

INDEFINITE PUNISHMENT AND THE CRIMINAL RECORD: STIGMA REPORTS AMONG EXPUNGEMENT-SEEKERS IN ILLINOIS*

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Although criminal records in the United States are more publicly accessible than ever before, we lack knowledge about how record-bearers seek to overcome the negative consequences associated with a visible criminal record as they apply for jobs, housing, and financial aid. Furthermore, although criminal histories record all arrests—and not just those that result in conviction—researchers have yet to compare how those with more extensive versus minor criminal records cope with criminal record stigma. We present interview data from a comparative study of expungement-seekers (N = 53) who have petitioned the courts to remove their criminal records from public view. One group had extensive criminal records (46 percent); the other group had more minor criminal records (54 percent). Several key findings emerged. First, both groups of participants tried, but failed, to persuade potential employers and landlords to overlook the criminal record. They also faced restricted educational opportunity. Second, participants in both groups expressed distress that criminal justice contact could follow them throughout their lives, subjecting them to ongoing stigma. However, those with extensive versus minor criminal records offered different rationales explaining why the visible criminal record history unfairly burdened them. Implications for reintegration theory and policy are discussed.

In past eras, individuals could use a variety of strategies to avoid the negative consequences associated with past criminal justice contact (Lofland, 1969). For instance, record-bearers often avoided telling employers and others about their criminal record, knowing that it was unlikely to be revealed via third-party disclosure (Meisenhelder, 1982;

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Shover, 1985). However, Web-enabled criminal record history searches and ubiquitous background checks mean that record-bearers can no longer easily conceal their past criminal justice contact. With a criminal record history, the smear of criminal justice contact can follow individuals throughout their lives, continually impacting their opportunities for employment, education, and housing (Carey, 2004; Evans and Porter, 2015; Jacobs, 2015). These changes call for an examination of how today's criminal record-holders attempt to manage information about their past criminal justice contact as they seek employment, housing, and educational opportunity. To move toward this goal, and to update an earlier phenomenological literature on the lived experiences of individuals with criminal records, we draw on interviews with a sample of expungement-seekers ($N = 53$) who have petitioned the courts to remove their criminal records from public view.

The visibility of the criminal record history makes it difficult for record-bearers to avoid negative repercussions; background checks have become commonplace (Raphael, 2010). Furthermore, criminal histories record all arrests, not just those that result in convictions (Jacobs, 2015). Thus, the population of individuals who are affected by visible criminal record histories ranges from those who have merely been arrested, with no resulting conviction, to those who have been found guilty of a misdemeanor or felony (Jacobs, 2015). Consistent with this fact, our qualitative sample of expungement-seekers was nearly evenly split between individuals in two groups. One group comprised those with extensive arrest and conviction histories (46 percent). A second group comprised those with either arrests but no convictions or with only minor misdemeanor convictions (54 percent). Our comparative analysis focuses on individuals in these two groups and their experiences with the criminal record history prior to seeking expungement. In particular, we were interested in whether both groups reported ongoing criminal record stigma or in whether some individuals would report that they had not experienced criminal record stigma and were seeking expungement as a preventative strategy—to avoid future problems. We also examined the strategies participants used to try to overcome the negative consequences of criminal record stigma and their emotional and cognitive responses to blocked opportunity. In the event that we found that some participants did not experience criminal record stigma, we sought to understand why they had been spared.

In what follows, we first summarize research suggesting historical changes in the ability of criminal record-bearers to overcome the negative consequences of past criminal justice contact. Then, we highlight research on the stigmatizing effects of a criminal record for individuals with varying levels of past criminal justice contact, as well as provide background information on expungement and sealing. After that, we describe our research methods and findings.

PERMANENT STIGMA OF CRIMINAL JUSTICE CONTACT TODAY

The study of how criminally labeled individuals transition away from social identities and roles as deviants into upstanding citizens flourished in the 1960s and 1970s (Grattet, 2011). Researchers found that ex-offenders could achieve social recognition for conventional lifestyles by displaying behaviors consistent with conventionality, especially working at jobs that provided stability, financial security, social support, and interdependent social networks (Meisenhelder, 1982). For instance, researchers described ex-offenders

who held jobs in the skilled trades, customer service, and as small business owners (Laub and Sampson, 2003; Shover, 1985).¹

Based on such findings, Shover (1985) suggested that “stigma erosion” was a central possibility for those marked with a criminal record.² Shover (1985: 60–1) used the term *stigma erosion* to refer to two interrelated processes. First, as time passed, an ex-convict could be increasingly certain that no one would discover his or her criminal history. Second, ex-convicts reported that, over time, the discrediting power of the criminal record diminished as they became more established in nondeviant roles. Thus, over time, ex-offenders felt that potential third-party disclosure was increasingly unlikely and gradually less threatening to their social standing.

Importantly, for the men in Shover’s (1985) study who experienced “stigma erosion,” disclosure of a criminal past was largely *voluntary*. Ex-offenders experienced third-party, involuntary disclosure only in their dealings with social-control bureaucracies. Examples include applying for governmental benefits, enlisting in the U.S. Army, calling the police to report a crime, or undergoing jury duty screening (Shover, 1985). For the most part, however, Shover’s research participants reported that third-party, involuntary disclosure of their criminal record was rare; they were not even certain of the circumstances that would lead to its discovery.

DECLINING OPPORTUNITIES FOR THOSE WITH CRIMINAL RECORD HISTORIES

Today, individuals marked by criminal records face an enduring barrier to participation in mainstream society. Researchers have documented how widely available criminal records restrict employment opportunities, voting rights, access to public housing, student financial aid, and social service benefits (Stoll and Bushway, 2010; Uggen, Manza, and Thompson, 2006). Whereas previous researchers portrayed lawful work in the formal (state-regulated) economy as possible for the ex-offender (Shover, 1985; see also Laub and Sampson’s 2003 work on men born between 1924 and 1932), today several broad trends have restricted the employment opportunities of all low-wage workers and have proved especially deleterious for criminal justice system (CJS)-marked³ individuals.

First, deindustrialization has proved especially difficult for CJS-marked individuals. Historically, such individuals could find employment in the manufacturing sector and other portions of the economy that had less direct contact with members of the general public (Holzer, Raphael, and Stoll, 2006). However, with deindustrialization, retail and other service sector jobs have largely replaced manufacturing jobs. These pay lower initial wages and offer fewer opportunities for wage progression. Furthermore, because retail and service sector jobs involve extensive contact with the public, employers may be especially reluctant to hire CJS-marked individuals (Bushway, Stoll, and Weiman, 2007).

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1. Laub and Sampson’s (2003) research was based on disadvantaged youth born in Boston between 1924 and 1932 and sent to reform school for serious, persistent delinquency; many of them were later incarcerated as adults.
 2. Shover’s (1985) research participants were ex-convicts older than 50 years of age who had committed property crimes in the 1950s and 1960s.
 3. In this article, and consistent with current criminological literature, we use the term *CJS-marked* to refer to individuals who have experienced criminal justice contact that has been recorded in a police database.

Second, licensed professions constitute a greater and greater share of available jobs in the low-wage labor market. State licensure restrictions have narrowed the employability of CJS-marked individuals relative to other low-wage workers (Illinois Criminal Justice Information Authority [ICJIA], 2013). For instance, in some states, licensure restrictions limit CJS-marked individuals from becoming bus and ambulance drivers, contractors, healthcare and childcare workers, and even barbers (May, 1995). Third, firm concentration in the U.S. economy has meant that increasingly, more employees and potential employees are subject to national, rather than local, hiring guidelines (Pryor, 2001). Historically, large bureaucracies have been more likely than small businesses to discriminate against those with criminal record histories (Shover, 1985), in part because their policies render interactional reputation management strategies (such as nondisclosure or efforts to convince a hiring manager that the criminal record does not reflect a person's true self) ineffective. Fourth, educational and other institutions that offer career training and credentials are increasingly closed to CJS-marked individuals. For instance, colleges and universities are increasingly using an applicant's criminal record as a factor in admissions decisions and requiring letters of explanation, letters from corrections officers, and additional personal interviews from applicants with criminal records (Lovenheim and Owens, 2014; Weissman, Rosenthal, and Warth, 2010). Furthermore, individuals with felony criminal records now face an extended period of ineligibility, if not outright exclusion, from military service (Tyson, 2009). For all these reasons, CJS-marked individuals now face narrower opportunities for finding stable work in the formal economy than they did in the past.

INCREASING VISIBILITY OF THE CRIMINAL RECORD

In addition to declining opportunities for employment, CJS-marked individuals today face the increasing likelihood that their criminal record will be revealed. In the past, potential employers rarely learned about an applicant's old arrests, convictions, or even imprisonments (Laub and Sampson, 2003; Shover, 1985). Criminal records were kept locally and infrequently accessed. Furthermore, a person whose record was involuntarily disclosed could easily move to another county to avoid stigma. However, beginning in the late 1990s, criminal justice agencies began posting their databases online (SEARCH, 2001). These online court dockets, jail inmate databases, parole release look-up tables, and arrest logs have made the identities of millions of individuals accessible to anyone with Internet access (Winn, 2004). Moreover, private companies have purchased and aggregated these and other databases, selling low-cost criminal background checks to employers, landlords, and private citizens. This practice is legal and common in Illinois, the state where our research was conducted (Bushway et al., 2007). In addition, the decentralized release of this information on the Internet has made it difficult to remove out-of-date or inaccurate information.

In sum, criminal justice records are more plentiful, accessible, and persistent than they have been at any point in U.S. history (Bushway, Stoll, and Weiman, 2007). Indeed, researchers have estimated that roughly one out of three American adults has moved through the criminal justice system and now has a criminal record even if they were not found guilty of any crime (Jacobs, 2015). The hyper-visibility of the criminal record today, coupled with the restricted employment opportunities that now face CJS-marked individuals, suggests that the previously identified strategies through which individuals could

overcome the negative consequences associated with past criminal justice contact may no longer be as available. Yet, little research has examined how criminal record-bearers understand the obstacles posed by the visible criminal record history of today, especially in the context of the postindustrial U.S. economy where even low-skill job applicants undergo rigorous applicant screening. Furthermore, we are lacking in research that compares the everyday, lived experiences of criminal-record bearers who have extensive and serious criminal records, with those who have only minor arrest or misdemeanor conviction histories.

STIGMA FOR INDIVIDUALS WITH EXTENSIVE AND MINOR CRIMINAL HISTORIES

Knowledge about how stigma attaches to those with more and less extensive criminal record histories is primarily based on interview studies of employers (Uggen et al., 2014). To our knowledge, researchers have yet to engage in a comprehensive examination of how criminal-record bearers, themselves, experience the visible criminal record history of today—or seek to overcome its negative consequences. In this study, we capitalize on the fact that the criminal record attaches to a population with a broad range of past criminal justice contact. Specifically, we analyze and compare how individuals with more and less extensive criminal record histories understand their experiences, strategize to overcome criminal record stigma, and respond to criminal record discrimination.

On the one hand, it is clear that the stigmatizing effects of a criminal record history extend to those with low-level arrest histories (Kohler-Hausmann, 2013). As Uggen et al. (2014: 630) wrote, “Even minor arrest records constitute highly visible, easily accessible, and virtually indelible marks of social dishonor.” On the other hand, interviews with employers have suggested that individuals with lower level arrest histories may experience less stigma than those with records that are more extensive. Uggen et al.’s (2014) study found that employers claim to assign a lesser penalty to a criminal record history that contains only misdemeanor arrests when compared with a felony conviction. Employers also reported that they assign a lesser stigma to job applicants who have been “clean” (free of criminal justice contact) for longer periods.

Taken together, such findings align with a key proposition of Goffman (1963), which is that the stigma of a disreputable attribute is not absolute; other, compensating attributes can amplify or diminish its discrediting power. If a person has compensating characteristics that contradict or qualify the negative connotations associated with the discrediting attribute, he or she may suffer less prejudice and discrimination. In the context of our study, a compensating characteristic could be a criminal record history that consists of dismissed cases, cases in which a person is found not guilty, or a long “clean” period. These attributes might negate or moderate the impression of deviance suggested by a criminal record.

BACKGROUND ON EXPUNGEMENT AND SEALING

Increasingly, researchers and policy makers have been calling for legal remedies that would relieve individuals of the burdens associated with criminal records (Maruna, 2011). One reason has to do with the unequal burdens that criminal records place on communities of color, in general, and on African American men, in particular. Indeed, arrest

experiences are unevenly distributed across the population with approximately 49 percent of Black males experiencing an arrest by 23 years of age. The comparative figure for White males is 38 percent (Brame et al., 2014). Not only are Black men disproportionately likely to have criminal records, but employers also more harshly judge Black men with criminal backgrounds than comparable White men (Pager, 2003; Uggen et al., 2014). The collateral consequences of criminal justice penalties for neighborhoods with high concentrations of record-bearing individuals can be devastating (Sampson and Loeffler, 2010).

Legal mechanisms to allow individuals with criminal records to address incomplete, out-of-date, erroneous, and stigmatizing records have existed for some time. Examples of such mechanisms include expungement and sealing. *Expungement* is the complete destruction of the criminal record, making it inaccessible even to the police and other governmental officials. Those who have been convicted of a single offense or more can petition a judge for *complete sealing* or *partial sealing*. *Complete sealing* involves removing all cases on a record from public access, although arresting agencies and some other government entities retain access to them.

Sealing and expungement were originally a hallmark of the juvenile justice system. However, these provisions have spread throughout the United States and can now be found in 45 states and the District of Columbia (Love, 2015). Each of these states has established eligibility requirements for expungement and sealing, leading to considerable variation in expungement statutes across states. Only 5 states do not allow arrest (i.e., nonconviction records) to be expunged.⁴ Eighteen states allow conviction records to be sealed.⁵ However, within these 18 states, many of these allowances limit expungement to first-time offenders, individuals with only misdemeanor convictions, or convictions for nonviolent crimes regardless of how long ago the conviction occurred. The remaining 32 states either have more restricted sealing provisions or none whatsoever.

Illinois sits in the middle of the restrictiveness spectrum. At the time we conducted this research, in Illinois, cases involving sex offenses with minors, driving under the influence, and reckless driving that received judicial supervision could not be expunged.⁶ However, all other arrests not resulting in a conviction, assuming that the applicant has not received a conviction in any other case, were eligible for expungement. Furthermore, arrests resulting in an acquittal or dismissal could be expunged immediately.

Other arrests were eligible to be expunged but only after a waiting period was completed. For instance, arrests leading to judicial supervision, which frequently involves first-time offenders, were eligible for expungement 2 years after successful completion of the supervision term. First-time drug possession arrests leading to supervision could be expunged 5 years after the completion of a supervision period.

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4. These 5 states are Alaska (AK), Arizona (AR), Idaho (ID), Montana (MT), and Wisconsin (WI).
 5. These 18 states are Arkansas (AR), Colorado (CO), Indiana (IN), Kansas (KS), Louisiana (LA), Massachusetts (MA), Minnesota (MN), Nevada (NV), New Hampshire (NH), North Dakota (ND), Ohio (OH), Oregon (OR), Pennsylvania (PA), Tennessee (TN), Utah (UT), Vermont (VT), Washington (WA), and Wyoming (WY).
 6. Under judicial supervision, the defendant is not immediately convicted of a crime. Instead, the court supervises the defendant for a period, usually 1–2 years, frequently requiring him or her to undertake drug/alcohol treatment, perform community service, and/or pay fees. If the defendant successfully completes the supervision period, the charge is dismissed without a conviction. If the defendant violates the supervision period, he or she may be convicted of a crime and sentenced to jail (Illinois General Assembly Legislative Information System, n.d.).

Many misdemeanor convictions and three felony convictions were eligible for sealing in Illinois. These include misdemeanor convictions for theft, trespass, damage to property, disorderly conduct, possession of cannabis, prostitution, endangering the health of a child, resisting arrest, retail theft, possession of a weapon, mob action, gambling, and others not involving assault, sexual violence, or cruelty to animals. Minor felony convictions for possession of cannabis and other controlled substances, as well as prostitution, could also be sealed. Convictions for these misdemeanor convictions required a waiting period of 4 years from the termination of the resulting sentence.

If an applicant had some charges that were eligible for sealing, but others that were not, such as aggravated criminal sexual assault or home invasion, then he or she could receive *partial sealing*. In *partial sealing*, only certain portions of a record are sealed. This can eliminate a long list of charges even if others remain.

Thousands of Illinois residents receive these legal remedies every year. In fiscal year 2010, the Illinois State Police (ISP) reported that it expunged nearly 7,566 criminal records and sealed another 3,069 records. By 2013, these numbers peaked at 11,533 and 6,067 sealings, respectively. By 2015, ISP expunged 9,696 criminal records and sealed another 6,410 criminal records.⁷ The most common crimes expunged included theft, drug possession, battery, and prostitution.

Clearly, then, Illinois residents currently use legal remedies to avoid the stigma associated with visible criminal records. In Shover's (1985) study, which was conducted before Web-enabled identity screening, individuals used nondisclosure to achieve the same goal. These examples illustrate that, when faced with criminal record stigma, individuals often strive to surmount its disabling effects. However, in a context in which criminal records are easily revealed, the effectiveness of a person's attempts may depend on whether his or her record is minor enough to counteract the signal of deviance.

DATA AND METHODS

THE WALK-IN EXPUNGEMENT HELP DESK

We sampled on theoretical grounds, selecting a site where we were likely to find a sample of individuals who would reflect three characteristics that would allow us to identify the range of obstacles posed by the criminal record history. (See Yin [2003] for more on theoretical sampling.) First, we sought to sample individuals who would believe the criminal record history was an obstacle and a problem. Second, we hoped to find individuals who would report specific experiences wherein the criminal record history had negatively affected them. Third, we sought to find individuals who had found it difficult or impossible to use other, nonlegal strategies to minimize the negative consequences associated with a criminal record history.

We recognize that some criminally labeled people may not encounter problems because of their criminal record histories and/or are able to use interactional strategies to counter potentially negative consequences associated with the criminal record history. Our focus, however, was on those individuals who *do* encounter problems with the criminal record history. We sought to identify the variety of problems these individuals would experience,

7. https://www.isp.state.il.us/docs/expunge_stats.pdf.

as well as to document the strategies they used to overcome these problems. We capitalized on the existence of a Walk-In Expungement Help Desk in Chicago, which assists individuals in petitioning the courts for expungement, complete sealing, or partial sealing.

Volunteer attorneys and law students staff the Expungement Help Desk, where they meet with clients, determine their eligibility for expungement and sealing, and assist them in filing the necessary paperwork. Most clients at the Help Desk are poor. According to statistics kept by the local Legal Aid Society, between 87 percent and 90 percent apply for a fee waiver because they cannot afford the \$120 court filing fees. A client can only be seen if he or she brings a current rap sheet from the police department. To obtain the rap sheet, clients must be fingerprinted and pay a \$16 fee.

SAMPLE

PARTICIPANT RECRUITMENT

We obtained the cooperation and support of the executive director for MLAS, the Municipal Legal Aid Society (a pseudonym), which coordinates services for the Walk-in Expungement Help Desk. The Walk-in Expungement Help Desk opens at 9 A.M. every weekday and is available to clients on a first-come, first-serve basis. On the days when we arrived to conduct interviews, the staff person who opened the desk at 9 A.M. announced that all persons needed to have their rap sheets with them to be seen. After that, he or she explained that researchers from several nearby universities were conducting research on the experience of having a criminal record. At that point, we introduced ourselves and explained that, if they were interested, clients could be interviewed while they waited to be seen, and they would receive \$10 cash at the end of the interview. Clients were instructed to indicate their interest in being interviewed by filling out a consent form and returning it to us; at which point, we would commence with the interview. (Because two researchers were always present, one of us was usually available to conduct an interview.) We did not approach any individuals to ask them to participate in our study; instead, we made our group announcement and allowed individuals to opt-in. This procedure was encouraged by the executive director of MLAS, who preferred an “opt-in,” rather than an “opt-out,” recruitment method.

During the summer of 2012, the period in which we conducted interviews, an average of 17 clients per day came to the Walk-In Expungement Help Desk. Out of those clients, an average of 5 clients per day opted in to our study, leading to a total of 53 interviews with expungement-seekers.

We interviewed individuals before they met with the Help Desk staff, who assisted them in completing the paperwork to petition the court, and after they met with the Help Desk lawyers. Elsewhere, the first author, Ispa-Landa (2016), used the “after data” to examine participants’ reported experiences with the legal aid lawyers, their understandings of the advice they received, and their plans for the future. This article focuses on the “before” interview data, which probed for participants’ experiences with the criminal record history.

SAMPLE CHARACTERISTICS

Our participants ranged in age from 17 to 60 years with an average age of 42. They were 66 percent male and 34 percent female, which is an unusually high percentage of females for a criminal justice population (Reaves, 2013). Ninety-four percent were

Table 1. Descriptive Statistics

Variable	Interview Sample Mean/Proportion	MLAS Population Mean/Proportion
Demographics		
Age	41.97	39.44
Male	.66	.63
Married	.26	.17
Divorced	.03	.08
Single	.71	.76
Number of children	1.80	1.82
African American	.94	.73
Hispanic	.00	.14
White	.03	.07
Other race/ethnicity	.03	.06
Criminal History		
Number of criminal cases	10.71	6.09
Arrests only	.54	.61
Arrests and convictions	.46	.39
Year of last arrest	2006	2005
Year of last conviction	2001	2002
Employment		
Employed full time	.03	.13
Employed part time	.03	.10
Unemployed (seeking employment)	.83	.68
Out of the labor force (not seeking employment)	.11	.09
Residence		
Chicago	.71	.68
Cook County	.19	.22
Non-Cook County	.03	.04
Out-of-state	.07	.05
<i>N</i>	39	1,027

NOTES: All information in table 1 was obtained from MLAS. We were not able to match the name and address information given to us by 17 of our research participants with data from MLAS because of incomplete records kept by MLAS. That is why $N = 39$ for the interview sample here, although our study relied on interviews with 53 expungement seekers.

ABBREVIATION: MLAS = Municipal Legal Aid Society.

African American, 3 percent were Hispanic, and 3 percent were of other races and ethnicities. Most participants resided in Chicago (72 percent) with the next largest group of participants residing in the surrounding Cook County communities (19 percent). Nearly 7 percent of our interview sample resided outside of Illinois.⁸

Table 1 shows that, in some ways, our opt-in sample is similar to the overall MLAS client population in age (42 vs. 39 years old) and percent male (66 vs. 63 percent). However, our opt-in sample was more likely to be unemployed (83 vs. 68 percent) than the MLAS population. It also tended to be more African American (94 percent of our sample vs. 73 percent of the MLAS sample) and to have a higher average number of criminal cases than the MLAS sample (10.7 vs. 6).⁹ We believe that offering participants \$10 cash for the completion of an interview was more enticing for unemployed participants

8. Criminal history record information is generated and maintained locally. Thus, if they have moved, individuals seeking expungement or sealing must travel to the municipality where their records are maintained.

9. A criminal case refers to any offense against the state, whereas a civil case is typically a dispute between individuals.

belonging to nondominant groups, who were probably most likely to experience labor market discrimination, than others.

We also used data recorded by the Expungement Help Desk Office and the state of Illinois to assess participants' conviction and arrest histories and their eligibility for expungement and sealing. We did not want to rely on self-reports because participants sometimes demonstrated incomplete understandings of what was on their records and had incorrect perceptions about their eligibility for expungement.

Of the 39 expungement-seekers in our sample whose official record information could be located using the MLAS database, 46 percent ($n = 18$) had extensive criminal record histories. They had a range of 1 to 35 cases with a mean average of 11 cases and a mode of 1. Although many of these cases only involved arrests, every member of this subgroup had at least one barring charge preventing him or her from being eligible for expungement. These charges were often felony convictions leading to periods of community supervision or imprisonment. Charges ranged from crimes such as prostitution/solicitation and drug possession to aggravated battery, theft, and drug distribution. The remaining 54 percent had only arrest histories or minor convictions. Taken together, these 21 participants had 80 criminal cases, 26 of which were expungable arrests (with no conviction) and 54 of which were sealable minor convictions.

INTERVIEW PROTOCOL

We used a modified version of grounded theory, one that emphasizes the utility of moving between inductive and deductive modes of analysis (Fine, 2004). We entered the research with an interest in how participants understand the criminal record, its place in their lives, the nature of the criminal justice system, and the legal remedies available to them. These categories functioned as "sensitizing concepts" that "suggested directions along which to look" (Blumer, 1954). They narrowed our focus as we took field notes and developed and revised the semistructured interview guide.

The interviews lasted roughly 30 to 45 minutes depending on the participants' talkativeness and their time constraints. We interviewed individuals in a quiet corner of the building, where they would be able to hear their name called when it was their turn to be seen by the Help Desk staff, but also far enough away from the others waiting in line not to be overheard. Although we were initially concerned that this setting would not provide enough privacy, we soon found that most participants were willing to open up to us as the interview proceeded and they became more comfortable. A professional transcribed all the interviews verbatim.

We asked research participants open- and closed-ended questions about why they were at the Walk-In Expungement Help Desk. These questions, although not directly tapping experiences of labeling, stigma, and blocked opportunity, were effective in eliciting participants' thoughts about these issues. Throughout the interviews, we also used opportunities to ask participants follow-up questions, frequently prompting them to describe or summarize how they viewed the criminal justice system. For example, if a participant described the unfairness of a criminal record history preventing her from "getting a second chance," we would ask her to elaborate. These types of follow-up questions were also useful in prompting participants to report on the emotional and cognitive responses they had to the blocked opportunities associated with a visible criminal record history.

We have edited the quotations presented in the Findings section to make them more readable and compact, deleting filler phrases and words such as “like” and “you know.”

DATA ANALYSIS

Overall, our research goals were to achieve an empathetic and comprehensive understanding of research participants’ problems and challenges, rather than to make distributional claims about the population of individuals with criminal records (see Small [2009] for more on sampling in qualitative research).

Before systematically coding our interview data, we read each transcript and wrote 200–300-word profiles of each participant. These profiles included participants’ self-reported goals/motivations for seeking expungement; their self-reported information on their eligibility for expungement, sealing, or clemency; and their current employment. Analysis was iterative with two main stages: initial and focused coding.

In our initial coding and memo-writing, we sought to explore the several theoretical possibilities related to stigma and labeling. We created provisional codes to capture broad themes related to participants’ experiences with the criminal record. We developed codes such as “blocked opportunity,” “frustration with current employment,” “trying to overcome stigma with personal contact,” and “sadness or anger about how the criminal record affects me.” We did first-level coding in a descriptive manner, seeking to “recognize and recontextualize the data, allowing a fresh view of what is there” (Coffey and Atkinson, 1996). Two key themes emerged during first-level coding and were confirmed during subsequent analyses and memo-writing. First, in trying to create opportunities for themselves, participants often attempted to use personal contact with hiring managers and landlords. They capitalized on face-to-face interactions with these authorities to explain that, although they might have a criminal record history, they were not criminal people. Second, participants often expressed negative emotions like sadness, anger, and anxiety when discussing the capacity of the criminal justice system to impose indefinite sanctions on people through publicly available police databases.

Later, we refined and narrowed our research focus and questions to the potential relationship between feeling that the criminal record history is an ongoing obstacle and the severity and extent of one’s criminal record. We also refined our previous analysis of how participants reasoned and talked about their negative experiences with the criminal record history. At this point, we updated our codebook, introducing four new codes: “ongoing stigma,” “anticipatory stigma,” “unfairly punished for minor offenses,” and “unfairly punished for long-ago offenses.”

“Ongoing stigma” referred to places in the transcripts where participants said they were applying for expungement and sealing because the criminal record history presented a continuous obstacle to employment, housing, or education. We also used this code when participants spoke about specific instances in the past where they felt the criminal record had hindered them. “Anticipatory stigma” referred to statements in which participants said they had yet to experience any negative repercussions associated with the criminal record history and were seeking expungement and sealing because they feared future negative consequences. The codes “unfairly punished for minor offenses” and “unfairly punished for long-ago offenses” were used to indicate participants’ claims about the justice and fairness of their criminal record experiences given the nature of their past criminal justice contact.

We recoded all 53 transcripts by using these new codes. Ultimately, we used these codes, and our memos, to analyze and compare why expungement-seekers with both extensive and minor arrest/conviction histories were seeking legal remedies, how they strategized to overcome criminal record stigma and discrimination, and how they responded to their predicaments and to the criminal justice system.

FINDINGS AND ANALYSIS

ONGOING STIGMA

The ongoing stigma associated with past criminal justice contact, which attaches to individuals because the criminal record can be neither concealed nor made irrelevant, was apparent in most participants' accounts. Ongoing stigma attached to individuals both with extensive and with minor arrest/conviction histories. Irrespective of the nature of their past criminal justice contact, participants reported blocked opportunities in employment, housing, and education. Rescinded job offers, rejected apartment applications, and a constrained ability to access financial aid for continuing education were common. After reviewing these findings, we present the predominant strategy that participants used as they sought to overcome the stigma of the criminal record, highlighting its ineffectiveness. Throughout, we examine participants' claims that the criminal record history unfairly burdened them.

ONGOING STIGMA FOR PARTICIPANTS WITH EXTENSIVE CRIMINAL RECORD HISTORIES

The stigma experienced by participants with extensive criminal record histories was illustrated by Wanda, a 44-year-old woman whose record contained 35 arrests, one of which led to a prison sentence for drug distribution 4 years earlier in 2008. Wanda, who reported that she was barely able to subsist on the food stamps she received from the government, was hoping to enroll in a jobs-training program. Based on her recent experiences looking for work, however, she was concerned that her criminal record would prevent her from being accepted into the program and, subsequently, from securing a job that could help her overcome her material hardships (underlining indicates our emphasis):

People have bills—light, gas, insurance, you know—you wonder how am I gonna pay all this stuff with no money? I needs a little—a job. . . . You know a lot of jobs, they do want to see your background. . . . It's so hard because they just look, uh, "This lady has did so much [crime]."

Even participants with extensive histories who had remained "clean" for lengthy periods reported criminal record related stigma and material hardship. Harry, a 44-year-old man who had 12 arrests on his rap sheet, had been convicted of drug possession and unlawful use of a weapon 19 years earlier in 1993. Harry reported that employers were constantly "shooting him down." As he noted, he could easily find several references who would vouch for his work ethic and skills, but even these personal testimonies did not compensate for his criminal record. As a result, he was working for a family business that could not guarantee him a steady income:

When I was going to fill out the applications, I was getting struck down, you know, by me having a felony. And anybody that I work with, they ain't got no problem saying I'm a great worker. I don't have no problem with working. It's just getting the job so I can work. . . . I got so depressed, because my criminal record—it keep knocking me down.

ONGOING STIGMA FOR PARTICIPANTS WITH MINOR CRIMINAL RECORD HISTORIES

Participants with minor criminal record histories also reported ongoing stigma. Finiga, a 24-year-old woman, had been arrested for drinking in public and cannabis possession 3 years earlier in 2009. Now Finiga felt that the criminal record history was blocking her at every turn—whether she was applying for jobs or trying to get financial aid for community college:

I need a better job! Like the only job that it [the criminal record history] is leading me to is petty, um, minimum wage jobs—jobs that really isn't getting me anywhere, when I have great experience in an administrative office. Then I was trying to get in school and then I needed the finance aid, but with a background, you cannot whatsoever get financial aid. So it [the criminal record history] is just killing, killing my life in so many ways.

The criminal record haunted Finiga as a pervasive and relevant negative credential, an authorized marker that limited her opportunities even though it consisted only of a misdemeanor arrest that occurred when she was 21 years old.

Angela, a 30-year-old woman, similarly believed that her minor criminal record history, consisting of only one misdemeanor arrest, presented her with serious obstacles to employment. For Angela, a BA degree in early childhood and family services and a verifiable work history did not act as compensating credentials. Shortly after leaving her job as a housing counselor for a municipal Housing Authority, a career decision she made so she could care for her aging grandparents, Angela was arrested for reckless conduct, the result of a loud argument with her cousin. Angela now hoped to return to full-time work in the nonprofit sector, but she found herself relegated to temp agency work that paid only \$11.50/hour and did not offer benefits. Angela pinpointed the criminal record history as the source of her employment problems, explaining that her former colleagues at the social services agency had told her that she could not be hired back with a criminal record history of any kind:

With this on my record, it reflects poorly. . . . I applied for the same position I had before, just in a different [housing] development. So I know the job, I know the paperwork, I know the people in the housing agency—like I know everything! And they turned me down. So my friend was like, she told me they said, “We would've hired her but for the misdemeanor.”

RELEGATION TO INFORMAL, TEMPORARY, AND PART-TIME WORK

For participants with both extensive and minor criminal record histories, a stable job in the formal economy, with regular hours, a guaranteed income, and benefits, was a desirable but elusive goal. Only 7 of 53 (13 percent) participants reported being employed in the formal economy. Fifteen (28 percent) had side jobs in the gray (unregulated)

economy, which provided sporadic cash income, but were not, by themselves, sufficient or regular enough to cover basic needs. These were jobs such as carpentry, electric wiring, repairing cars, flooring, babysitting, catering, helping friends/family with chores, hauling furniture, or bringing groceries to older neighbors. Most participants (31, or 58 percent) reported being unemployed and “getting by” on governmental benefits and the help of others—for instance, by living with relatives, spouses, and romantic partners.

RELEGATION TO INFORMAL, TEMPORARY, AND PART-TIME WORK FOR PARTICIPANTS WITH EXTENSIVE CRIMINAL RECORD HISTORIES

Jonathan, a 47-year-old man who was a former drug user and seller, had several felony and misdemeanor convictions for drug possession and distribution on his record dating back to 1990, 1995, and 2000. Jonathan was bitterly disappointed that his criminal record was obstructing his efforts to get and keep a job in the service sector, the only part of the formal economy where, as he saw it, he stood a chance of working enough hours at minimum wage to earn a living. Jonathan, who had recently been hired at Wal-Mart, only to be subsequently told that he could not start work because a background check had revealed his criminal record history, explained:

I got hired from Wal-Mart, but they told me I can't get the job until I get my record expunged. . . . I am working little nothing type jobs, little cash paying jobs. Nothing I can file tax on. Working below minimum wage. It's not enough . . . Then, when I want to try to do something better, then I find that this is what is going to stand in my way. McDonald's won't give me a job, you know, 'cause of the record.

Jonathan was especially piqued that employers in the retail sector did not seem to care that his last arrest had occurred more than 12 years earlier in 2000. As he declared, “Wal-Mart told me, they won't hire me if it was 102 years ago! Just like that—it ain't gonna matter how long ago!”

Robert, a 40-year-old man, had spent a total of 6 years in prison, the result of various convictions for controlled substances and illegal handgun possession. Robert had worked for a recycling company for 3 months through a temp agency. He had been bitterly disappointed when he learned that, despite his exemplary work performance, the recycling company would not offer him a permanent job:

I was at a recycling company—they recycle cans, plastic—and I was there 3 months. And I worked the night shift, from 3 P.M. to 4 A.M. So I put 3 months in with this place, and then come to find out they can't hire me because of my background. They were a temp agency. Isn't that terrible? They just wanted to make money off me, you know—they were getting a nice cut. 'Cause that job, I was only getting paid like \$8.50. And that was like a probation, like you worked there for 3 months, and they hired you on. Instead of the agency letting me know ahead of time about that, they didn't. I could've just missed days or whatever, but I'm not that type of guy—but right? 'Cause when you're on that probation period, you can't miss days, that make you look bad. The company won't want to hire you. Well, I was hoping to get hired.

Having left that temp agency, Robert reported that he had secured a \$9/hour position as a material handler for a different temp agency. Although he was earning more money, and no longer had to work a night shift, Robert still described the working conditions as

wretched: “12 hours a day, pumping and sweating, no AC,”¹⁰ with no job security. Robert believed that his criminal record was the only thing standing between him and a better job, which he defined as a stable position with “benefits, like medical and dental.”

RELEGATION TO INFORMAL, TEMPORARY, AND PART-TIME WORK FOR PARTICIPANTS WITH MINOR CRIMINAL RECORD HISTORIES

Participants with minor criminal record histories also expressed resentment about their limited employment opportunities. Marika, a 42-year-old woman, had been arrested (for possession of less than 15 grams of marijuana) for the first time 3 years earlier (in 2009), and her case had been dismissed. Yet, despite the low-level nature of her arrest, the lack of a conviction, and a long work history, Marika was finding it impossible to find a job. Like other participants, Marika expressed a sense of unease about her financial situation; she said that her husband, a chauffeur, brought in good money only around prom and the winter holiday season, and to supplement this, Marika received only a “small amount” from social security disability. Marika said that she would “pray and pray and pray” to find a job quickly so that she and her husband could “make ends meet.” As she explained:

It was dismissed, but it’s still like I may as well had went to prison! Now I did, a couple weeks ago, I found where Illinois Work Force if you’re low income, they give free, well, it’s still grant money. You can go to school for free to learn about the computer, but still, even to apply for that, I can’t have that record. I can’t have that dismissal on my record. . . . No one’s calling me, and I have lots of experience—all the way from restaurant management to legal services, and I have not been able to get a job anywhere, and I know it’s ’cause of that [the record].

LIMITED ABILITY TO USE PERSONAL CONTACT TO OVERCOME STIGMA

Not surprisingly, and consistent with the stigma perspective (Goffman, 1963), participants reported attempts to use face-to-face contact with potential employers and landlords to convince them that, despite their criminal records, they were trustworthy and dependable (Goffman, 1963; Link and Phelan, 2001). However, participants with both extensive and minor criminal record histories indicated that these attempts were ineffective. Thus, in contrast to the criminally labeled men of past eras depicted in previous research (Laub and Sampson, 2003; Shover, 1985), our participants had limited tools for overcoming the stigma of past criminal justice contact. Not only was it impossible for them to conceal the criminal record, but they had also been unsuccessful in using personal contact to control the negative consequences associated with it.

LIMITED ABILITY TO USE PERSONAL CONTACT TO OVERCOME STIGMA FOR PARTICIPANTS WITH EXTENSIVE CRIMINAL RECORD HISTORIES

Elijah, a 60-year-old man, had 22 arrests, including convictions, with his last arrest dating back 15 years to 1997. Prior to that, Elijah had been arrested for murder 44 years earlier in 1968; a judge had dismissed the case. Elijah reported that his criminal record

10. In 2012, the year in which we conducted our interviews, the minimum wage in Chicago was \$8.25/hour.

had thwarted his attempt to finalize a recent job offer (as a janitor) at a convention center. He had tried to persuade the hiring manager that, because a judge had dismissed the murder case, and because his last arrest had occurred so long ago, his criminal record history should not disqualify him. As Elijah explained:

You would think that when they threw it (the case) out, they would've took it off the record, but they didn't. And I'm still going back and forth trying to get a job with this here on my record. I was just hired at the convention center the other day, and then they tell me they can't by the background. I told the lady, I said "That happened in 1968. That case is probably older than you." "No, we still can't do nothing."

Leora, a 48-year-old woman, also had an extensive criminal record history, with multiple felony convictions for prostitution and solicitation that were more than 9 years old. Leora had tried—and failed—to convince potential landlords to rent her an apartment. Indeed, Leora had recently returned to Chicago from Arizona after encountering multiple roadblocks to renting an apartment there. (In Chicago, she could stay with her sister's family, saving money and avoiding background checks altogether.) As Leora recounted:

Me and my twin, we were going to move to Arizona. So she did all the research, she came up with the list of apartments we were gonna take—but everybody that faxed me information, it was like no, no, no. . . . They didn't accept me, because I had a criminal record, but they accepted her.

Interviewer: So, how would it happen, [when they would reject your application]?

One guy, he said, he apologized because they couldn't accept me because I have a conviction, felony convictions in my background. I was like, "Why?" I said, "Well you don't take in consideration that people's past—they do things and make mistakes—nobody's perfect?" He said, "Yeah, we do but I'm sorry." "I was like okay, I'm kinda bummed." I was really upset at first. I had to cry and pray.

Given the literature on employers' preferences (Pager, 2003; Uggen et al., 2014), it is somewhat unsurprising that participants with extensive arrest and conviction histories were unable to use personal contact to control the negative consequences associated with a criminal record history. However, we found the same pattern among participants with minor criminal record histories.

LIMITED ABILITY TO USE PERSONAL CONTACT TO OVERCOME STIGMA FOR PARTICIPANTS WITH MINOR CRIMINAL RECORD HISTORIES

Ethan, a 50-year old man, had a dismissed misdemeanor case for unlawful possession of a concealed weapon from 14 years earlier in 1998. Like those with more extensive criminal record histories, Ethan had tried—and failed—to use personal contact with a potential employer to his advantage. He had argued that, because his charge did not lead to a conviction, it should not be held against him. However, Ethan had been told that it was company policy not to hire anyone with a criminal background regardless of how minor its nature:

I was supposed to start last Monday for a job and they called me on Friday and said one of the managers won't sign off on it because of this issue. And I said, "Well." I said, "the last time I checked this was America and you're innocent until proven guilty so that really shouldn't have any—." And she said, "You know, sir, you're absolutely right but I don't have control here, I don't have the power."

Marika, introduced earlier, also had a minor arrest history. Like Ethan, she had tried to explain to a hiring manager at a beauty supply store that, although she had a criminal record history, this did not mean she had been found guilty of any crime. But, her efforts had not worked; as she explained:

Even at a beauty supply store, they would not—they said, "We did a background check." And I took my things [rap sheet] to show them, I said, "It was dismissed." They said, "It doesn't matter, you were arrested."

In sum, participants were constrained in their power to manage information about the criminal record history. Ubiquitous background checks made it impossible for them to keep this information private. Furthermore, regardless of whether their criminal record histories were minor or extensive, participants were ineffective in using personal contact to convince authorities to overlook their criminal record histories. Thus, their accounts bear little resemblance to those of criminally labeled men featured in past research. In the past, disclosure of a criminal history was largely voluntary (Laub and Sampson, 2003; Shover, 1985). In addition, those who had desisted from crime could convince others of their trustworthiness, reliability, and employability through personal contact (Meisenhelder, 1982; Shover, 1985) and labor market specialization (Maruna, 2001) without having to have their criminal records removed via legal interventions.

More recently, Uggen et al. (2014) found that, for people with minor arrest histories, personal contact had a sizeable effect on the likelihood of being hired for an entry-level position. By contrast, in our study, participants with minor criminal record histories like Marika's and Ethan's reported that they could not use verbal communication to persuade employers to overlook their criminal backgrounds and hire them.

EMOTIONAL AND COGNITIVE RESPONSES

Participants' accounts reflected sadness and frustration about the ongoing punitive nature of the criminal justice system—one that does not end at the point of arrest, conviction, or even completion of a prison or probation sentence but continues to punish people indefinitely by attaching ongoing penalties to past criminal justice contact. Participants with both extensive and minor criminal record histories expressed distress and resentment that criminal justice contact could follow them throughout their lives, inhibiting their ability to integrate fully into society. However, participants offered different justifications for why they, personally, felt aggrieved.

EMOTIONAL AND COGNITIVE RESPONSES BY PARTICIPANTS WITH EXTENSIVE CRIMINAL RECORD HISTORIES

Those with more extensive criminal record histories frequently argued that they had experienced a personal transformation since their days of criminal justice contact. They

expressed frustration that the criminal record history prevented them from being given opportunities to “start fresh” and to demonstrate this transformation outwardly. As they argued, old charges no longer reflected the person they had become.

Lucian, a 50-year-old man with an extensive criminal record history, emphasized that he had a different “mindset” and lifestyle than he had during the years when he was regularly being arrested and sent to prison for drug possession, drug distribution, and theft. Lucian, a self-described former addict, explained that: “I don’t do the hang out thing no more. I don’t go to the lounges no more. I’ve just got to the point now where I’m trying to make things better. . . . I’ve been straight (off drugs) for a while now—4 years, 3 years maybe.” Yet, as Lucian explained, his sobriety and goals were at odds with the job opportunities available to him as a person with a criminal record:

They’re gonna check. There’s no doubt about that. And then, before they’ll hire you, if you’re a convicted felon, they’ll hire the next man. . . . Like I said, I don’t be blaming them, ’cause I know it was my fault for getting into it (the charges) in the first place, but I do be sometimes a little upset by the fact that they just won’t give me a chance. You know, everybody deserve a second chance to try to do something, especially if you’re trying to do right, if you’re going about it the right way now. . . . At least, give me a chance to show you that I’m willing to work! I’m able to work, and I’ll be there on time, I’ll be there early, I’ll work overtime, I’ll come in on my off-days and help the company. . . . That’s the kind of mindset I got now, but it’s hard to even get in the door with this here on your record.

Mariana, a 39-year-old woman, also had an extensive criminal record history. She described herself as a “recovering addict” who had been sober for 14 years. Mariana’s rap sheet contained felony convictions, and she had spent 2 years in prison for unlawful use of a weapon, possession of a controlled substance, and aggravated battery of a police officer. Yet, Mariana had since earned a master’s degree in social work and had been “clean” for more than a decade. She came to the Expungement Help Desk after the social services agency where she worked as a case manager for 13 years experienced massive budget cuts and laid her off. Mariana seemed demoralized that, despite her personal transformation and long years of conventional work service, the criminal record still had the power to hold her back:

I just lost my job. I had been working for that agency for 13 years. And most of the agencies, they do background checks, and not just from 10 years ago—so that’s a problem. At the same token, it was like when I got out of the penitentiary, I basically decided I was never going to do that again. I don’t want to be like that no more. So you change, and I just believe that I shouldn’t have to continue to pay for something I already paid for. . . . It’s like—people are so concerned about my past, and I don’t live there anymore.

Mariana emphasized that a personal transformation had made the criminal record an outdated representation of a person who no longer exists. Furthermore, Mariana seemed determined to find ways to uphold a view of herself as a good, noncriminal person despite her extensive criminal record history. (See Maruna and Copes, 2005; Myrick, 2013;

Sykes and Matza, 1957 on the self-images and conventional values among offenders and ex-offenders.)

EMOTIONAL AND COGNITIVE RESPONSES BY PARTICIPANTS WITH MINOR CRIMINAL RECORD HISTORIES

Participants with minor criminal record histories often argued that the criminal justice system unfairly penalizes individuals for simply having police contact. After all, a criminal record history is created when a person is arrested or fingerprinted, regardless of whether the person is convicted or acquitted or of whether the charges are dismissed or dropped (Jacobs, 2015). Participants with minor records often argued that it was unfair that they had a criminal record when their infractions of the law were petty or had not even resulted in a conviction.

Ariana, a 34-year-old woman, had only one misdemeanor arrest (which had been dismissed) on her criminal record. Ariana had recently been hired by Marshall's only to be let go after 3 days of work when the human resources department ran a background check on her. In telling the story of her arrest, Ariana emphasized the absurdity of a system in which a dismissed case could come to haunt her employment:

I had went in a thrift store trying to get some clothes for the kids. And there was a coat under the bag, she told me I wasn't going to pay for it. ... We got to arguing, and she turned it into a big thing. She called the cops, 'cause I got to clowning with her—like telling her, "You lying." That's where the charges came about.

Interviewer: Was it a conviction?

No, it didn't say conviction. But when you, when you do a background check it come up. Ain't that crazy. It shouldn't be that way. ... Like if you put in my name and stuff, it's gonna come back like that, when there wasn't no conviction. See that's what really messes this up. That need to be changed to a law or something.

Daniel, a 29-year-old man, also had a minor criminal record history. He emphasized that although his misdemeanor arrest (for driving under the influence) had not resulted in a conviction, his criminal record still prevented him from getting his desired job as a correctional officer or any job with a large corporation. As Daniel explained:

They're not convictions, they're just charges—accusations. But then I was talking to some people that's actually working as a correction officers, and they was telling me like, "yeah, they're going to make you expunge it." And then, I was going to school and I'm actually looking for work every day, but some jobs are constantly—this is suddenly popping up and it's becoming a big confusion. They're not really looking at what's the disposition of these cases, they're just looking like "he's been charged with these cases," so a lot of companies are looking not to hire me because of these.

In sum, among those participants who reported ongoing stigma, common themes were present: frustration with blocked opportunity and poor working conditions; an inability to use personal contact to change employers' beliefs about the meaning and relevance of the criminal record history; and frustration with the ongoing and punitive nature of the criminal justice system. These themes were present for participants with both extensive and minor criminal record histories.

SHIELDED FROM STIGMA

Six out of 53 participants (11 percent) reported that they had yet to experience any criminal record stigma; they were seeking expungement because they anticipated that the criminal record would be a problem for them going forward. In comparing these 6 participants with the other 47 participants, it became clear that temporary circumstances had shielded them from the formal labor, educational, and housing markets. For instance, Ryan, a 24-year-old man who had a misdemeanor arrest for marijuana, had spent the last several years overseas, where he had completed nursing school. Now, he was living with his sister and her family to save money while he studied for the MCATs.¹¹ Ryan had yet to experience any problems with the criminal record because he had yet to apply for jobs, housing, or continuing education in the United States.

Annette, a 26-year-old self-described housewife, had also not encountered any problems as a result of her criminal record. She had not needed to look for either work or housing in the months since being arrested for retail theft. Annette cared for her young children at home, and her husband, who did not have a criminal background, supported the family. Annette was seeking expungement because she hoped to open her own day-care center eventually, and she correctly anticipated that the criminal background would prevent her from acquiring a day-care center license (per the Illinois Department of Human Services, 2015).¹²

In sum, not all participants in our sample reported blocked opportunity or ongoing stigma; 6 of the 53 had not yet needed to find housing or employment since acquiring a criminal record history. However, most participants (47 out of 53) had not been as comprehensively shielded; they had needed to secure opportunities in the labor or housing markets since acquiring a criminal background.

CONCLUSION

This study used interview data taken from expungement-seekers ($N = 53$) in Chicago who constituted a markedly heterogeneous group; 46 percent had extensive arrest/conviction histories, whereas 54 percent had minor arrest histories. Data recorded by the Expungement Help Desk Office and the state of Illinois were used to assess participants' conviction and arrest histories and their eligibility for expungement and sealing. Three questions drove the analysis. First, would all participants report criminal record stigma, irrespective of the nature of their past criminal justice contact? Second, would participants in the two groups (those with extensive vs. minor criminal record histories) report attempting to overcome the negative consequences of a criminal record history? If so, how? And would they be successful in doing so? Third, what kinds of emotional and cognitive responses would participants report?

Only six (11 percent) of the sample did not report ongoing stigma; they were seeking expungement in anticipation of future criminal record stigma. These six had been shielded from the formal labor, housing, and educational markets for idiosyncratic reasons, such

11. The MCAT exam scores are required for admission to medical school in the United States and Canada.

12. Illinois Department of Human Services, 89 Ill. Adm. Code, Chapter IV, §50.430: Provider Background Checks. <https://www.dhs.state.il.us/page.aspx?item=47400> (last accessed 11/19/2015).

as living out of the country after acquiring an arrest history or having a baby and staying at home after being arrested for the first time. The remaining participants (47 out of 53, or 89 percent) reported ongoing criminal record stigma. Blocked opportunities were a pervasive theme in their accounts, and this was true whether their criminal record histories were extensive or minor. Furthermore, participants' statements revealed a range of negative emotional responses to these blocked opportunities, including hopelessness, hurt, anger, and anxiety about the future. Our primary contribution has, therefore, been to suggest that the visible criminal record history of today has the power to damage a person, regardless of whether he or she has experienced extensive or minor criminal justice contact.

Expungement-seekers with extensive criminal record histories were ineligible for expungement; for them, full reintegration into society, with all the opportunities and benefits accorded the average citizen, seems unattainable. This is troubling on several counts. First, most Americans believe that society should offer deserving ex-offenders a "second chance"; yet, the visible criminal record precludes this (Love, 2002). Second, after a certain point in time, a person with a "stale" criminal record history is no more likely to commit a new offense than a person without one (Blumstein and Nakamura, 2009; Bushway, Nieuwbeerta, and Blokland, 2011; Kurlychek, Brame, and Bushway, 2006). Yet, with a visible criminal record history, and prevailing social attitudes and practices, it seems that no amount of rehabilitation, or proof that one's "dues" have been paid, will pave the way for the ex-offender's reintegration.

For those with more minor criminal records, the stigma attached to a visible criminal record history is also troubling, although for different reasons. First, it suggests a disproportionately punitive response. Merely being arrested, or convicted of a misdemeanor, subjects a person to ongoing stigma. Such a person may apply for (and receive) expungement, but expungement is not an immediate remedy. Furthermore, a person who was placed under arrest for a crime he or she did not commit can fairly complain that he or she should not have to petition the courts to have this arrest removed from public view.

A second contribution of our study has been to update previous phenomenological literature on the stigma experiences of record-bearers, providing information on their lived experiences and strategies within a changed context. In past decades, stigma erosion seemed to be a distinct possibility for ex-offenders who wished to reintegrate into society. By not disclosing their past criminal justice contact, and upholding conventional lifestyles, ex-offenders could easily circumvent potential stigma (Shover, 1985). Today, publicly available police databases make it impossible to conceal one's past criminal justice contact. Participants in our study attempted to use face-to-face contact with hiring authorities and landlords to explain that, although the criminal record history may make them seem deviant or unreliable, they had compensating attributes that spoke to their good moral character, such as long clean periods or minor arrest histories. These accounts have been predicted by the stigma literature, which has stipulated that individuals will attempt to overcome and mitigate the discrimination associated with stigma, rather than accepting it, but that the success of their efforts depends on prevailing public opinion and conditions (Goffman, 1963; Link and Phelan, 2001). For the participants in our sample, these attempts were unsuccessful. In part, this finding may be a function of our sampling strategy; expungement seekers, as compared with a more general population of people with criminal records, may be more likely to have experienced criminal record stigma.

In an interview study, employers in Minneapolis stated that they would more readily disqualify a job applicant with an extensive arrest history that included convictions than someone who had merely been arrested (with no resulting conviction; Uggen et al., 2014). This response may have been the socially desirable one; it remains to be seen whether, in choosing among applicants with no criminal background, a low-level criminal background, and an extensive criminal background, employers favor those with low-level arrest histories over those with extensive arrest histories.

A third contribution is to provide a composite portrait of the availability and restrictiveness of sealing and expungement state by state. We did this to provide a national context for our findings, but we believe this information could be valuable to other researchers. Increasing numbers of expungement-seekers in Illinois, as well as growing legislative activity nationwide (Roberts, 2015), suggest that demand for these remedies is increasing among both eligible and ineligible persons. Future research could exploit variation between expungement and sealing statutes among the states to analyze the effects of highly restrictive eligibility requirements on individuals' earnings, educational attainment, residential locations, and health.

Ideally, future research will continue to examine the narratives that record-bearers construct about the criminal record, stigma, and opportunity. The current study was limited to expungement-seekers in Illinois. We suggest that future research include comparisons with record-bearers who do not seek expungement. The broader comparative frame could elucidate whether and how record-bearers who seek expungement are unique among the population of those with criminal records, as well as the extent to which the findings presented here pertain to a broader population of record-bearers.

In addition, subsequent examinations could take a longitudinal perspective and include both qualitative and quantitative data. A limitation of the current study was that we had only cross-sectional interview data. Future research could combine longitudinal interview data with survey data to investigate how expungement-seekers' views about the criminal record history shift as they move through the legal process of petitioning the courts for expungement, learning the outcome of their petitions, and continuing to seek opportunity.

Interviews for this study were restricted to participants' beliefs about the criminal record and its effects on their lives, with attention given to their motivation for seeking legal remedies. Participants sometimes expressed cynicism about the legal system even as they turned to the law to address their criminal record stigma. This is not surprising. Research has indicated that people, including offenders, can hold what seem to be contradictory views about the criminal justice system. They may express faith in laws and the legal process alongside deep doubt and contempt (Calavita and Jenness, 2015). Future longitudinal work could methodically tap expungement-seekers' beliefs about the legitimacy, fairness, and justice of the criminal justice system over time. It is an intriguing empirical question as to whether receiving expungement (or not) could influence record-bearers' perceptions of the fairness of the criminal justice system.

As the body of scholarship about criminal record stigma increases, and researchers and the public begin to search for solutions, the current study has suggested that policy makers would do well to consider the heterogeneity of the population affected by the visible criminal record history. Indeed, expungement and sealing have long been depicted as inadequate to solving the problem of criminal record stigma (Kogon and Loughery, 1970; Love, 2002). However, these depictions center on the ex-offender with an extensive

arrest/conviction history. For instance, Kogon and Loughery (1970) described expungement and sealing as a “big lie” that absolves both the offender and society of the moral and political obligation to reconcile and reintegrate. Similarly, Love (2002: 1726) wrote, “Expungement . . . requires a certain willingness to ‘rewrite history’ that is hard to square with a legal system founded on the search for truth.” Certainly, for the ex-offender, genuine reintegration rituals and forgiveness may be more beneficial than a policy that would “erase” the criminal record history (Maruna, 2011). However, for the many individuals with minor arrest histories, major reintegration efforts are not needed. Instead, these individuals would benefit from expungement or, alternatively, from a societal shift, such that stigma and discrimination would not follow a public arrest record.

Indeed, in the United States, most states and federal statutes expunge a juvenile’s criminal history automatically when he or she reaches 17 or 18 years of age. The purpose of this policy is to allow former juvenile offenders to enter adulthood free from the stigma of their youthful errors (Funk, 1996). It seems that such a provision could be made for those whose arrests never led to a conviction. For those with more extensive histories, other policies might be in order. For instance, in France, *le droit à l’oubli*—or the “right of oblivion”—permits convicted criminals who have completed their prison sentences to request that the authorities delete from the register facts regarding their conviction and incarceration (Rosen, 2012). Initiatives to introduce similar policies in the United States could benefit record-bearers, their families, and communities. They could also increase the reach and effectiveness of human service programs and foster civic and political engagement. In the United States, human service programs have often sought to increase the human capital of vulnerable populations (O’Connor, 2009). However, individuals who, because of the criminal record history, find it difficult to access quality housing and jobs cannot benefit from investments in their human capital. No amount of job training will help a person gain stable employment if a visible criminal record precludes him or her from being hired. Thus, publicly available criminal record histories have the potential to offset efforts to improve the life-chances and well-being of vulnerable individuals and groups—some of whom are no more at risk of further criminal justice contact than members of the general population.

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