



## Years out of prison, but still out of work

**Felons say the job market is a punishing place for the as many as 65 million people with criminal records**

By Naureen Khan

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FREDERICKSBURG, Va. — Back then, they called him the “walking preacher,” Jesse Killings recalls with some pride. He didn’t have a car but he took his ministry on foot, doing outreach to the homeless through his church.

Fifteen years ago, he was living in Spokane, Washington, and working in customer service, but felt he had found his calling working with the vulnerable and down-on-their-luck. After battling his own drug and alcohol addiction, he had won a scholarship at a community college and was studying to be a substance abuse counselor.

“God has dealt with me in the worst of circumstances,” he said. “I figured, I gotta give back.”

But at the same time, Killings was sinking deeper into marital problems. In 2000, he was arrested after he and his wife were involved in a domestic dispute — Killings said he prevented her from leaving the house to buy alcohol and drugs and eventually served 11 days in jail on a misdemeanor charge.

The next year, on a March night in 2001, he drove to his mother-in-law’s house, he says, to see if he and his wife could work through their problems. Instead, he found another man under the same roof. Killings admits that he was the one to throw the first punch. “My emotions went through the roof,” he said. “I bee lined to where he was. We were two rams.”

In the flurry of fists that followed, Killings’ dreams were caving in around him. He was charged with felony counts of burglary — for entering his mother-in-law’s home — and assault.

“I did that, I’m guilty,” Killings said.

He served for only three months through a plea deal his public defender urged him to take, but Killings says the felony convictions have cast an immeasurably long shadow on his life since then. He lost his scholarship. He's had to rely on homeless shelters and draw from food banks. In 2005, he was so desperate that he stole \$200 from the till of a bookstore he was temporarily staffing after he says his employers did not pay him.

Killings says he accepts responsibility for the mistakes of his past and only wants to rebuild his life. But redemption is hard to find when his decade-old record stands in the way of a steady employment and a decent wage, even after he moved across the country to Fredericksburg for a fresh start.

The \$63 billion a year prison system, housing 2.4 million people at a time in the United States has recently begun to attract the attention of a bipartisan coalition of policymakers and advocates. Groups as diverse as the conservative Koch brothers, known for their generous spending on Republican causes, to the liberal Center for American Progress have joined forces to prompt a re-examination of the criminal justice system. Less prominent are the estimated 65 million people, like Killings, who are no longer behind bars but have criminal records and are hampered in their quest to make a livelihood after being released. Many of them say that a felony conviction of is akin to a different kind of life sentence.

Some criminal justice reform advocates argue the stigma in the workplace against those with records ultimately harms public safety, by dooming ex-offenders to a life of poverty and increasing the chances they'll return to crime.

“An individual has to be in the right place in their walk with the conviction to want to stay out of trouble and do it legally,” said Ann Fisher, executive director of Virginia Cares, a public-private partnership that provides services to returning offenders. “The number one deterrent I would say to recidivism would be a legal, living wage. It makes a huge difference.”

At times, Killings has been able to triumph above his own record and gotten jobs through connections, back doors and a bit of luck. In the last decade, he's worked as a cab driver, as a telemarketer, and at an insurance company—but when the opportunity ends, he's back to square one.

Two years ago, Killings says he thought he had found some semblance of stability, working—perhaps with a touch of irony—as an employment specialist for a workforce development agency. In his 50s, he interned for several months to convince his employer to let him have the position, he said, showing up every day in a suit and tie.

But when the agency lost its federal contract, Killings found himself again where he was when he had just gotten out of prison. This time, it's been a particularly arduous road to get on his feet again.

“I made my terrible mistake,” Killings says. “It’s something that I have to live with—the hard part is no one is really interested in the details or the particulars of the case. All I want to do is prove myself.”

### **A lifetime scarlet letter**

Maurice Emsellem, a program director at the National Employment Law Project that works on issues of criminal records, said Killings’ situation is hardly unique.

“Is it unusual for someone to walk around with a record like that? No,” he said. “Is it unusual it’s still plaguing them? Unfortunately not.”

The digital age has ensured that firms have easy, fast access to comprehensive criminal records. With the number of job-seekers in the economy still outweighing the number of open positions, a criminal background is an easy way to shunt an application to the discard pile.

“We as a society, fell into this lifetime scarlet-letter situation accidentally through technology,” said Marc Levin, the policy director for the Right on Crime campaign, a conservative effort based out of the Texas Public Policy Foundation to spur criminal justice reform. “I don’t think anyone thought because you had a drug offense when you were 18, that it should plague you until you’re 80.”

Yet, that’s exactly the predicament that a ballooning number of ex-offenders — many with old convictions — find themselves in.

Robert Preston, 55, was convicted eight years ago for selling stolen electronics — “easy money,” he thought at the time. Preston did five years for his crime, and came out intent on making a living the right way, if only an employer would take the chance. After being laid off from a job as a cook at IHOP, Preston says he has been unemployed for a year.

“I’ve been charged with the same crime as I was eight years ago when it comes to finding a decent job and a decent wage,” he said. “All we can hope for is that someone gives us a break. There are not too many breaks out there for [an] ex-offender.”

The sheer number of ex-offenders and the ubiquity of the problem has led to some efforts to address the issue. In the early 2000s, organizers in Boston and San Francisco began lobbying local officials to eliminate questions about conviction histories from their applications and hold off on vetting criminal backgrounds later in the hiring process. The “ban-the-box” movement has since spread to 14 states and Washington D.C., seven of whom apply the ban to private as well as public employers, and more than 90 cities with varying versions of the policy.

In 2012, the Equal Employment Opportunity Commission also released updated guidance to employers on how they should go about considering criminal records to avoid violating Title VII of the Civil Rights Act, which bans employment discrimination based on race, color, religion,

sex and national origin. Because minorities — particularly black and Latino men — are disproportionately affected by criminal convictions, the EEOC has declared it illegal to automatically disqualify an applicant because of conviction. The Commission strongly encourages firms to look at the age of the offense, examine whether it would impact the employee's performance, and give the applicant the opportunity to explain the circumstances of a conviction.

And in Congress, there is the REDEEM Act, introduced by Sens. Cory Booker, D-N.J. and Rand Paul, R-Ky. in 2014, that would make it possible for certain eligible nonviolent offenders to petition a court to seal their records, thereby removing them from FBI background checks.

“There's still a long way to go, but there is a ton of very positive momentum,” Emsellem said. “There's so much collateral damage caused by mass incarceration, over-criminalization and the war on drugs that there's recognition that it's time to remove some of that collateral damage and give people their lives back.

Still, others argue that the solution is not so obvious. Businesses get burned if they hire someone with a criminal record who subsequently harms another in the workplace. If they disqualify an applicant because of a criminal record, they may be liable under EEOC guidelines.

“It really puts the employers in a bind,” said Adam Bates, a policy analyst at the libertarian Cato Institute's Project on Criminal Justice. “They're liable if they hire the wrong person, something happens and someone says that was negligent. On the other end, now you're going to be liable if you do what many people would consider to be due diligence and make sure you're not hiring somebody who's going to be dangerous. That's really a roundabout way to get at this problem.”

Bates said the best way to address the issue is by reforming criminal justice statutes so that fewer people are incarcerated and walking around with lifetime records for relatively minor crimes.

As the policy debate rages, a shadow workforce awaits.

Convicted of a robbery in 2004 that he concedes was a lapse in judgment, Duane Edwards served just under three years in Virginia. Edwards said that he devoted that time to bettering himself, earning his associate's degree in early childhood education.

But when he came home in 2006, Edwards could find a minimum wage job here and there but no work that allowed him to pay his bills. Even after burnishing his credentials further with a bachelor's degree in Biblical studies and career diplomas in physical fitness and computer information systems, Edwards said he has contended with long spates of unemployment. During the last decade, he's worked as a warehouse worker, as a truck driver, in construction and as a garbage man

“I want to be able to go to work in a khakis and a button-down and a tie. I’m getting tired of wearing work boots and work pants,” he said. “I want office parties, I want to have my mug in the break room.”

“Society’s really hurting themselves by holding people to such a standard. You almost forcing people to do what they feel they have to do to feed their families,” Edwards added. “I don’t think a law or policy should put people in the situation.”

### **The blessings come small**

Fourteen years after he was charged with a felony, Killings, starts his morning on a bitterly cold February day by picking up his check from a temporary staffing agency—an avenue to which ex-offenders often look when all else fails.

In paint-splattered pants and a denim jacket that seems no match for the howling wind, Killings then hops on a bus that takes him a few miles down to a McDonald’s, where he starts his weekly ritual: perusing job applications. On almost every application he comes across, there is a question about criminal history.

“To be real honest, it makes me feel like I probably shouldn’t even apply,” he said.

Killings emphasizes that he’s not as worse off as others with fresher convictions. Three days a week, he gets paid hourly to paint at a corporate office. Because it’s not enough to make rent, he earns his room and board as a live-in residential adviser at a home for intellectually disabled men that is operated by the wife of his pastor—a position that doesn’t come with a salary but affords him a place to stay.

Sylvia Moore, who runs the Belmont Residential Inn, has no qualms about recommending Killings as an employee.

“He’s been an asset not just Belmont but he’s been an asset to Orange County,” she said. “Our lawmakers have not done enough to give citizens like Jesse a second chance.

Here we are in 2015 and people have these issues 20, 30, 40 years ago are still having problems.”

Instead of becoming bitter, Killing says he’s just grateful to those who have been willing to give him a chance—despite his history.

“Every time I put paint on the walls, I thank God for it—seriously,” he said. “The blessings may not come in big ways—I may not have a car, I don’t have all the fancy stuff and I’m not making a whole lot of money, but I have something through the experience that I didn’t have before. I am so grateful in spite of the difficulties.”