Evaluating the Criminal History of Graduate Students in Counselor Education Programs

Given occasional revelations regarding legal history of prospective students in counselor education (CE) programs, and a dearth of literature on this topic, the authors explored two issues: 1) whether there is a difference in number of legal charges between prospective students by type of CE program, and 2) whether there are any trends by year. With an absence of suggestions in the literature as to how programs are to conduct criminal background checks of prospective students in CE programs, application screening personnel, faculty, and other stakeholders are hard pressed to adopt consistent means of gathering criminal background history for those students. Such lack of data makes gatekeeping for the profession even more arduous.

Keywords: counselor education, forensic, policy, trends, service

Evaluating the Criminal History of Graduate Students in Counselor Education Programs

This project aimed to illuminate criminal history data from applicants to a Counselor Education (CE) program and to answer: 1) whether there is a difference in the number of legal charges between prospective students by type of CE program, and 2) whether there are any trends by year. Such information can be used to improve screening practices aimed at determining those prospective students who are most likely to become effective professional service providers.

Jameson C. Lontz, Department of Counselor Education, Gonzaga University; Paul Hastings, Department of Counselor Education, Gonzaga University; Jennifer Cataldi, Department of Counselor Education, Gonzaga University; Nicholle Johnston, Department of Counselor Education, Gonzaga University; Eric Eidens, Overlake Hospital, Bellevue, WA.

The authors wish to acknowledge a long list of individuals who assisted in the data collection process. Correspondence concerning this article should be addressed to Jameson C. Lontz, Ph.D., Assistant Professor, Department of Counselor Education, Master of Counselling (Canada) Program Director, Gonzaga University, 502 E. Boone Ave., AD Box 25, Spokane, WA 99258.

Email: Lontz@gonzaga.edu.
Statement of the Problem

There is an absence of literature describing the processes for conducting criminal background checks of prospective students in CE programs. Matriculated students may have a history of serious legal encumbrances that go unnoticed. In fact, the history of the program that was analyzed for this study revealed how personnel at one time realized an oversight allowing those with legal encumbrances to go unnoticed. This had occurred due to interoffice miscommunication regarding consistency between the electronic and hardcopy application processes. Program personnel ultimately resolved the communication barriers and aligned the two types of applications. Our researchers also consulted university legal counsel who asserted that faculty have a right and need to know, and that they have a responsibility to know about such criminal history to protect and effectively represent the public, profession, and university. Without consistent means of gathering criminal background history for prospective students across CE programs, gatekeeping for the profession is an arduous endeavor. Although any program practices will have imperfections, faculty and other stakeholders must consider how criminal history affects a burgeoning counselor’s ability to provide services across settings. In fact, practicum placement, sitting for the National Counselor Examination (NCE), and state licensure processes each have catch points that could delay the burgeoning counselor from proceeding. The researchers believe it is within purview of faculty and similar stakeholders to be aware of Counselor Education students’ criminal background in order to: 1) protect the field and its consumers, and 2) protect students before they invest their resources into a Counselor Education program.

Review of Literature

The purpose of this project is to illuminate criminal history data from CE program applicants so as to inform screening practices aimed at determining those prospective students who are most likely to become effective professional service providers.

Ideal Characteristics of Counselor Education Students

As applicants are reviewed for admission to Counselor Education programs, especially those accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP), many academic characteristics are examined. However, both contemporary and historical literature identifies non-academic characteristics as equally important to counselor success. For example, Rogers (1951) named the three necessary conditions for client change: unconditional positive regard, empathy, and congruence. Prospective students have since been evaluated for personal characteristics in addition to those academic predictors of counselor effectiveness.

In a 2010 meta-study by Duba, Paez, and Kindsvatter, key characteristics for both counselors and counselor trainees were highlighted: “Emotional security, sincerity, extroversion, positive self-concept, patience” (Bemak, Epp, & Keys, as cited in Duba et al., 2010, p. 155),
“…goodwill, a recognition and acceptance of one’s personal power, a willingness to be open, having self-respect, a growth orientation, approachability, trustworthiness, and a sense of humor” (Atkinson & Wampold, as cited in Duba et al., 2010, p. 155) were all found to be essential characteristics for counselor trainees. In addition, one of the most important characteristics found in a study by Bradley and Post (1991) was openness to professional self-development. Our authors furthermore believe the ideal CE student to be caring and with empathic concern, as well as emotional intelligence (Goleman, 1995) around the needs of mental health consumers.

**Verifying the Absence of Serious Legal Encumbrances**

Whereas examining criminal records is becoming popular in undergraduate admissions, use of criminal background checks in several professional programs prior to admission is not standard practice (Boccella; Center for Community Alternatives & National HIRE Network; Crabbe; Marklein; Pappano; as cited in Pierce & Runyan, 2010). Some undergraduate programs conduct criminal background checks on applicants and ask those applicants to report their criminal background (Pierce & Runyan, 2010). Erwin and Toomey (2005) found that background checks are used for admission to some counselor training programs as well as before and during practical experience and certification or licensure. In fact, only five out of 37 programs participating in Erwin and Toomey’s (2005) survey reported using criminal background checks. Moreover, only some of those programs actually receive and review the results of such background checks. Internship sites do, however, examine the background check results. It is clear that established criteria for declining applicants based on criminal background checks are lacking. In Erwin and Toomey’s (2005) survey, only two programs reported having such established criteria. Two other programs reported being in the process of developing such criteria. No programs described the criteria they have in place.

Similar to CE programs, there is a low percentage of nursing and social work programs requiring criminal background checks among applicants (Farnsworth & Springer, 2006; Zellmer & Knothe, 2011). Only a minority of programs in nursing and social work, as well as pharmacy and medicine, have established criteria for how to appropriately screen applicants based on criminal conviction history (Ahmed; Alley, Marrs, & Schreiner; Burns, Frank-Stromborg, Yan Teytelman, & Herren; Dickerson, 2008, 2010; Forde; Schermerhorn; Tate & Moody; as cited in Zellmer & Knothe, 2011).

CE programs at the university from which we took our sample, a private university in the Northwest United States, do not conduct background checks on applicants prior to admissions. Background checks are only carried out prior to practicum placement. The university’s application requires applicants to indicate whether they have ever been convicted of a crime or if they have a pending case against them. If an applicant’s answer is yes, they are required to elaborate in detail. The Graduate Admissions Program Coordinator for the School of Education from which our sample was chosen receives application materials and flags applications with criminal backgrounds for the admissions committee. However, criminal background checks are not standard in the admissions process, there are no criteria for how to parcel out “serious” offenders, and background checks are used more often for the purpose of practicum and internship placement.

In contrast, some professional programs in the United Kingdom (U.K.) are more thorough than those U.S. programs reviewed in verifying criminal convictions among applicants. For
instance, Imperial College London runs Criminal Records Bureau checks on all their applicants (Shepherd, 2008). If an applicant has a conviction, a *fitness to practice* interview is conducted to learn more about the crime and circumstances in order to determine whether the applicant is fit to train as a doctor. Once admitted, U.K. medical schools such as Imperial College London also require students to complete an enhanced Criminal Records Bureau check, which discloses any prior convictions. During one’s final year of courses, the General Medical Council requires all candidates to complete a declaration of fitness before they may practice as a doctor in the U.K. In a related vein, the Central Council for Education and Training in Social Work (CCETSW) mandated in 1989 that prior to admissions applicants disclose any criminal convictions by signing a declaration (Perry, 2004). If criminal conviction history is present, judgments are made as to their influence on the applicant’s suitability for professional social work. Such judgments are made in reference to the 1974 Rehabilitation of Offenders Act (Perry, 2004). Local authorities are also permitted to check with police about the nature of convictions against applicants. However, there is no record about how such judgments of suitability are made. It is known that a program’s agency partners are permitted to assess the suitability of applicants based on conviction history. Whereas programs in the U.K. may be more formally mandated to verify criminal convictions, there is still no clear delineation of what constitutes serious offenses among applicants or how admissions judgments are made.

**Law Schools and the American Bar Association**

Law schools rarely conduct pre-matriculation background checks (Dickerson, 2010). The American Bar Association, which accredits law schools, does not require background checks for law school admissions. Instead of background checks, law schools rely on self-disclosure during the admission process. Law schools also rely on *honor code provisions* for background clearance. Law schools typically warn applicants that it is a requirement of the bar to conduct a thorough character and fitness examination before one is authorized to practice and will compare bar application answers with law school application answers. According to Shaw (2008), information gathered on the character fitness exam provides much of the same information as a background check. Law schools also warn applicants that felony convictions or patterns of criminal activity could make bar admissions difficult, if not impossible. However, despite these clear warnings, some law applicants do not honestly disclose their criminal backgrounds and are discovered only after graduation when seeking bar admissions. Many states will actually include a disclaimer on their character and fitness exam informing applicants that their social security number may be used to obtain background information regarding the applicant's involvement with law enforcement, credit, or other agencies or entities. Shaw (2008) continues, “…the top four areas of concern for most bar examiners are existence of a criminal record, untreated mental illness and substance abuse, lack of candor, and financial irresponsibility” (p. 12). However, law schools still have not implemented background checks as a requirement in the admissions process.

Dzienkowski (2003) examined applications from the top 20 schools cited by U.S. News and World Report in March of 2003. Dzienkowski found that all schools asked applicants to disclose criminal backgrounds; however, there was variation in what was requested. Namely, 75% of schools only asked for convictions, 15% asked about arrests, and two of the schools asked about criminal charges. Like CE, medical, and other professional programs, law schools
do not have a universal format to filter legal encumbrances in the application process. Chinaris (2012) encourages law schools to align their admissions processes and decisions with that of bar admissions.

**Legal Encumbrances Revealed**

The types of legal encumbrances revealed on college applicant background checks are diverse. Erwin and Toomey (2005) define criminal background checks as a process of gathering information about an individual, including any offenses against them, whether it is at a local, state, or national level. The types of offenses noted while gathering history about social-work students include: theft, traffic, fraud, excise, breach of peace, drunkenness, violence or assault, criminal damage, possession of drugs, breaking and entering, and sexual offenses (Perry, 2004). According to Zellmer (2011), “Application to a social work program from a student with a felony conviction for child sexual assault or prior drug dealing would also create a dilemma were there no admission policies related to criminal background” (p. 19). Given the diverse range of offenses applicants have been found to commit, the need for clear criteria on how to screen applicants based on criminal backgrounds is vital. In sum, there is no standard for collecting criminal background data despite its importance to gatekeeping. Ideal characteristics of CE program applicants have been identified, but something is amiss if matriculated students possess relevant but unnoticed criminal backgrounds.

CE applicants may have a history of serious legal encumbrances that go unnoticed. In order to protect students, the field, and consumers, faculty are responsible for having early on knowledge of such encumbrances. The current descriptive analysis of criminal history data, which is collected as part of the usual application process, sought to illuminate trends in legal encumbrances for applicants to a CE program. The goal of this analysis was to inform screening practices aimed at determining those prospective students who are most likely to become effective professional service providers.

**Method**

**Participants**

All applicants to the program from which data was gathered were asked to disclose their criminal history. Potential participants consisted of applicants aged 21 and older to a Counselor Education (CE) department at a private university in the Northwest US. The department confers Master’s degrees for students in programs for Clinical Mental Health Counseling (CMHC; formerly Community Counseling, as per CACREP standards) and School Counseling, as well as a new Marriage and Family Counseling program. Of 351 applicants over the five-year period (2008-12) that was studied, 11 (3.1%) disclosed some history of legal encumbrance and were included as participants in this descriptive study. No statistical analyses were performed for the current study.
Materials/Design

Anonymity of participants was assured. No personally identifiable information was disclosed to the Primary Investigator, other college faculty or staff, or any other person. Prior to data collection, legal encumbrances were separated into two categories, misdemeanor and felony, and then divided into five types: 1) alcohol-only related charges, 2) drug-only charges, 3) charges related to driving while intoxicated by alcohol or other drugs, 4) charges for assault, battery, and the like, and 5) other charges. Descriptive data is reported in Table 1.

Results

As can be seen in Table 1, only two felony charges were revealed: The outcome of one charge included a guilty plea for aggravated battery, which was ultimately vacated with prejudice. The other was a charge for felony vehicle theft, and information regarding its outcome was not available. A charge for aggravated child abuse, a misdemeanor, was also revealed for a School Counseling student. No alcohol-only charges were revealed. Five drug-only misdemeanors were noted: One for a student entering the CMHC program in 2012, two for a student entering the School program in 2009, and two for a student who entered an unspecified program in 2011. Of the 24 charges revealed, four of them (17%) belonged to students from the CMHC program and were related to driving while intoxicated by alcohol or other drugs. Of the 12 “other” charges included: seven (58%) related to driving (e.g., recklessness; negligence; failure to notify of an accident); three (25%) related to theft; and, one was related to vandalism. A charge of “insane” was in one student’s record, but no additional information was available. One felony charge was noted for a student in the School Counseling program, while the program for the other student charged with felony was not specified. Thirteen (54%) of 24 charges were for students in the CHMC program. Students in the School program were indicated in four (17%) of the 24 charges revealed.

Discussion

The authors explored whether there is a difference in the number of legal charges between prospective students by type of CE program, and whether there are any trends by year. Twenty-four charges, two of which were felonies, were noted over the five-year period in this descriptive analysis. No alcohol-only charges were revealed. Four charges (17%) were related to driving while intoxicated by alcohol or other drugs. Additional charges included those related to driving such as recklessness, negligence, and failure to notify of an accident (29% overall). Charges of theft comprised 13% of those revealed by this analysis.

While it would be bold to make conclusions from these findings since no statistical analyses were performed, all members of the research team still agreed on the necessity for clear guidelines to collect legal history in the application process. More specifically, it might be useful to employ an honor system in the Counselor Education application process, much like what is
used in law schools (Shaw, 2008), which explicitly asks prospective students to disclose criminal history on their application. A declaration of fitness to pass legal background checks, much like that which is employed by the United Kingdom’s General Medical Counsel and the Central Council for Education and Training in Social Work (Perry, 2004), could be used to protect prospective students from being discovered later on. Prospective students could be informed of the consequences should they choose not to disclose. Program personnel who screen applicants before faculty see them could assist this process by assuring that admissions requirements align with the requirements of licensing and credentialing bodies. However, better screening practices may introduce additional challenges, e.g., how faculty can overcome personal biases and best support a burgeoning mental health provider once learning of the student’s criminal history. Given an absence of guidance in the literature for screening practices, we hope to facilitate more research on this topic with the goal of improving identification of students who are most likely to become effective professional service providers.

**Limitations**

Obtaining archived records obviously resulted in data that cannot be broadly applied. Current findings are intended to inform future research that assists personnel practices for screening pre-matriculated students. Readers are furthermore encouraged to interpret our data with caution, as most of the 11 cases examined did not reveal the outcome of legal encumbrances, i.e., whether the alleged were convicted and/or sentenced. Time between charges and entrance into one’s graduate program would also be important to consider in future studies. For example, those applicants with a tendency for legal trouble as children and adolescents will not necessarily have such problems in their adult life. Moreover, implying statistically significant difference between CE programs or trends by year based on this limited data must be avoided. Of 351 applicants over the period that was analyzed, only 11 disclosed legal encumbrances.

**Implications of Results**

This project has revealed a need for more in-depth research that can be used to inform Counselor Education (CE) program personnel who admit students. As gatekeepers of the profession, CE faculty members rely on screening practices to help decide who is most likely to become an effective professional service provider. Without assuming guilt, and acknowledging that many people are capable of improving their lives after legal charges, it is vital that such encumbrances are noted early in the process.

**Directions for Future Research**

Should data be available, meta-analyses that examine longitudinal trends in the legal encumbrances of applicants to CE programs might provide results with stronger external validity. Analysis of time between charges and entrance into one’s graduate program might also help determine utility of research in this area. Partnering across disciplines (e.g., CE programs
Future research also needs to examine what it means if a counselor has a history of minor offenses, as this might affect their ability to forge effective therapeutic relationships. For example, clients involved with the legal system may believe themselves to be better understood by a professional counselor who has succeeded despite their own criminal history. A counselor’s self-disclosure of personal transformation and growth from criminal activity might instill a sense of hope for clients struggling with such issues. In the substance abuse field, for example, it is common for counselors to have themselves recovered from chemical dependence (Ham, LeMasson, & Hayes, 2013). Sweeney (1996) found that substance abuse counselors’ self-disclosure of recovery status could decrease clients’ level of fear, help counselors connect with clients, and normalize the recovery process. Counselors’ self-disclosure of substance abuse recovery may also help build rapport and a strong working relationship with clients, as well as help clients problem solve and have hope (Ham et al., 2013).

**Conclusion**

Charges related to driving while intoxicated by alcohol or other drugs and other charges related to driving comprised 17% and 29% of encumbrances respectively. Charges of theft, including one felony, comprised 17% of encumbrances revealed. Transparency at the outset between prospective students and those personnel who screen them is especially important: prospective students need to have the information necessary for informed decisions during the application process, and faculty need students who will ultimately contribute to the field. This transparency can be achieved by having screening personnel assure that application requirements align with the requirements of licensing and credentialing bodies. Furthermore, personnel and faculty in charge of screening applicants can strive to maintain good communication so that superordinate goals are attained.

To be explicit, we do not suggest individuals who have legal charges or convictions are unfit for the profession. We do suggest students be forthcoming and educate themselves about potential barriers related to their legal issues so they may address these barriers before heavily investing in a CE program. To that end, an honor system is suggested, much like the one noted earlier in law school applications (Shaw, 2008). No evidence of such an honor system currently exists in counselor education literature. Such an honor system would explicitly ask prospective students to disclose arrest history by year, the charges that were filed, whether they were convicted, and any sentencing (e.g., fines, jail time, community service, probation). Students would also ideally be informed at the outset of possible consequences related to violating the honor system. These practices could assist gatekeepers wishing to improve strategies for determining the extent to which prospective students are qualified and suited to become professional counselors.
References


Table 1
*Charges articulated as reported by the data source*

<table>
<thead>
<tr>
<th>Year</th>
<th>Identified Gender</th>
<th>Date of Infraction</th>
<th><em>Program</em></th>
<th>Charge(s) available</th>
<th>Explanation Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>Female</td>
<td>6/2010</td>
<td>Clinical</td>
<td>Reckless Driving</td>
<td>Failure to give immediate notice of accident</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Drug paraphernalia use or possess with intent</td>
</tr>
<tr>
<td>2012</td>
<td>Female</td>
<td>10/2009</td>
<td>Clinical</td>
<td>Driving a motor vehicle under the influence of alcohol or drugs</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>Female</td>
<td>7/2008</td>
<td>Clinical</td>
<td>Negligent driving of the 2(^{nd}) degree</td>
<td>Not under the influence, under arrest for being under 21 and operating a motor vehicle after consuming alcohol</td>
</tr>
<tr>
<td>2011</td>
<td>Male</td>
<td>11/1996</td>
<td>Clinical</td>
<td>Aggravated child abuse</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3/1998</td>
<td></td>
<td>Civil case adjudication</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>10/1998</td>
<td></td>
<td>Protective services supervision</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>8/999</td>
<td></td>
<td>Case closed unsupervised visitation</td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td>Identified Gender</td>
<td>Date of Infraction</td>
<td>*Program available</td>
<td>Charge(s)</td>
<td>Explanation Program</td>
</tr>
<tr>
<td>------</td>
<td>-------------------</td>
<td>--------------------</td>
<td>--------------------</td>
<td>-----------</td>
<td>---------------------</td>
</tr>
<tr>
<td>2009</td>
<td>Female</td>
<td>4/2008</td>
<td>Clinical</td>
<td>DUI</td>
<td>Negligent driving 1st degree</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7/2009</td>
<td></td>
<td></td>
<td>Inattentive driving charge</td>
</tr>
<tr>
<td>2009</td>
<td>Male</td>
<td>6/2007</td>
<td>Clinical</td>
<td>Reckless driving</td>
<td>Under the influence; unlicensed driver</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5/2008</td>
<td></td>
<td></td>
<td>Fail to appear in DUI report</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4/2004</td>
<td>Theft II</td>
<td>Misdemeanor</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>Female</td>
<td>5/2005</td>
<td>Clinical</td>
<td>DUI</td>
<td>Dismissed without prejudice</td>
</tr>
<tr>
<td>2012</td>
<td>Female</td>
<td>1/2012</td>
<td>School</td>
<td>Theft</td>
<td>Dismissed with prejudice</td>
</tr>
<tr>
<td>2009</td>
<td>Male</td>
<td>10/2003</td>
<td>School</td>
<td>Aggravated Battery (Felony) Vacating</td>
<td>Order withdrawing guilty plea; dismissal with prejudice</td>
</tr>
<tr>
<td>2009</td>
<td>Female</td>
<td>11/2007</td>
<td>School</td>
<td>Possession of marijuana less than forty grams</td>
<td>Stipulation of facts and order of continuance for dismissal for twelve months</td>
</tr>
<tr>
<td>Year</td>
<td>Identified Gender</td>
<td>*Program</td>
<td>Date of Infraction</td>
<td>Charge(s)</td>
<td>Explanation (if available)</td>
</tr>
<tr>
<td>------</td>
<td>-------------------</td>
<td>----------</td>
<td>-------------------</td>
<td>-----------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>2011</td>
<td>Female</td>
<td>Not specified</td>
<td>1995</td>
<td>Vandalism</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1996</td>
<td>Possession of controlled substance</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1999</td>
<td>Possession of controlled substance</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1999</td>
<td>Petty theft</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1999</td>
<td>Reckless driving</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>1999</td>
<td>Felony vehicle theft</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2001</td>
<td>Insane</td>
<td></td>
</tr>
</tbody>
</table>

*No legal encumbrances were revealed for students in the Marriage and Family Counseling program during the timeframe for this analysis.*