provincial and federal levels of government, and could be one of the most effective ways to address this issue. In Canada, there are a variety of organizations such as the John Howard Society, Circles of Support and Accountability, and Prison Fellowship Canada that connect persons with criminal records and potential businesses together. If the strength of these community organizations is increased, in the

future, a new area of inquiry could be the evaluation of the effectiveness of these organizations in providing support to these individuals. It would be an excellent opportunity to assess the effectiveness of these organizations, and to answer new research questions such as: *what are the strengths and limitations of re-entry programs responsible for bridging persons with criminal records into employment opportunities (in the city of Ottawa)? What are the experiences of frontline workers who work closely with persons with criminal records in helping them find employment?* Such questions could involve interviewing frontline workers to understand their experience in these roles and the challenges they face providing these services to those in the community. While the recommendations I have made throughout this paper are not guaranteed solutions, I hope that they are the start of a meaningful dialogue surrounding these issues in Canada. As a society, we must come to terms with the fact that we have fallen short on providing adequate support for persons with criminal records and require a new strategy to address the re-entry challenges faced by these individuals, because as a quote that has motivated me throughout this whole experience says:

*No one is disposable.*¹⁷

¹⁷ The partial tagline/motto of Circles of Support and Accountability (CoSA): “No More Victims...No One is Disposable.”

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APPENDICES

APPENDIX A: RECRUITMENT POSTER



uOttawa

RESEARCH PARTICIPANTS NEEDED

Hello,

My name is Illesha St. Helene Uko and I am Master's student at the University of Ottawa in the Department of Criminology.

I am currently looking for participants to be a part of a research study that explores the difficulties that ex-offenders face post-incarceration. The objective of the research project is to specifically examine how employers make hiring decisions with regards to individuals with past criminal history. In turn, this research may shed light on the wider implications of social stigma and its effects on ex-offenders in various life domains.

I would like to interview hiring managers and/or business owners of English-speaking and non-franchised establishments that can answer a series of questions. The interview will be approximately one hour in length. Anonymity and confidentiality are guaranteed.

There are no risks to participate in the research study, and participants can terminate the session if at any point they feel uncomfortable. If you are interested in this opportunity, I can be contacted by telephone at the following number: _____ and/or by email: _____ until _____. Please note that participants will also be selected on a first come/first served basis.

If you have any questions with regards to the ethical conduct of this study, you may contact Office of Research Ethics and Integrity, University of Ottawa, Tabaret Hall, 550 Cumberland Street, Room 154, ON K1N 6N5. Tel.: (613) 562-5387 or ethics @uottawa.ca

Illesha St. Helene Uko

Tel: _____

E-mail: _____

Supervisor: Professor Francoise Vanhamme,
Department of Criminology,
University of Ottawa
120 University, 13052

Tel: _____

E-mail: _____

APPENDIX B: LETTER OF INFORMATION

Title of study: “In the eye of the employer”: An investigation into the role of stigma and shaming in the professional re-integration of persons with criminal records

Investigator: Illesha St. Helene Uko
Department of Criminology
University of Ottawa
Ottawa, ON

Supervisor: Francoise Vanhamme (Associate Professor)
Department of Criminology
University of Ottawa
Ottawa, ON

Invitation to Participate: You are invited to participate in the abovementioned research study conducted by Illesha St. Helene Uko in the context of a Master’s thesis, under the supervision of Francoise Vanhamme.

Purpose of the Study: From this research we wish to learn about the stigma of criminal records and its effects on employer perceptions of employability and hiring desirability.

Participation: Participation will consist essentially of taking part in a one-on-one interview that will last approximately 60 minutes, during which, with your consent, will be audiotaped. If you do not wish to be audiotaped, I will take notes. I will be using pseudonyms in the transcripts of the interview as well as in the research paper generated from the data and analysis. Interviews will take place in a location convenient to you. There will be a total of 8 participants in this study.

Risks: There are no anticipated risks associated with participating in this study. Nonetheless, participants can choose not to answer certain questions or withdraw from the study at any time.

Benefits: Information gathered from your participation in this study may provide a better understanding of the impact of stigma surrounding criminal records and how this directly influences employer perceptions of employability and hiring desirability; however, you may not benefit directly from participating in the study.

Confidentiality: All data collected will remain confidential and accessible only to the investigators of this study. Interviews will be saved on a personal computer and backed up on a hard drive. Both the computer and hard drive are password protected, and the files will be encrypted. All data will be stored in accordance

with University of Ottawa's policy (for a minimum of 5 years) and paper documents will be subsequently shredded after the 5-year period.

Anonymity: Anonymity is guaranteed since you are not being asked to provide your name or any personal information.

Data storage: Copies of the interview transcripts will be kept on a password-protected computer and/or in a locked filing cabinet in the office of the researchers at the University of Ottawa for a period of 5 years at which time they will be destroyed as mentioned above. Electronic files will be deleted after this time. If the results are published, your name will not be used. Should you choose to withdraw from the study, you will have the option of also withdrawing your data.

Voluntary

Participation: Participation in this study is voluntary. If you choose to participate, you can withdraw from the study at any time and/or refuse to answer any questions during the interview process, without suffering any negative consequences. Should you choose to withdraw from the study, you will be given the option of also withdrawing your data.

Information about

Results: The research findings (that is, a general overview but not individual interviews) will be made available to participants and other interested parties.

If you have any questions or require more information about the study itself, you may contact the researchers at the numbers mentioned above.

If you have any questions regarding to the ethical conduct of this study, you may contact the Office of Research Ethics, University of Ottawa, Tabaret Hall, 550 Cumberland Street, 154, Ottawa, ON K1N 6N5, tel.: (613) 562-5387 or ethics @uottawa.ca.

Please keep this form for your records.

Thank you for time and consideration.

Illesha St. Helene Uko

Date

Francoise Vanhamme

Date

APPENDIX C: INFORMED CONSENT

Project Title: “In the eye of the employer”: An investigation into the role of stigma and shaming in the professional re-integration of persons with criminal records

Principal Investigator: Illesha St. Helene Uko

I have read the Letter of Information, have had the nature of the study explained to me and I agree to participate. All questions have been answered to my satisfaction.

I agree to participate in the study:

Participant’s Name (please print): _____

Participant’s Signature: _____

Date: _____

I agree to have the interview audio-recorded (please initial):

YES _____

NO _____

Person Obtaining Informed Consent (please print): _____

Signature: _____

Date: _____

Participant’s Initials: _____

APPENDIX D: INTERVIEW GUIDE

Title of study: “In the eye of the employer”: An investigation into the role of stigma and shaming in the professional re-integration of persons with criminal records

Interview Number: _____ Date: _____

Interview Start & End Times: _____

OPENING REMARKS

“Good morning/afternoon/evening. My name is Illesha St. Helene Uko, and I am Master of Criminology candidate at the University of Ottawa. Firstly, I just wanted to take the time to say thank you for accepting to take part in this study. This interview is being conducted to gather information on employer perceptions of individuals with criminal records trying to access the labour market. This conversation will be audio-recorded so that I can get all the details but simultaneously carry on an attentive conversation while taking notes. In addition, your comments will be transcribed verbatim. I can assure you that all answers given will remain strictly confidential and any final report with this data will contain comments without any reference to specific participants making it impossible to identify you. As a participant, you have the right to end the interview at any point and take breaks during the course of the interview when needed. If you agree to this interview and the tape recording, please sign this consent form.”

Are we under a specific time restraint (anything that may interrupt the interview)?

A reminder that any point during this interview should you need a break or wish to end the session you can do so without penalty

Any questions before we begin?”

PART 1: ESTABLISHING A RAPPORT WITH INTERVIEWEE

**Focus on making sure the interviewee feels at ease during this first line of questioning*

“To kick off this interview, I just want to ask you some general questions concerning yourself and your business”

Identity of the employer

- What sector does your business/corporation cater to primarily?
- How would you define your role as a business in the Ottawa area?
- What type of things do you here people say in the community about your business?
 - How important is your reputation to you as a business owner?
 - How much do you value being seen in a positive light in the community?
 - Many employers pride themselves on being committed to Employment Equity ...Do you see yourself as someone who is committed to these principles?

Interviewee status (HR manager or owner)

- Describe with some key-words your various responsibilities in the business?

- How many employees do you manage total?
- How long have you occupied this position?
- What are your major duties with respect to the hiring of new staff?
- Can you describe in a couple of steps the application process to apply for an entry level position in your company?

“As you have read in the letter of information, the objective of this interview is to explore how employers perceive individuals with criminal records. “

PART 2: GUIDING INTERVIEW QUESTIONS

Question #1: *What in your opinion is an ‘ideal’ employee (for your business)?*

Themes to cover:

- Age
- Personal stability/(un)stable work history
- Desired traits/qualities (presentation of self, social skills etc.)
- Education
- Job-related experience
- Assets
- Issues of trust/transparency/liability

****Take note if the interviewee does NOT mention the absence of a criminal record**

Recapitulate major point(s)

“At this stage, let me suggest a synthesis of what you have stated...Is what I said correct?

Anything you would like to add before we move on to my next question?

Your answers to my previous questions bring me to my next issue...Are you aware of the number of individuals who have criminal records across Canada? Its about 10% of the population, so about 3 million Canadians. In the US? As of 2010, 65 million people.”

Question #2: *If a person with a criminal record were to apply for an entry-level position, how would you consider/approach this application?*

Themes to cover:

- Formal policies vs. informal policies to treat application of someone with criminal record
- Sources of information regarding CRs (private companies v. state provided CR checks)
- “Ex-offender” v. “person with criminal record” – PwCR (difference in these terms?)
- Behavioural characteristics of PwCR v. someone who does not have a CR
- In your opinion, how might employers compare the behavioural characteristics of “ex-offenders” with people who have no criminal record?
- Influences on perceptions
- Negative societal reaction
- Personal encounters with PwCR (negative or positive)
- Qualifications vs. criminal record
- Factors that would impact a decision to hire

- unsuitability at my place of work
- lack of technical skills, “ex-offender(s)” not the best candidate(s)
- possibly company image damage
- particulars of the convictions
- lack of support/guidance/incentive to do so,
- possible negative influences
- company policy restrictions
- lack of soft skills or attitude,
- risk offending, legislation
- possible difficulties or tension with other members of staff
- Relationship between the crime and the job
- Pros and cons of hiring: for the business/for the team/for your personally/collateral consequence
- Incentives for hiring
- Corporate responsibility vs. moral/societal responsibility

Recapitulate major point(s)

“At this stage, let me just do a quick summary of what was stated...Is what I said correct? Anything you would like to add? Anything you would like to add before we move on to my next question?”

CLOSE INTERVIEW

“Is there anything you might not have thought about before that occurred to you during this interview?”

Is there anything you think that I should know to understand – better?

Is there anything you’d like to ask me?”

APPENDIX E: ETHICS APPROVAL (INITIAL 1A AND RENEWAL)

APPENDIX E: ETHICS APPROVAL

File Number: 03-15-21

Date (mm/dd/yyyy): 08/20/2015



Université d'Ottawa
Bureau d'éthique et d'intégrité de la recherche

University of Ottawa
Office of Research Ethics and Integrity

Ethics Approval Notice **Social Science and Humanities REB**

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

<u>First Name</u>	<u>Last Name</u>	<u>Affiliation</u>	<u>Role</u>
Françoise	Vanhamme	Social Sciences / Criminology	Supervisor
Illesha	St. Helene Uko	Social Sciences / Criminology	Student Researcher

File Number: 03-15-21

Type of Project: Master's Thesis

Title: In the eye of the employer: Examining employer perceptions of criminalized individuals entering the labour market

Approval Date (mm/dd/yyyy)	Expiry Date (mm/dd/yyyy)	Approval Type
05/25/2015	05/24/2016	Ia
(Ia: Approval, Ib: Approval for initial stage only)		

Special Conditions / Comments:
N/A



Université d'Ottawa
Bureau d'éthique et d'intégrité de la recherche

University of Ottawa
Office of Research Ethics and Integrity

This is to confirm that the University of Ottawa Research Ethics Board identified above, which operates in accordance with the Tri-Council Policy Statement (2010) and other applicable laws and regulations in Ontario, has examined and approved the ethics application for the above named research project. Ethics approval is valid for the period indicated above and subject to the conditions listed in the section entitled "Special Conditions / Comments".

During the course of the project, the protocol may not be modified without prior written approval from the REB except when necessary to remove participants from immediate endangerment or when the modification(s) pertain to only administrative or logistical components of the project (e.g., change of telephone number). Investigators must also promptly alert the REB of any changes which increase the risk to participant(s), any changes which considerably affect the conduct of the project, all unanticipated and harmful events that occur, and new information that may negatively affect the conduct of the project and safety of the participant(s). Modifications to the project, including consent and recruitment documentation, should be submitted to the Ethics Office for approval using the "Modification to research project" form available at: <http://research.uottawa.ca/ethics/submissions-and-reviews>.

Please submit an annual report to the Ethics Office four weeks before the above-referenced expiry date to request a renewal of this ethics approval. To close the file, a final report must be submitted. These documents can be found at: <http://research.uottawa.ca/ethics/submissions-and-reviews>.

If you have any questions, please do not hesitate to contact the Ethics Office at extension 5387 or by e-mail at: ethics@uOttawa.ca.

Signature:

Riana Marcotte
Protocol Officer for Ethics in Research
For Barbara Graves, Chair of the Social Sciences and Humanities REB

APPENDIX E: ETHICS RENEWAL

File Number: 03-15-21

Date (mm/dd/yyyy): 08/30/2016



Université d'Ottawa **University of Ottawa**
Bureau d'éthique et d'intégrité de la recherche Office of Research Ethics and Integrity

Ethics Approval Notice **Social Sciences and Humanities REB**

Principal Investigator / Supervisor / Co-investigator(s) / Student(s)

<u>First Name</u>	<u>Last Name</u>	<u>Affiliation</u>	<u>Role</u>
Françoise	Vanhamme	Social Sciences / Criminology	Supervisor
Illesha	St. Helene Uko	Social Sciences / Criminology	Student Researcher

File Number: 03-15-21

Type of Project: Master's Thesis

Title: In the eye of the employer: An investigation into the role of stigma and shaming in the professional re-integration of persons with criminal records

Renewal Date (mm/dd/yyyy)	Expiry Date (mm/dd/yyyy)	Approval Type
05/25/2016	05/24/2017	Approved

Special Conditions / Comments:
N/A



Université d'Ottawa
Bureau d'éthique et d'intégrité de la recherche

University of Ottawa
Office of Research Ethics and Integrity

This is to confirm that the University of Ottawa Research Ethics Board identified above, which operates in accordance with the Tri-Council Policy Statement (2010) and other applicable laws and regulations in Ontario, has examined and approved the ethics application for the above named research project. Ethics approval is valid for the period indicated above and subject to the conditions listed in the section entitled "Special Conditions / Comments".

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If you have any questions, please do not hesitate to contact the Ethics Office at extension 5387 or by e-mail at: ethics@uottawa.ca.

Signature:

Danika Barleben
Ethics Coordinator
For Barbara Graves, Chair of the Social Sciences and Humanities REB

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www.recherche.uottawa.ca/deontologie/ www.research.uottawa.ca/ethics/2

APPENDIX F: CODING SHEET

FileMaker Pro Platform example (pages 2 of 9)

Interviewee	Date of Interview	21-22
E - Marcia	March 3, 2016	Page number of statement

Statement

Umm I don;t know, I I really like the [inaudible] there, I really like the Jack Leiper, Leiper? I think he;s very umm he helps the community with alot his invovvement with the community, I feel like he probably would be kind to different somebody like that in the community and the [inaudible] back up of his official [inaudible]

Hence if theres a program to say that this is Hintonburg commuinty and we're dealing with alot of people who have criminal records who have been wrongfully convicted or people then will want to help them in the commuity. I think this is another aspect of it too.

All those things are i think [inaudible] in education and having a program in uhk umm you could have a program you say okay those people are very light offenders but they are not given a chance anymore [inaudible] didn't see something about bike?

It would be good too Hintonburg hasn't always been its an up and coming area umm so you have people that are lower social income or lower umm so it would be in their advanate to try to help those as opposed to kick them out

Categories

Age	Assets
Personal stability(un)stable work history	Issues of trust/transparency/liability
Desired traits/qualites (presentation of self, social skills etc.)	
Qualifications	
Education	
Job-related experience	

Themes	Questioning initial conceptualization of terms
Recognizing effects of unemployment	Questioning validity of ex-offender v. PwCR label
Statistics point to a bigger point to severity of issue	Struggling to come to conclusion regarding labels
Pardons and PwCRs	Trying to explain people's negative reaction
PwCRs should apply for a pardon	Seeing a fine line between criminal vs. non-criminal
PwCRs should take steps to rehabilitate themselves	Expressing feelings of own apprehension/worry with CR
Once a criminal always a criminal	Acknowledging feelings of worry or the 'what ifs' of employing someone with CR
Make a choice deal with consequences	Justifying perception of a CR
Society's fear is justified	Sympathizing with those with a criminal record
Society's fear is unjustified	Desiring good outcomes for those with CRs
Media creates fear for public	Equating those with CRs and those without as equal
Laws/bills paint all with one brush (blanket approach)	Sympathize with idea that PwCR are 'outsiders'/'fall outside box'
CR is a rejecting factor	Clarifying differences between minor and serious crimes
CR checks are apart of the hiring process	Identifying major crimes
Recognizing struggle to find workers in general	Referencing a case that she deems to be a major crime
Highlighting the consequences of being too selective when it comes to candidate	Associating time spent in prison to a serious crime
Recognizing how dead end jobs stifle upward mobility	Assessing severity of crime
Recognizing the lack of advancement in industry	Providing examples of minor crime
Understanding bonding or inability to bond PwCR as discriminatory	Identifying minor crimes
Feelings of unease when discussion discussing issue of bonding PwCRs	Seeing minor crimes as more acceptable
Inability to bond those with a CR	Emphasizing the pertinence of severity of crime
Justifying reasoning behind issue of bonding	Setting conditions to what is acceptable or unacceptable
(Un)aware of issue of unemployment and criminal records	Referencing frequency and type of crime in neighbourhood
Viewing issue as more pervasive in the US than in Canada	Specifying conditions to hiring someone convicted of a violent offense
"Interview 1 answer?"	Asking candidate re: experience since release if violent offense on record
Giving employees opportunity to correct behaviour	Stating firmly that they would not hire a person convicted of a violent offense if its their fir
Looking at past employment of candidate	Assuming that more dangerous offender or more violent offender will not ever be able to
Emphasizing that past employment that is not a major focus	Willing to facilitate re-entry for individuals who committed minor crimes
Taking information from resume into account	Recognizing the (future) impact of a "bad" choice
Viewing resume as a skeleton of a person	Recognizing the reality of managing an individual with a CR
Searching for customer service skills from previous employment	Recognizing potential consequences of "bad" choices
Admitting transferable skills if acquired from past employment	Recognizing potential consequences of "bad" choices
	Acknowledging the potential hardships faced by those with convictions
	Realizing the consequences of a CR
	Realizing magnitude of issue
	Seeing issue in a new light
	Projecting that hiring issue will be become more precarious
	Acknowledging the hopelessness of having a CR
	Seeing environment as a major factor in people's choices