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Erasing the mark of a criminal past: ex-offenders' expectations and experiences with record clearance

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Abstract

Through the process of record clearance, ex-offenders can have certain minor convictions removed from their criminal record or designated as expunged. This study analyzes data gathered from semi-structured interviews with 40 past offenders to examine the expectations of individuals who seek record clearance and the extent to which completion of the process facilitates efforts to reintegrate into society and desist from crime. The analysis finds that record clearance benefits ex-offenders through external effects, such as the reduction of barriers to employment, and internal processes, such as the facilitation of cognitive transformation and the affirmation of a new identity. These benefits accrue from both the outcomes of the record clearance process and from the process itself. Increased availability of inexpensive or free opportunities for expungement can contribute to more successful reintegration of ex-offenders into the workforce, families, and communities. Not only would this improve quality of life for the ex-offenders, but it could also increase public safety and reduce public spending.

Keywords

Expungement, record clearance, criminal records, re-entry, desistance

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Introduction

A criminal record constitutes a “civil death” in the United States of America, substantially diminishing a person’s opportunities to vote, serve on a jury, obtain employment, and access student loans, subsidized housing, and public benefits (Brown, 2011; Delgado, 2012; Ewald and Uggen, 2012; Geffen & Letze, 2004; Holzer, Raphael, & Stoll, 2003, 2004; Jacobs, 2015; Travis, et al., 2014). The American Bar Association has identified more than 38,000 collateral consequences¹ of criminal convictions in the United States (ACLU, et al., 2012). As of 2014, over 100 million people in the United States had a criminal record (Bureau of Justice Statistics, 2015). Using more conservative estimates, Rodriguez and Emsellem (2011) place the number of adults holding a criminal record in America at 65 million, or one-third of the adult population (Ewald and Uggen, 2012). The collateral consequences of a criminal past attach to persons with felony convictions, but also to persons convicted of misdemeanors, even if no jail time was served (Berson, 2013; Jacobs, 2015; Travis, et al., 2014). For example, in California, among various other restrictions, persons convicted of misdemeanors can be barred from receiving unemployment benefits; obtaining a professional boxing license; obtaining a gaming license; and working in health care agencies, childcare centers, and various state government jobs (American Bar Association, 2013). When an ex-offender experiences these collateral consequences of incarceration, he or she may withdraw from the formal labor market (Travis, et al., 2014) making successful reintegration into conventional society and desistance from crime extremely difficult.

The collateral consequences of incarceration are well documented (See, e.g. Mauer & Chesney-Lind, 2002; Travis, Solomon, & Waul, 2001). However, past research has overlooked

¹ "Collateral consequences are distinct from direct consequences of conviction in that they are not factored into the calculation of punishment or sentencing, and are triggered outside the jurisdiction of the courts" (ACLU, et al., 2012, p. 1).

whether expungement of a criminal record can aid a person's desistance from a criminal lifestyle and successful reintegration into society. Expungement—"the legally sanctioned destruction or eradication of records or other information in databases, written files and archives pertaining to criminal charges against an individual" (Katel, 2012, p. 352)—is premised on the belief that the consequences associated with a criminal conviction should, in time, come to an end (Jacobs, 2015). It is designed to remove some of the collateral consequences of criminal convictions, by restoring persons to their previous position within society, at least in part (Wayne, 2012).² In many cases, expungements are only granted after ex-offenders have proven they have turned their lives around and deserve a second chance (Wayne, 2012; Jacobs, 2015).

However, even with expungement, individuals may continue to experience collateral consequences of their convictions. For example, expungement orders are not applicable to non-governmental sources; this inapplicability allows data brokers—companies that collect, store, and sell personal information—to disseminate information about convictions even after expungement (Wayne, 2012). As such, this paper seeks to address two main research questions: First, how do ex-offenders interpret the role of record clearance in their efforts to desist from crime? Second, how has the process of record clearance actually influenced ex-offenders' reintegration efforts?

Effects of a criminal record and potential benefits of record clearance

Record clearance and the process of desistance

Laub and Sampson (2001, 48) assert that desistance from crime occurs "as a result of a combination of individual actions (choice) in conjunction with situational contexts and structural influences." Influential contextual factors include work and family circumstances, education, and

² The terms "record clearance" and "expungement" are used interchangeably in this paper.

institutions such as religious communities (Laub, Nagin, & Sampson, 1998; Laub & Sampson, 2001; Uggen, 2000; Uggen & Kruttschnitt, 1998; Visher & Travis, 2003). Record clearance can play an instrumental role in supporting desistance through several mechanisms that correspond with predominant theories of crime and desistance. These mechanisms are categorized broadly as external (situational/structural) or internal (individual) in nature.

Record clearance can mitigate certain external factors that constrain ex-offenders' efforts to progress through life-course milestones such as gaining productive and legal employment and fulfilling one's responsibilities as a parent (Giordano, Cernkovich, & Rudolph, 2002; Jacobs, 2015; Laub et al., 1998; Laub & Sampson, 2001; Uggen & Kruttschnitt, 1998). The removal of past criminal convictions from an ex-offender's record directly addresses a number of collateral consequences associated with having been labeled a criminal.

Employment is key to successful reentry (Delgado, 2012), yet approximately half of ex-prisoners remain unemployed one year post-release (Travis, et al., 2014). A conviction can disqualify individuals from obtaining a wide range of professional licenses, including those required to work as a barber, real estate agent, taxi driver, plumber, or sanitation worker (Delgado, 2012; Ewald & Uggen, 2012; LeBel & Maruna, 2012; Maruna, 2011; Pager, 2008). Many off-limits jobs are in growing economic sectors, like elder care and health care (LeBel and Maruna, 2012). For otherwise qualified applicants, the stigma associated with a conviction on a job application can preclude consideration for job interviews (Blumstein & Nakamura, 2009; Harris & Keller, 2005; Pager, 2003; Solomon, 2012); and in some cases, not performing criminal background checks can be considered negligence (Harris & Keller, 2005).³ Certain convictions, including some drug offenses, can lead to exclusion from welfare benefits such as public housing, cash assistance (Temporary Assistance for Needy Families), and food stamps (Delgado,

³ This effect is exacerbated for black job applicants (Pager, 2003; Solomon, 2012).

2012; Maruna, 2011; Mukamal & Samuels, 2002). Private landlords increasingly use criminal background checks to screen housing applicants as well (Oyama, 2009).⁴ A felony drug conviction while receiving federal student loans prevents ex-offenders from accessing educational opportunities, including financial aid in the form of federal grants, loans, or work-study positions, for a specified period of time (Jacobs, 2015). Past convictions can also hinder parents' efforts to build or maintain good relations with their children if criminal records are used against them in child-custody proceedings or to prevent participation in school-related activities. Although these prohibitions are ostensibly in place to promote public safety (Jacobs, 2015), they may be counterproductive, increasing the likelihood of recidivism by making it all but impossible for some offenders to maintain the stable employment, housing, financial status, and family relations that enable successful reintegration (Delgado, 2012).

Consistent with differential association and social control theories, when ex-offenders are able to maintain steady, legal employment and healthy relationships with their domestic partners and children, their social networks are more likely to comprise prosocial associates. These associates may provide support and assistance in the desistance process (Paternoster & Bushway, 2009). At the very least, individuals whose routine activities consist of work and family responsibilities simply have less time and fewer opportunities to associate with antisocial friends and engage in criminal activity (Warr, 1998). Furthermore, good jobs and positive family relationships increase individuals' social capital, which raises the opportunity costs associated with criminal activity by giving an ex-offender more to lose (Farrall, 2004; Laub et al., 1998).

Recent research has drawn a distinction between primary desistance, the termination of criminal activity, and secondary desistance, the assumption of a new identity and lifestyle as a

⁴ This practice also disproportionately affects racial minorities, whose conviction and incarceration rates are higher than whites' (Oyama, 2009).

law-abiding person (Maruna, Immarigeon, & LeBel, 2004). An ex-offender's progress from primary to secondary desistance may depend on several psychological shifts, including development of a sense of discontent with one's identity as an offender that leads to a readiness to change, creation of a viable plan for change, formation and acceptance of a "replacement self," and disavowal of one's prior criminal lifestyle, leading to an eventual break from the past (Giordano et al., 2002; King, 2013; Paternoster & Bushway, 2009). Record clearance can facilitate the process of "knifing off" criminogenic aspects of individuals' past lives by literally removing certain adverse events from the documentation of their personal histories (Laub & Sampson, 2009; Maruna & Roy, 2007).⁵ For many of our research subjects, participation in the Record Clearance Project (RCP) signifies their readiness to distance themselves from certain aspects of their past and commence the process of identity reconstruction. This reconstruction process may entail accounting for past behavior in a manner that coheres with a desisting ex-offender's new self-identity as a law-abiding, prosocial member of society (Maruna, 2001). The opportunity to omit illegal acts from official accounts of one's past certainly facilitates this process of "re-biographing" (Maruna, 2001; Wexler, 2001).

Successful completion of the record clearance process may assist RCP clients in their efforts to move forward with their employment and family-reconciliation plans, and to reassume or adopt "conventional" identities. Most of our subjects appear to have begun the process of primary desistance, and are on the path towards secondary desistance. Research has found that certain aspects of ex-offenders' personal narratives are associated with their rates of success with desistance (King, 2013; Maruna, 2001; Maruna, 2004). To the extent that aspects of ex-offenders' experiences with the RCP cohere with factors associated with successful desistance,

⁵ The "knifing off" concept originated in studies of military service as a "source of discontinuity for the life course" that often has positive consequences, such as removal from negative influences and stigmas associated with their prior social environments (Laub & Sampson, 2009, p. 49).

our investigation's findings may reveal ways in which record clearance can facilitate reductions in recidivism.

Finally, an important part of the record clearance process is the formal hearing in which a judge provides validation and affirmation of the erasure of one or more convictions from an individual's record. This ceremony, an example of what Maruna (2001) calls a "redemption ritual," has strong symbolic value, as it entails reversal of the labeling that occurred when the individual was convicted, public recognition of rehabilitation by a person in authority, and an official reacceptance into society (Maruna, 2011; Maruna, Lebel, Mitchell, & Naples, 2004). This formal process of civic reintegration allows ex-offenders to include roles as productive community members, along with work and family roles, in their new identities (Maruna, 2011; Uggen et al., 2004). Beyond a merely ceremonial purpose, the record clearance hearing can "take away a crucial neutralization (condemnation of the condemners) and... pull ex-offenders more deeply into mainstream society" (Maruna 2001, 163). It can increase the ex-offender's perception of the legitimacy of the criminal justice system, and in turn his or her motivation to abide by the law.

The Record Clearance Project

The Record Clearance Project (RCP) at San José State University was created by Margaret (Peggy) Stevenson, J.D. in 2008 as part of a Courts and Society class in the Department of Justice Studies. This innovative project engages undergraduates—under the supervision of an attorney—who assist people seeking to clear the criminal record(s) they received in Santa Clara County. Potential clients learn about the RCP through a variety of mediums including community education presentations, information tables at events, the Probation Department, the Department of Corrections, the Public Defender's Office, and word of

mouth. Clients' formal entry into the RCP begins with a speed screening: a 30 minute session where RCP students read a person's rap sheets and inform them about their next step towards criminal record clearance. Interested persons, who qualify and are eligible for expungement, then contact the project to be paired with students who prepare and file their petition for expungement or felony reduction. The petition contains various items including a client's rap sheet⁶, an essay describing how the applicant has turned his or her life around (e.g. volunteer activities, history of employment, being clean and sober for an extended period of time, etc.), and letters of support from persons who attest that s/he is a good candidate for expungement. To be eligible for RCP services, a client must have successfully completed probation (if applicable), must have been convicted of a misdemeanor or felony in Santa Clara County for which they served less than one year in jail, and must not owe restitution. Having numerous criminal convictions does not preclude someone from expungement. Eligible convictions include, but are not limited to, assault with a deadly weapon, assault, grave bodily injury, sexual assault, domestic violence, resisting arrest, drug offenses, petty theft, robbery, vehicle code violations, and failure to appear. The majority of RCP cases involve drug- and alcohol-related convictions. RCP has a very strong success rate with 99 percent of expungement requests and 94 percent of felony reductions being granted. When an expungement/felony reduction is denied, it may be because the judge wanted to see more time pass from the last offense, evidence of long-term change, or remorse.

Data and methodology

Semi-structured interviews

⁶ "A lifetime record of an individual's arrests and, ideally, charges, dispositions, and sentences resulting from those arrests" (Jacobs, 2015, p. 33).

Semi-structured interviews were conducted with forty persons with prior criminal records.⁷ Twenty had completed the record clearance process and twenty had registered with the RCP to have one or more convictions cleared but had not yet begun the process. The inclusion of both groups allowed the researchers to examine both anticipated and actual effects of record clearance. The group of respondents who completed the record clearance process (RCP group) differed from the group registered to have their convictions cleared (wait list group) in various respects. Members of the RCP group were more likely to be married than members of the wait list group, ten respondents and six respondents respectively, and members of the RCP group were more likely to have completed some higher education. Fifteen respondents in the RCP group had completed some college, with two completing an Associate's degree, three possessing a Bachelor's degree, and two who had post-graduate education, including one holding a Medical Degree. In comparison, in the wait list group, nine had completed some college and five had not completed high school or obtained a GED. All members of the RCP group had completed high school or obtained a GED.

For three years prior to commencing the interviews, the interviewer participated in meetings with RCP staff; attended court hearings, speed screenings, and information sessions in the community and jail; and held two focus groups with RCP clients. This enabled her to become familiar with the program and its clients, and to hone the skills necessary to truly see and hear the experiences of this group (Janesick, 2000). Because little is known about the impact of expungement on ex-offenders' desistance and reintegration, semi-structured interviews were determined to be the most fruitful methodological strategy for this project. This investigative technique provided the interviewer with an opportunity to probe interviewees, gave respondents

⁷ This project received approval from the San Jose State University Institutional Review Board (Protocol #F1104065).

the autonomy to explain and expand upon their experiences, and enabled the researchers to unearth the connections/themes running through respondents' complex backgrounds (Davidson & Layder, 1994; Fontana & Frey, 2000; Lofland & Lofland, 1995).

All too often, the voice of research subjects, particularly marginalized persons, becomes lost in research, overshadowed by the well-intended, but paternalistic and "all-knowing" researcher (Fine, Weis, Weseen, & Wong, 2000; Fontana & Frey, 2000). In the rare cases that academic research influences policy, the voice of research subjects is not always easily detectable. The focus groups with RCP clients enabled the research team to test the questions that were used in the final interview schedule, decenter the role of the interviewer, learn important aspects of clients' desistance and reintegration experiences directly from them, and develop interview questions from the social interactional dynamics that tapped into clients' memories, positions, and ideologies (Albert, Adler, Adler, & Detzner, 1995; Kamberelis and Dimitriadis, 2005). This process, along with semi-structured interviewing, allowed the researchers to put offenders' voices at the center of the discussion on desistance and reintegration (Fine et al., 2000). It ensured our policy recommendations would be reflective of, and responsive to, offenders' lived experiences (McDonald, Kidney, & Patka, 2013).

The final interview guide contained fifty-seven questions. Some of the questions that were analyzed include:

- What made you decide to participate in the record clearance process?
- Before getting your convictions cleared through the RCP, did your conviction(s) limit your life?
- Since having your conviction(s) cleared through the RCP, how has your ability to do the following been affected, if at all? (Obtain employment, professional licensing, student loans, government benefits/services; become a foster parent; visit relative or others in prison; any additional opportunities)
- What did you think about the court process to have your record cleared?
- Did your conviction(s) impact how you viewed yourself?
- Since your last conviction has your perception of yourself changed?

- What caused your perception of yourself to change?

Sample selection

After securing permission from each person, the director of the RCP provided the researchers with a contact list of RCP clients. Fifteen respondents were obtained from this contact list. Twenty-five more respondents were recruited from RCP events (e.g. after court hearings, community presentations, and speed screenings). Potential respondents were informed that their decision to participate was completely voluntary and had no bearing on their past expungements or future relationships with the RCP.

Conducting interviews

To ensure reliability, one researcher conducted all the interviews using an interview guide (O'Brien 2001). All interviews were conducted in a private-public location (e.g. study room in a library or university office) between January and August 2014. Upon completing the interview, respondents received a twenty-dollar Visa gift card as compensation for their time and the inconvenience of traveling to the interview site. All participants were over the age of eighteen and provided informed consent. The interviews were audio-recorded to capture all the information provided by respondents; this had the added benefit of allowing the interview to flow naturally like a conversation (Lofland & Lofland, 1995). The interviews ranged in length, with the average interview lasting one hour. Data saturation was achieved at forty interviews (Glaser and Strauss, 1967), at which point the research team began focused coding (Charmaz, 1983).

In the coding and analysis phase, validity of findings was achieved by having two members of the research team independently code the data (Albert, et al., 1995; O'Connell Davidson and Layder, 1994). These documents were compared against each other to ensure

consistency. When discrepancies arose, the sections containing discrepancies were re-analyzed. Relevant quotes were gathered together into thematic memos on several topics, including the themes discussed below (Charmaz, 1983). Following the same procedures throughout all interviews positioned the authors to achieve reliable findings (O'Brien, 2001). Generalizability was not an aim of this project; rather, the authors sought crystallization—providing a deepened, complex, and partial understanding of the lived experiences of a politically and economically disenfranchised population (Richardson, 1994).

Findings and discussion

In this section, we will discuss examples of ex-offenders' expectations and experiences associated with both external factors that have been shown to impede or facilitate successful efforts to reintegrate into society, and internal processes that have been shown to be associated with efforts to transition from primary to secondary desistance from crime.

External factors that affect desistance efforts

Persons with criminal records experience extreme difficulty obtaining employment due to the wide availability of criminal record information (Travis, et al., 2014). Sixty percent of employers are reluctant to hire ex-offenders, perceiving their convictions as indicators of their untrustworthiness (Holzer, Raphael, & Stoll, 2001). Respondents, at times, expressed frustration with their inability to gain employment, noting that the limited jobs open to them predominantly involved poor working conditions and low pay – positions sometimes disparagingly referred to as “McJobs” (LeBel and Maruna, 2012). They genuinely hoped record clearance would increase their employment potential and facilitate their successful reintegration into society. Consistent with these hopes, our findings show that record clearance did increase ex-offenders' confidence in searching for jobs and, in some cases, their access to jobs.

Securing productive and legal employment. Quintessential good jobs—those in specialized fields such as health care; jobs that provided good benefits such as health insurance, retirement plans, etc.; and jobs with the local, state, or federal government—were particularly difficult for past offenders to secure. Various federal and state laws formally exclude persons with criminal records from a range of employment opportunities (Travis, et al., 2014). Thirty-eight of our 40 respondents noted they were denied employment because of criminal convictions before they completed or while they were awaiting record clearance. For example, Beverly (a 50-year-old African-American woman, who had four felony convictions for theft and three misdemeanors) was unable to gain employment with the United States Postal Service.⁸ Likewise, Rosa (a college-educated Mexican-American woman) was denied a job due to her multiple convictions:

They were going to hire me, but the biggest obstacle was my criminal history. They weren't willing to take me because I had a couple of felonies. She said if I only had one felony they might have been able to work with that, but those were felonies ... That job that I applied for, that I was going to get hired for and they declined me, was selling medical supplies.

Sharon (a 56-year-old woman with a history of drug and traffic offenses) finally feels she has found a career she enjoys and does well, caregiving. A late bloomer, Sharon is now experiencing difficulty progressing in her career due to her conviction. She explains:

Now, the job that I want to do, caregiving, they will not hire you with that on your record. Well, I am doing caregiving now, but ... the private companies would not hire you if you have that on your record. I filled out various applications and when I tell them about my past they tell me to stop right there because the company is not going to hire someone with those convictions.

Enlisting in the army became an unattainable goal for Mario, a 38-year-old married Latino father who was convicted at the age of 15 of having sex with a minor. Mario had viewed the army as a last-ditch effort to stay out of trouble and turn his life around. When his conviction prevented this, he became more entangled in the lifestyle of the street and picked up various convictions

⁸ All respondents' names have been replaced with pseudonyms to protect the privacy of study participants.

including “possession of concealed weapons, felon in possession of a firearm, second-degree commercial burglary, [and] possession for sales, one of which was actually on a school campus.” Persons convicted of felonies are generally prohibited from serving in the military unless they obtain a “moral waiver”; sexual assault offenses are not waiver-eligible (Ewald & Uggen, 2012; Jacobs, 2015).

Securing or retaining employment in schools appeared impossible for various respondents due to institutions’ strict rules against employing persons with criminal records. Wanda (a 55-year-old African-American woman whose past is characterized by extensive physical and sexual abuse as well as 20 years of crack cocaine use) was forced to leave her teaching position at a public school.

I even was teaching school and was doing drugs, teaching special-ed ... The second time I got arrested, I was with the school district. They let me stay [but] they said, ‘Well you know the next time the fingerprint comes around,’ cause we had to do it every two years, ... we will have to let you go because you have a conviction on your record.’ And so, rather than go through that, I resigned.

Many people, quite understandably, would be skeptical about hiring persons with criminal records to work with a vulnerable, protected population such as schoolchildren. However, it is important to note that ex-offenders’ limited access to jobs in multiple arenas narrows the pool of available jobs that could offer a living wage; this makes desistance from crime more difficult (Boshier & Johnson, 1974; Brown, 2011; Bushway, 2004; Holzer et al., 2003).

Background checks. Increasingly, employers are relying on criminal background checks to assess corporate risk and security when hiring new employees (Backman, 2011; Delgado, 2012; Holzer et al., 2001). In fact, one survey found that ninety-two percent of responding employers required prospective employees to undergo a background check (Jacobs, 2015). With criminal history records becoming more broadly available through commercial services such as HireRight

and ChoicePoint (Holzer et al., 2001, 2003), respondents encountered situations where their potential employment was contingent on passing a criminal background check. Twenty-seven of our interviewees experienced situations where they were denied employment because of a background check. Rose (a 47-year-old white woman convicted of assault with a deadly weapon) explained that background checks directly impacted her employment:

Every day I get emails from recruiters, one was for Google, one was for Facebook, Adobe, PeopleSoft, they all do criminal background checks. I've tried submitting and I never heard back. And then the one that I know for sure that it impacted was ... a very prestigious [corporate law] firm. I got the job and she came back in and she said, 'We're going to do a background check, is everything clear?' And I said, 'Oh, well, you're going to see something on my record.' And I don't tell them it's assault with a deadly weapon, I tell them it's a domestic dispute. And she goes, 'Oh that won't clear.' She goes, 'I'm sorry.' And it sucked because it was such a good paying job. And it was so...I know I could've done that job perfectly. I mean I know I could've. And I wanted that job so bad.

Rose's experience was echoed by other respondents, whose background checks precluded employment in daycare centers and as sales representatives in stores like Hallmark and Macy's. Our respondent's experiences are supported by research that shows ex-offenders face more difficulty securing sales and clerical jobs, and positions that entail contact with customers and handling cash (Travis, et al., 2014). Although courts generally hold that employers are not always duty-bound to obtain background checks on all employees, it is understandable why cautious employers routinely opt in to this process (Jacobs, 2015).

Fear of rejection inhibits job application. The stigma attached to the ex-offender status, and its limiting impact on job prospects, was so transfixed in ex-offenders' minds that it became a debilitating self-fulfilling prophecy (Delgado, 2012; Maruna, LeBel, Naples, & Mitchell, 2009). Some refused to apply for work fearing the rejection they 'knew' they would experience. Mario explained:

I was really reluctant to apply to other jobs, you know. I didn't want to go through the letdown of going through the process because when I get into most jobs, and I interview, I usually come back with a second and sometimes third interview. And, you know, I don't want to go through the disappointment of, 'okay, so we're going to do the background check.' And then getting shot down, you know. I'm not going to set myself up for failure like that, especially when all along, you know, I've been working.

This sense of potential failure was so strong that respondents waited months or years before applying for work. Other respondents refused to look for work believing they could not get jobs that would sustain their standard of living. Bill (a 48-year-old single Caucasian full-time student) stated,

[b]ottom line is that I'm not—until I get this scenario taken care of I don't believe I can find a job to sustain a good living, quality, and style conducive to my life. If I try to go out and get a job that I could get with my record, it's not going to be the wage that I can afford the things I need. I'm just going to be miserable and the possibility that if I go that route then I'm just—gonna set myself back again. So I'm trying to be smart and halfway patient and wait my turn for things to go my way again.

Annette, a 43-year-old, unemployed, African-American female, convicted of fraud for writing checks that bounced, described the stigma of a conviction: “you would hear people saying, ‘if you get a conviction that ruins your life. You can never get a job.’ And I think I let that stigma, you know, handicap me.” Whether self-inflicted, as in Annette's case, or based on failed attempts to gain employment, fear of rejection limited the growth potential of ex-offenders and contributed to their diminished employability.

Licensing—a barrier to employment. Licensing, the entry ticket for many Americans into respectable jobs, served as a significant barrier towards employment for our sample in many fields. Melissa (a 35-year-old mixed-race woman with a history of property crimes that she attributes to her past drug addiction) remembers the joy she felt when she received her Certified Nurse's Assistant (CNA) license. Her sense of accomplishment immediately turned into dismay when she read that her newly awarded certificate had been revoked. She explains:

I went to school in 2009 for six months. I completed the CNA course. I did my externship or internship and everything. I took my state exams ... I passed everything. I did this because my teacher told me that it had been so long since my last conviction that they'd probably go ahead and let it go. And so I believed him and I went through everything. And then I got a letter in the mail that had my license number on it, so I did get my license. So I did pass. I did get my license and underneath that it said, 'Your license has been revoked.'

This situation might have been prevented, had Melissa's record been formally cleared prior to her application for the CNA license.

Licensing restrictions impact ex-offenders' ability to drive, particularly if they were convicted of drug felonies (Ewald and Uggen, 2012). When asked why he got his record cleared, Antonio (a 30-year-old, educated, employed, married, Chicano father of one child) simply said: "To get my license. To get my driver's license back." While the verdict is still out on whether record clearance would increase the chances of ex-offenders becoming licensed in their desired fields, our research supports that there might be hope, at least for regaining driving privileges.

Luis (a 49-year-old Mexican/Native American former drug addict who was convicted of misdemeanor and felony DUIs as well as domestic violence charges) explained:

Today, I have a commercial license. I got a commercial license in 2004 ... I started chauffeuring in 2007. I have a commercial class A license, so I'm able to drive a big rig, so I started driving bigger vehicles. And, I got a passenger B endorsement, so I'm able to carry more than ten passengers so that's how I started driving the buses.

Job access after record clearance. Many people perceive record clearance as the first step towards civil rebirth and greater opportunities. Obtaining reliable employment was a driving force for many respondents in seeking record clearance. Carl (a 44-year old Caucasian male with two DUIs and several misdemeanors for drugs and drug paraphernalia) hoped that record clearance would be the first step in getting a job that would enable him to put a roof over his family's head and "be successful one day and do something that [his] children are going to be proud of." For some clients, increased employability was achieved after record clearance, but we

did not find uniformity in this outcome. A couple of respondents reported continued difficulty gaining employment and supporting their families in the months and years following completion of the Record Clearance Program.

One of the most striking differences uncovered between the interview groups was that employment was better among respondents who had completed record clearance as opposed to those yet to go through the process. Of the twenty persons who completed record clearance, only two were unemployed; eleven of the persons awaiting record clearance services were unemployed. The types of jobs held by members of the two groups were also remarkably different. Persons awaiting record clearance were more likely to be employed in low paying jobs including caregiving or working in a fast food restaurant or warehouse. Persons who completed record clearance, generally, enjoyed better jobs. For example, Tina and Rosa were both social workers while Mario was a drug intervention specialist and Antonio worked as a gang intervention specialist. Other “good jobs” held by respondents who completed record clearance included real estate investor, theatre manager, and healthcare employee. Indeed, fourteen of the twenty respondents who completed record clearance indicated they experienced better job opportunities post-record clearance. Based on these results, for this population, we cautiously conclude that record clearance may have indeed increased respondents’ employment opportunities.

Some clients reaped immediate benefits from record clearance. Sean (a 24-year-old, married Hispanic male with seven convictions including armed robbery) was able to secure a job as a security guard soon after completing the process: “I applied at a job—a security position—where they actually had to conduct a background check and [it came back] no discrepancies, so

honestly immediately after my record was cleared.” Likewise, Allison’s once-elusive dream of working in schools became realized subsequent to record clearance:

The past is now the past. It’s not haunting me anymore. I have a job, now, where I manage a children’s theater company. And I work with probably 400 kids a year. I work in the schools, in different districts now, they contract us to go in and do their school shows.

The lack of power Allison experienced in the economic sector as a result of her grand theft conviction was restructured through record clearance and she now enjoys a position where her employer trusts her. She states,

I do the payroll, ... I take care of both of the bank accounts, I do all the donor letters, I do all the registrations, I make the bank deposits, I pay the salaries, I pay the bills. And somebody trusts me and believes me. ... I did the taxes this year for the company for the first time. I got all the 1099s filed with the IRS and out to the employees.

Previously denied jobs due to her criminal history, Allison is, ironically, now in a position where she has “run the background checks on [prospective employees].” Allison and other respondents prided themselves on being able to hold legal employment and finally having employers view them as trustworthy.

The positive impact of record clearance on securing employment was experienced in various fields. Mario, formerly convicted of drug related crimes, now works as a drug counselor and was offered employment by a major healthcare provider. Although Mario decided not to accept the new job offer, having his record cleared opened the door to choices that would have otherwise been unavailable. Likewise, Angela (a 39-year-old, Italian and Native American mother of several children) acquired her current job with an accounting firm after her record was cleared. Since the company runs a full background check on prospective employees, this would not have been an option for her before record clearance.

This job, the one I’m at right now, had an opening, and they’re subcontracted through the government. And I would have never thought to apply there. Because I think—I

would hear government and we're gonna run an extensive background and ... I would've said, "No. It's not for me. I'm too ashamed or they won't hire me because of my background." And so because I have the expungement I was like, "Oh I'm just gonna give it a try."

For numerous interviewees, employment opportunities increased post-record clearance. Rosa was hired as a social worker and is currently able to "go into the jail without any problem." She would not have secured this job, or been able to enter the jail, without record clearance. And Wanda proudly explained: "Now, I'm employed ... [at the university,] which is so amazing. The place that, when I was homeless, I would sleep at, and I'm working here. That's truly amazing to me."

Record clearance not only increased many ex-offenders' employment prospects, but it increased their salary and provided them with the privilege of juggling multiple jobs. Commenting on his current employment, Mario said: "I make \$28 an hour right now doing what I'm doing. So, I mean it puts me in a whole different salary bracket to have the financial, you know, ability to provide." Michelle expressed how grateful she was for the opportunity to work very long hours:

So, to even be able to work two jobs... it's hard, sometimes I don't even get to sleep that much. But I don't care now because I've been given the opportunity. And my kids get so mad at me like, 'You need to rest!' And I tried to explain to them... my oldest daughter kind of understands, but she don't. I tried to tell them, 'I haven't been able to work, like almost 17 years. If I could work three jobs, I would.'

Our findings indicate record clearance increased some clients' employment opportunities and their potential to support their families, and generally aided their reintegration into society and desistance from crime.

Limitations of record clearance as a step towards employment. Having criminal convictions in various counties and states diminished the potential employment benefits respondents

experienced after record clearance. The Record Clearance Project is only able to help clients clear criminal convictions received in Santa Clara County. Julie (a single white woman now employed as a private bus driver) was successful in clearing her convictions in Santa Clara County, but other convictions, both within and outside California, remained on her record and limited her employment opportunities. Hence, even though completing the RCP program could increase clients' employment opportunities, this benefit is complicated by factors beyond the parameters of the program.

While some interviewees were overjoyed with their newfound opportunities, unfortunately, some continued to feel the pressure of their conviction(s) even after record clearance. For example, the conviction(s) of a person who successfully completed record clearance is still visible in a background check, with a notation that the conviction(s) had been expunged. Knowing this, many study participants expressed frustrations with the persistent stigma and disadvantage associated with their past criminal record(s). Marcus complained that he was not treated any differently by employers after having his record cleared:

So finally got my record expunged, this is a couple years ago... so I'm thinking like 'Oh, finally. My life is going to turn around now.' And it just didn't. The record expunged, for me, people—I guess it's just still there—people can see it. It just says it's expunged but it's still like—it's the same treatment... Even with the record expunged it's still rough. You're a second rate citizen, nobody wants to give you a chance, it's really discouraging. Basically that I want to give up hope and think about trying to search for jobs in other countries or trying to get a job in Canada or just moving anywhere so my record won't come up. I have to leave the country. I'm not treated as an American citizen. I was born and raised here but not allowed to work here.

The stigma of Marcus's conviction has constrained his employment in various fields including as a process server; security guard; and in exercise facilities (e.g. Gold's Gym and Bally's Total Fitness), big-box retail stores (e.g. Costco and Wal-Mart), fast food restaurants (e.g. Kentucky Fried Chicken, Chick-Fil-A, and McDonald's), and grocery stores (e.g. Trader Joe's and Whole

Foods). After applying to over seven hundred jobs within the last ten years, Marcus is completely demoralized about his employment prospects in America.

Likewise, Michelle was warned by a person assisting her with the record clearance process that her past, albeit expunged, record would still be visible: “She told me that it was [a] possibility that my fingerprints...my record will come up because it’s fingerprints. Even though your record is expunged, it doesn’t matter.” With this in mind, some respondents expressed a wish that their records could not only be cleared, but also sealed, in order to truly free them from the stigma. In Massachusetts, unlike many other states, the Criminal Offender Record Information (CORI) reform prohibits ex-offenders’ misdemeanor and felony conviction records from being disseminated subsequent to successful discharge from supervision after 5 and 10 years respectively (Travis, et al., 2014). Since in California a person’s criminal record can still be disseminated, even after expungement, we can view record clearance as a means to diminish the collateral consequences of a criminal record, but not as an opportunity to wipe the slate clean.

Furthermore, certain risks – and liabilities – may be associated with ignoring past crimes, especially when allowing certain ex-offenders to work with particularly vulnerable populations, such as children, the elderly, or severely disabled individuals (Harris & Keller, 2005). These must be weighed against the potentially greater risks associated with widespread unemployment among ex-offenders and failure to reintegrate into society (Harris & Keller, 2005).

Research suggests that the risk of re-offending is highest in the period after arrest or release from incarceration, and then declines over time to the extent that ex-offenders who have desisted for six to seven years are only about one percent more likely to commit a new crime than individuals who have never committed a crime (Kurlychek, Brame, & Bushway, 2006). Uggen (2000) has found that even “marginal” employment opportunities can increase the

likelihood of desistance for ex-offenders over the age of 27. As such, record clearance may be most beneficial and least risky for older ex-offenders as well as those whose crimes are in the distant past. The limitations of record clearance as a step towards employment, as reflected in some of our interviewees' narratives, also suggest that for some offenders who have shown strong evidence of successful desistance, it may be worthwhile to consider policy options that go beyond expunging minor offenses, such as sealing records.

The role of record clearance in overcoming internal obstacles to desistance

Clearly, the record clearance process helps to remove external barriers to desistance from crime and effective reintegration into society, but a quote from Angela highlights the importance of the psychological and emotional benefits of record clearance as well: "Even though this is fixing the outside, ...it's fixing the insides at the same time."

Cognitive transformation and development of a "replacement self." As discussed above, several studies have determined that the shift from primary to secondary desistance may be predicated on a process of "knifing off" certain negative aspects of the past, and the formation and adoption of a "replacement self" (Giordano et al., 2002; Laub & Sampson, 2009; Maruna & Roy, 2007; Paternoster & Bushway, 2009). The desire to leave behind a criminal or substance-abusing lifestyle emerged in the narratives of nineteen of our study participants, fourteen of whom had completed the Record Clearance Project and five of whom were on the wait list. These individuals spoke of how such a transformation led to their decisions to initiate the record clearance process. Those who had successfully completed RCP also discussed how the process had helped to confirm and cement their new identities.

Readiness to change as a precursor to record clearance. Mario, who is now happily employed, spoke of the need for readiness to change, adding that true change is more than just the ability to

avoid probation violations. His perspective echoes scholars' interpretations of the distinction between primary and secondary desistance:

The whole record clearance process has to be done on a person's time when they're ready to stop. I mean, getting off of probation sometimes doesn't necessarily mean that the person's ready to stop committing crimes, it just means that the person, you know, is capable of complying with probation.

Several of the interviewees described their most recent conviction and/or imprisonment as an experience that set into motion the process of conscious desistance, forcing them to realize that they were unwilling to continue in the cycle of offending and reoffending. Wanda described her experience:

In 2004, I got sentenced to a year. All the other times, I went in for like a week, then twenty days. But reality set in when I was sentenced to a year. I just thought, "God, I can't keep living my life like this... So, when I went to jail, I just said, 'I can't do this no more. I don't want to do drugs when I get out anymore.'" And that was in 2004 and February of 2014, I've been clean and sober for ten years.

Melissa had a similar experience:

I remember the last time I was in jail and one of the CO's—[Mr. H.], he was such a great guy—I went up to him a couple of days before I was supposed to be released and I told him, I said, 'I promise you one thing, you will never see me here again. Ever.' And he said... 'You know [Melissa], there are a lot of people that come through here that say oh they're never coming back to jail and I see them a week later.' He said, 'But for some reason, I believe you. I don't think you will come back.' And I never did.

In these cases, the interviewees were able to recall a pivotal moment when an external impetus set into motion an internal desire to change that included the disavowal of an existing way of life and the decision to move towards a new persona.

Breaking from the past and "knifing off" parts of one's personal history. Many ex-offenders explained how their decision to change was accompanied by a desire to make a clean break from activities and associates from the past. Pete described his realization that his lifestyle was no longer sustainable or even enjoyable:

I've really taken a deep look at the things I need to change within myself to have a better life...The drugs and the alcohol, and the parties, started to not get fun anymore. And I started to incur, you know, consequences from my behaviors and actions... If you're not willing [to change], you're just going to continue to spiral downward. You have to want it. You have to really realize that, you know, doing the same thing expecting different results is futile.

For Tina (a 34-year-old, college educated, employed, and single Latina with a history of alcoholism and drug abuse), the process of making a break from the past includes disassociating from antisocial peers. Tina described being convicted for a DUI, her second conviction (the first was for possession of counterfeit checks) and a probation violation, as “a blessing in disguise. I took that as an opportunity for change and I saw that as a way to disengage from the friendships that I had and my lifestyle that I had created.” And as Mario put it,

I wanted to put that behind me. I wanted to put mine, you know, it's a chapter of my life that I really wanted to be able to say is done and will not come back to haunt me. And so I felt that going through the process would give me the opportunity to close that part of my life, you know, officially and unofficially.

Along similar lines, in language that inadvertently echoes the “knifing-off” concept, Allison explained that expungement is “not a quick fix. It should be like this is the final surgery that's done, you know, not a Band-Aid.” Describing how she felt upon completing the RCP hearing, she stated, “when I walked out of there I was in tears because I was like, ‘Oh my God, that part of my life is done. Done!’”

Developing a “replacement self.” Once ex-offenders leave their old identity behind, the task of constructing a new identity remains. Twenty-two participants (thirteen RCP completers and nine from the wait list) spoke about their new, positive selves. Melissa's new identity emerged with age, maturity, and the achievement of life-course milestones:

I grew up. I'm thirty-five and I was twenty-one when I did that stuff, you know what I mean...21-22. You know, it's like I am not young anymore and I have three kids and a home and a husband and, you know. I'm not that person... It's really

time for me to move on from this. I needed to no longer be the [Melissa] with the...a felon. I just needed to be [Melissa]. Prove that I am a better person.

Several respondents compared their new selves with their old selves. Rosa, who is now employed as a social worker, says,

Oh yeah, my perception has changed, a lot. Today, I don't feel worthless, I feel self-worthy...I'm not ashamed or embarrassed about where I come from and what I have had and what I've done. Because those are the mistakes I made, and today I'm a better person than what I was back then.

Tina also distances herself from her former identity, citing her new friends' positive perceptions of her:

I told a judge in court the other day like I don't want to be judged by [my criminal record] and having to like explain myself over and over and over ... I don't want people to look at me in any other way because I'm not that person anymore. Even with the friends that I've made, the new friends that I've made in this new life, they—when I share my testimony they're like, 'We don't know that person. Who is that?' And I'm just like, you know, that was me. So I don't want people to look at me as that anymore.

The ability to pursue expungement was not necessarily the impetus for ex-offenders to change, but it facilitated ex-offenders' efforts to move on from their past mistakes. It strengthened their sense of hope and self-efficacy, and helped them cement their new prosocial self-identities. These psychological processes have been found to correlate with fewer reentry problems and higher rates of desistance success (LeBel, Burnett, Maruna, & Bushway, 2008; Lloyd & Serin, 2012). Antonio had already begun the process of cognitive transformation before initiating the record clearance process, but completion of record clearance took him a step farther:

I don't think it was like the initial change, but it definitely added to it. Like, 'Hey, I got my record cleared!' I think it was basically saying like, 'You make mistakes but you don't have to live in like a hole forever. You change your life, anything's possible.'

Steven (a 45-year-old, educated, employed, and married Caucasian male who was convicted of several felonies—including possession, driving under the influence, assaults, and theft) echoed this sentiment:

Because I already decided to change my life and head on a different path, I had already found a situation and was able to secure investments and start my own business and that happened before the record clearance. But the record clearance just gave it that much more meaning.

Past research has found that giving back to others is a common theme among desisting ex-offenders (Maruna, 2001), and our findings supported this idea. Eighteen of the interviewees (eight RCP completers and nine from the wait list) envisioned their new selves as community members who could make positive contributions, and viewed record clearance as a step towards this role. As Marcus put it, “I felt like I suffered enough and it’s now my chance to show the world that I can be a contributing citizen to society.” Likewise, Alex (a 37-year-old, unemployed, married, Mexican-American father of two young children with a record of drug-related charges) said, “I knew my future was gonna get brighter... like I can give more to society.” Asked about her expectations from record clearance, Juana (a 59-year-old, single, unemployed, disabled Mexican-American mother of three who was convicted in the 1970s for welfare fraud) envisions a promising future that includes helping others:

Like in the future I will be more at ease, more comfortable with the way I’m going to live, with the way I see the future in a senior apartment and I want to be able to help my adult children and get myself a job so that I can be able to feel good about myself. Put that behind me, that’s the past, and look forward to my senior years.

Many interviewees readily acknowledged their past mistakes, and expressed appreciation for the opportunity to rebuild their identities through record clearance. In the words of Wanda, “Getting your record expunged is such an amazing thing to have. It’s a gift. It’s a wonderful gift in order to start your life over and have a better life.” The recognition of record clearance as a rare and

precious “gift” serves to raise the perceived costs of recidivism by giving ex-offenders more to lose. As Brian, who grew up privileged but became addicted to alcohol and drugs, which led to numerous felony convictions, put it,

For me, it’s a second chance. It’s like starting all over again. Not many people get that chance to start over again. Sometimes one mistake you made follows you for the rest of your life. If you’re lucky enough, you can find the right support people to help you. It can change you...I can say, ‘Yes I goofed up. I did my time, I paid my dues. But, you know what, it’s not the end of the world.’ You can still come back from anything. As long as you’re alive, you can come back from anything.

The role of the record clearance court hearing in de-labeling and starting anew

The removal of all or some elements of a criminal record in a formal courtroom setting can have a powerful effect, providing much-needed external validation, removing a psychologically and emotionally burdensome label, and freeing or empowering an ex-felon to move forward with a new identity (Maruna, 2001, 2011; Wexler, 2001). Seventeen interviewees (fifteen who had completed RCP and two from the wait list) mentioned an experience or expectation of de-labeling. More so than just the outcome (a clear record), the actual *process* of preparing for, and successfully completing, the record clearance application and hearing can have a powerful effect. Many study participants spoke of this effect, as well as of the role of the court hearing in transforming their relationship with the court system from one based on antagonism to one encompassing mutual respect. This effect can build trust in the criminal justice system and make ex-offenders feel more invested in desistance from subsequent offending.

Changes in the ex-offender’s relationship with the court system. Many study participants’ past encounters with the court system had been consistently fraught with fear and shame. The record clearance hearing experience was noticeably different for several interviewees. Many expressed gratitude for the respect and encouragement they received from judges and other courtroom

officials during the hearing, and several described how these positive interactions had bolstered their self-image and confidence, using language that signaled feelings of increased social capital. Mario describes the contrast between past courtroom appearances and the record clearance hearing in language that reflects a sense of agency, which many persistent offenders have been found to lack (LeBel & Maruna, 2012):

It was different because it was good, I mean I was still nervous and scared but I wasn't in jail clothes and shackles, you know. I mean I walked in there. I initiated it. It wasn't initiated against me. That's what was different. It's because I was the one asking to see the judge, not the judge asking to see me, or making me see him, you know. So I think that's probably it. It's because I'm the one who asked to see the judge.

Several respondents were struck by the judges' respectful attitudes towards them during their record clearance hearings, in contrast with past experiences. As Steven put it,

[it] was a different type of court date. It was the judge looks you in the eyes; the judge calls you by name and not a number, and actually wants to hear your story and not what the paperwork says and that was interesting to me. It was a different sort of court date.

Additionally, many of the ex-offenders spoke about the beneficial effects of judges' or even District Attorneys' appreciation of their positive qualities during the record clearance hearings, and the value of these officials' expressions of confidence in their ability to change. This external validation was especially powerful coming from authorities whose colleagues the ex-offenders perceived as having viewed them with disrespect and distrust in the past. Rosa was moved by her judge's affirmation of her own self-perception as a reformed ex-offender:

It made me feel good. It made me feel good that [the judge] read those letters [submitted in support of my application], and she got a feel of me. She understood where I was coming from and what I was all about. So she believed that that was true. So, compared to other judges that I've dealt with, they were like, 'yeah, right.' But she believed in me. So, it showed me like, there is hope out there. And there are other judges, they do believe in people changing.

Julie spoke about the transformative power of the courtroom experience and its direct contribution to her new self-identity:

At first, sitting in the courtroom I was really nervous because it didn't feel any different. Even though I was in a suit, it didn't feel any different. But then when they called me and they started talking to me, I didn't feel like an inmate. I felt like a respected member of society. And the judge was really awesome – that did my Record Clearance. I really – I left out of there feeling proud, which is something I hadn't really felt in a long time.

For Antonio, it was a change in the District Attorney's attitude that made the biggest impression:

The most memorable part I think when I went to court and I have never in my life ever heard not the judge, the judge said good about me, but the District Attorney the DA speak about me in such a like...I don't know, a glorified manner. I just never heard that and honestly as a man I felt like I was going to cry... Last time I went to court ... the DA was speaking to me, speaking about me as if I was the devil himself or something. And now I'm in a situation where the DA is like, 'This individual has done this and that, this and that, I think gives him the interest of justice.' I think the words was like, 'You know, throughout all the cases I have seen this one stands out the most.' And she brought up because of all the different things I have done for, you know, the community—for social justice, for non-profits, for going to juvenile halls, and starting my own nonprofit. She was just amazed. And that really moved me and I was like, 'Wow!'

Unlike the coercive and humiliating courtroom interactions many of the interviewees had experienced in the past, the RCP completers' hearings were characterized by respect and affirmation, and reinforcement of positive attributes and behaviors that the ex-offenders had begun to develop during their own, often ongoing, "re-biographing" processes – a difference that could facilitate internalization of the RCP clients' new prosocial identities, leading to long-term change (Maruna, 2001; Maruna & LeBel, 2002).

Perhaps Marcus captures the contrast between past court experiences and the RCP hearing most succinctly: "Usually when you go to court something bad is happening. It felt good to walk out of the courtroom be like, 'justice!'" This perspective reflects an increased perception

of the legitimacy of the criminal justice system, which has been found to increase compliance with the law (Tyler, 2003).

Record clearance as a new beginning. For many respondents, the completion of the record clearance hearing marked an additional turning point beyond the internal transformations they had already undergone. Several interviewees felt a sense of liberation as a result of having their records expunged. Wanda said, “Oh my God, I felt like my shoulders...It was this big old weight just lifted off of me. It was like, it was like I was fifty pounds lighter. It was great. It was like the most wonderful feeling.” Allison, whose convictions, all related to substance abuse, damaged her relationships with her family and her employment prospects, expressed similar sentiments:

[i]t kind of put closure on everything. It was done, and now I can move on. You know, it was like the anchor that was weighing me down. Or, it would start to float up, I would be scared again and it would go down. And now it’s gone, you know.

Rosa, who felt that her convictions prevented her from gaining employment and damaged relations with her family, said that she felt a sense of “freedom ... It doesn’t hold me down no more. My past is not holding me now, in the present moment. So now I’m able to move on. And I know I’m able to accomplish anything.”

Many spoke about how the process has enabled them to move forward with a better lifestyle. As Steven put it, “to be able to go in and have that taken away where I do not no longer have to say that I was a felon or am a felon... It’s a whole new way of life.” Adrian (a 33-year-old, college educated, employed, single, African-American man) also speaks about the confidence and optimism that came with having his record cleared:

Honestly, I really feel like I can really take on the world now. I can really pursue some of the long-term goals that I have in my life... you know, because it’s really been, because we live in a society where people are very judgmental on something—what they say about you on paper and really not the person who you are...And I think having my record cleared shows that somebody believes in me. Someone’s seeing something good in me ... I think that’s just a great feeling to

have, knowing that I don't have to worry about my record being a burden or preventing me from doing something or preventing me from accomplishing goals that I want to have.

Narratives like these illustrate how the removal of external markers of a criminal past in a formal courtroom ceremony facilitates a renewed sense of motivation to live up to others' and individuals' own now-heightened expectations, as well as increased confidence in one's ability to do so (Maruna et al., 2009).

Several aspects of the record clearance process, as carried out in Santa Clara County, exemplify what prior scholars have identified as valuable in the promotion of long-term desistance from crime. In the RCP process, the ex-offender must demonstrate a change in behavior, which is then publicly certified by representatives of conventional society (Maruna et al., 2009). The judge affirms not only the desister's change in behavior, but also his or her good character and respectability as a member of society (Maruna et al., 2009). Finally, the judge expresses high expectations for the desister's future behavior (Maruna et al., 2009).

The RCP process also reflects a "strengths-based" paradigm, which has been popularized through drug courts, other types of problem-solving courts, and certain correctional programs: participation in RCP is voluntary; the process entails a formal ritual, which highlights an ex-offender's assets through praise and external validation; and the central component is an opportunity for "earned redemption," including the "expiration" of a criminal history that is determined to be inconsistent with the ex-offender's current identity (Maruna & LeBel, 2002; Wexler, 2001). Evidence from our interviews of RCP completers indicates that application of a strengths-based approach retrospectively – to acknowledge and reward ex-offenders who have demonstrated successful efforts to change – may help ex-offenders build and reinforce a new

self-identity, participate in the workforce, and truly reintegrate into society as productive citizens.

Conclusion

Due to the size of our sample and the fact that the interview subjects were drawn from participants in one program, the findings from this investigation are not broadly generalizable. However, our findings support prior researchers' conclusions regarding the often-debilitating collateral consequences of policies that have resulted in the proliferation of publicly-available criminal records, many of which primarily or exclusively comprise nonviolent, nonserious offenses. By focusing on ex-offenders' narratives, this study contributes important perspectives regarding challenges and opportunities faced by ex-offenders who seek to reintegrate into society and become productive citizens. While criminal record expungement remains controversial, this study has found strong evidence of benefits associated with both the process itself and its outcomes. By combating barriers to successful reintegration and supporting the process of cognitive transformation, record clearance may facilitate the reduction of recidivism.

Many ex-offenders in our sample saw record clearance as providing them with a better chance to overcome the collateral consequences of their past convictions—a chance to be judged on their merit, and not their past, when applying for jobs, and a chance to shake the stigma and self-doubt that had followed them since their conviction. For many interviewees, record clearance proved to be just that. It gave them opportunities for employment and helped them once again be productive, “contributing” members of society. However, it was not a panacea; several respondents described ongoing challenges in their efforts to gain employment.

In theory, criminal record expungement offers a person a right to re-biography (Jacobs, 2015). In practice, this is complicated by (1) criminal records remaining unsealed post-

expungement, with only a notation that the conviction was dismissed in the interest of justice; (2) criminal histories remaining available to employers through background checks; (3) expungement orders being inapplicable to commercial information vendors who may fail to report that a job applicant's conviction(s) was expunged; and (4) information being easily accessible through technology (Jacobs, 2015). Due to public safety demands and the limited reach of expungement orders, these complications may not change. Thus, changing the narrative associated with expungement and diminishing the applicability of negligent hiring laws becomes essential to ex-offenders' successful reintegration into society.

First, it should be promoted that criminal record expungement is only granted after an ex-offender undergoes formative changes to his or her lifestyle. These changes may include remaining clean and sober for an extended period of time, undergoing treatment for substance abuse, holding legal employment, obtaining educational degrees and certificates, volunteering in the community, becoming licensed in a trade, and most importantly, not receiving new arrests and convictions (Jacobs, 2015). Expungement can serve as a signal of an ex-offenders' desistance from crime (Bushway & Apel, 2012). This signal could help identify persons who are at the lowest risk of reoffending and who are thus a "better risk" for a second chance.

Second, if employers fear the legal liability of negligent hiring laws, they will remain hesitant to hire rehabilitated criminals even if their convictions have been expunged. In 2011, North Carolina implemented provisions to limit employers' liability for negligent hiring (ACLU, et al., 2012). If an employee possessed a Certificate of Relief⁹ that the employer knew about, at the time an offense is committed, the employer would be shielded from legal liability (ACLU, et al., 2012). Empirical research has shown that ex-offenders' risk of offending becomes almost

⁹ Similar to certificates of rehabilitation, this certificate is granted to a previously convicted person who is deemed rehabilitated because they have not been convicted of new offenses since they completed their sentence (Jacobs, 2015).

identical to that of the general public after 7 years (Bushway & Apel, 2012), and that employment is an integral part of successful reentry. Therefore, additional states should consider the utility of limiting employers' liability for negligent hiring.

The recent decades-long period of “tough-on-crime” public and political attitudes in the United States has been characterized by sentencing policies of unprecedented breadth and severity. While the crime-reduction effects of these policies are hotly debated, scholars agree that these increases in punitiveness have led to extensive collateral consequences. Because the “invisible punishment[s]” (Travis, 2005) associated with a criminal record are so vast, the expansion of free or inexpensive opportunities for ex-offenders to pursue record clearance could lead to benefits that extend well beyond the individual experiences of clients. The model used by the Record Clearance Project at San Jose State University, which relies primarily on undergraduate students supervised by an attorney, is relatively inexpensive and likely to be highly cost-effective.¹⁰ Increased access to expungement opportunities could lead to reductions in public welfare spending associated with ex-offenders' unemployment, lack of job-related health benefits, homelessness, and recidivism. Greater success in reintegration could also lead to lowered costs for the criminal justice system, including those associated with law enforcement, probation, incarceration, and parole. Furthermore, ex-offenders whose records are expunged may contribute to their communities and the broader society in many ways: providing support to their families, contributing to the economy by joining the workforce and paying taxes, participating actively in civil society, and serving as examples and working to assist other ex-offenders and ex-substance abusers in their own efforts to desist and reintegrate.

Considering the large portion of Americans who have a criminal record—1 in 3 adults (Rodriguez and Emsellem, 2011)—and the extensive collateral consequences of incarceration—

¹⁰ This model could be replicated with other groups of trained volunteers under attorney supervision.

lack of employment, lack of housing, decreased opportunities for government assistance, increased risk of homelessness, increased risk of child abuse and family violence, and increased risk of recidivism (Petersilia, 2001)—society can no longer afford to turn a blind eye to ex-offender reintegration. Now is the time to direct more attention and resources to policy changes designed to actively assist the nearly 600,000 persons with criminal records who are released yearly into communities across the nation (Carson, 2015) in their efforts to transition into roles as law-abiding, contributing citizens. As Maruna, et al. (2009, p. 31) put it, “it is far easier to establish oneself as deviant than it is to establish one’s credentials as a reformed person.” This research shows that criminal record expungement, through projects like the Record Clearance Project, can provide a cost-effective avenue for desisting ex-offenders to establish these important new credentials and make progress towards successful reintegration into society.

References

- ACLU, Crossroad Bible Institute, The Sentencing Project, the National Employment Law Project (NELP), & the National H.I.R.E. Network. (2012). *State reforms reducing collateral consequences for people with criminal records: 2011-2012 legislative round-up*. Retrieved from <http://www.nelp.org/content/uploads/2015/03/StateCollateralConsequencesLegislativeRoundupSept2012.pdf>
- Ambert, A., Adler, P. A., Adler, P., & Detzner, D. F. (1995). Understanding and evaluating qualitative research. *Journal of Marriage and the Family*, 57(4), 879-893.
- American Bar Association. (2013). National Inventory of the Collateral Consequences of Conviction. from <http://www.abacollateralconsequences.org/>
- Backman, C. (2011). Vocabularies of motive among employers conducting criminal background checks. *Acta Sociologica*, 54(1), 27-44.
- Berson, S. B. (2013). Beyond the Sentence-Understanding Collateral Consequences. *National Institute of Justice Journal*(272), 25-28.
- Blumstein, A., & Nakamura, K. (2009). Redemption in the Presence of Widespread Criminal Background Checks. *Criminology*, 47(2), 327-359.

- Boshier, R., & Johnson, D. (1974). Does convictions affect employment opportunities? *The British Journal of Criminology, Delinquency and Deviant Social Behavior*, 14(14), 264-268.
- Brown, C. (2011). Vocational psychology and ex-offenders' reintegration: A call for action. *Journal of Career Assessment*, 48(3), 333-342.
- Bureau of Justice Statistics (2015). Survey of State Criminal History Information Systems, 2014, U.S. Department of Justice, Office of Justice Programs.
- Bushway, S. D. (2004). "Labor market effects of permitting employer access to criminal history records." *Journal of Contemporary Criminal Justice* 20(3): 276-291.
- Bushway, S. D. and R. Apel (2012). "A signaling perspective on employment-based reentry programming." *Criminology & Public Policy* 11(1): 21-50.
- Carson, A. (2015). Prisoners in 2014 (Report No. NCJ 248955), Washington, DC: Bureau of Justice Statistics, US Department of Justice.
- Charmaz, K. (1983). The grounded theory method: An explication and interpretation. In Emerson, E. (Ed.), *Contemporary field research: A collection of readings* (pp. 109-126). Boston: Waveland.
- Davidson, J. O. C., & Layder, D. (1994). *Methods, sex and madness*: Psychology Press.
- Delgado, M. (2012). Prisoner reentry at work: Adding business to the mix. Boulder: Lynne Rienner Publishers, Inc.
- Ewald, A., & Uggen, C. (2012). "The collateral effects of imprisonment on prisoners, their families, and communities." In Petersilia, J. and K. Reitz (Eds.), *The Oxford Handbook of Sentencing and Corrections* (pp. 83-103). New York: Oxford University Press.
- Farrall, S. (2004). Social capital and offender reintegration: Making probation desistance focused. *After crime and punishment: Pathways to offender reintegration*, 57-84.
- Fine, M., Weis, L., Weseen, S., & Wong, L. (2000). Qualitative research, representations and social responsibilities. *Handbook of qualitative research*, 2, 107-131.
- Fontana, A., & Frey, J. H. (2000). The interview: From structured questions to negotiated text. *Handbook of qualitative research*, 2, 645-672.
- Geffen, J., & Letze, S. (2004). Chained to the Past: An Overview of Criminal Expungement Law in Minnesota-State v. Schultz. *Wm. Mitchell L. Rev.*, 31, 1331.
- Geiger, B. (2006). The case for treating ex-offenders as a suspect class. *California Law Review*, 1191-1242.

- Giordano, P. C., Cernkovich, S. A., & Rudolph, J. L. (2002). Gender, Crime, and Desistance: Toward a Theory of Cognitive Transformation¹. *American Journal of Sociology*, 107(4), 990-1064.
- Glaser, B. G., & Strauss, A. L. (1967). *The discovery of grounded theory: Strategies for qualitative research*. Chicago: Aldine.
- Harris, P. M., & Keller, K. S. (2005). Ex-Offenders Need Not Apply The Criminal Background Check in Hiring Decisions. *Journal of Contemporary Criminal Justice*, 21(1), 6-30.
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2001). *Will employers hire ex-offenders? Employer preferences, background checks, and their determinants*. Paper presented at the Joint Center for Poverty Research, Northwestern University and University of Chicago, Chicago, IL.
http://www.northwestern.edu/ipr/jcpr/workingpapers/wpfiles/holzer_raphael_stoll.pdf
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2003). Employment barriers facing ex-offenders. *Center for the Study of Urban Poverty Working Paper Series*.
- Holzer, H. J., Raphael, S., & Stoll, M. A. (2004). Will employers hire former offenders? Employer preferences, background checks, and their determinants. *Imprisoning America: The social effects of mass incarceration*, 205, 210-211.
- Jacobs, J. B. (2015). *The eternal criminal record*. Cambridge, MA: Harvard University Press.
- Janesick, V. J. (2000). The choreography of qualitative research design: Minutes, improvisations, and crystallization. *Handbook of qualitative research*, 2, 379-399.
- Kamberelis, G., & Dimitriadis, G. (2005). *On qualitative inquiry: Approaches to language and literacy research*. New York: Teachers College Press.
- Katel, P. (2012). Criminal records and employment: Should barriers be eased for ex-offenders? *CQ Researcher*, 22(15). <http://library.cqpress.com>
- King, S. (2013). Early desistance narratives: A qualitative analysis of probationers' transitions towards desistance. *Punishment & Society*, 15(2), 147-165.
- Kurlychek, M. C., Brame, R., & Bushway, S. D. (2006). Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending? *Criminology & Public Policy*, 5(3), 483-504.
- Laub, J. H., Nagin, D. S., & Sampson, R. J. (1998). Trajectories of change in criminal offending: Good marriages and the desistance process. *American Sociological Review*, 63(2), 225-238.
- Laub, J. H., & Sampson, R. J. (2009). *Shared beginnings, divergent lives: Delinquent boys to age 70*: Harvard University Press.

- Laub, J. H., & Sampson, R. J. (2001). Understanding desistance from crime. *Crime and Justice*, 28, 1-69.
- LeBel, T. P., Burnett, R., Maruna, S., & Bushway, S. (2008). The 'chicken and egg' of subjective and social factors in desistance from crime. *European Journal of Criminology*, 5(2), 131-159.
- LeBel, T.P., & Maruna, S. (2012). Life on the outside: Transitioning from prison to the community. In Petersilia, J. and K. Reitz (Eds.), *The Oxford Handbook of Sentencing and Corrections* (pp. 657-683). New York: Oxford University Press.
- Lloyd, C. D., & Serin, R. C. (2012). Agency and outcome expectancies for crime desistance: measuring offenders' personal beliefs about change. *Psychology, Crime & Law*, 18(6), 543-565.
- Lofland, J., & Lofland, L. (1995). *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis*. Wadsworth, Belmont, CA.
- Maruna, S. (2001). *Making good: How ex-convicts reform and rebuild their lives*: American Psychological Association.
- Maruna, S. (2004). Desistance from Crime and Explanatory Style A New Direction in the Psychology of Reform. *Journal of Contemporary Criminal Justice*, 20(2), 184-200.
- Maruna, S. (2011). Judicial rehabilitation and the 'Clean Bill of Health' in criminal justice. *European Journal of Probation*, 3(1), 97-117.
- Maruna, S., Immarigeon, R., & LeBel, T. P. (2004). Ex-offender reintegration: Theory and practice. *After crime and punishment: Pathways to offender reintegration*, 3-26.
- Maruna, S., & LeBel, T. P. (2002). Welcome Home-Examining the Reentry Court Concept from a Strengths-Based Perspective. *W. Criminology Rev.*, 4, 91-107.
- Maruna, S., Lebel, T. P., Mitchell, N., & Naples, M. (2004). Pygmalion in the reintegration process: Desistance from crime through the looking glass. *Psychology, Crime & Law*, 10(3), 271-281.
- Maruna, S., LeBel, T. P., Naples, M., & Mitchell, N. (2009). Looking-glass identity transformation: Pygmalion and Golem in the rehabilitation process. *How Offenders Transform Their Lives* (eds. B. Veysey, J. Christian, and D. Martinez), 30-55.
- Maruna, S., & Roy, K. (2007). Amputation or reconstruction? Notes on the concept of "knifing off" and desistance from crime. *Journal of Contemporary Criminal Justice*, 23(1), 104-124.
- Mauer, M., & Chesney-Lind, M. (Eds.). (2002). *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. New York: The New Press.

- McDonald, K., Kidney, C., & Patka, M. (2013). 'You need to let your voice be heard': research participants' views on research. *Journal of Intellectual Disability Research*, 57(3), 216-225.
- Mukamal, D. A., & Samuels, P. N. (2002). Statutory limitations on civil rights of people with criminal records. *Fordham Urb. LJ*, 30, 1501-1518.
- O'Brien, P. (2001). *Making It in the "Free World": Women in Transition from Prison*. New York: State University of New York Press.
- O'Connell Davidson, J., and Layder, D. (1994). *Methods, Sex and Madness*. New York: Routledge.
- Oyama, R. (2009). Do Not (Re) Enter: The Rise of Criminal Background Tenant Screening as a Violation of the Fair Housing Act. *Mich. J. Race & L.*, 15, 181-222.
- Pager, D. (2003). The Mark of a Criminal Record. *American Journal of Sociology*, 108(5), 937-975.
- Pager, D. (2008). *Marked: Race, crime, and finding work in an era of mass incarceration*. University of Chicago Press.
- Paternoster, R., & Bushway, S. (2009). Desistance and the "feared self": Toward an identity theory of criminal desistance. *The Journal of Criminal Law and Criminology*, 1103-1156.
- Petersilia, J. (2001). "Prisoner Reentry: Public Safety and Reintegration Challenges." *The Prison Journal* 81(3): 360-375.
- Richardson, L. (1994). Writing: A method of inquiry. In N. K. Denzin & Y. S. Lincoln (Eds.), *Handbook of qualitative research* (pp. 516-529). Thousand Oaks, CA: Sage.
- Rodriguez, M. N., and Emsellem, M. (2011). *65 million "need not apply:": The case for reforming criminal background checks for employment*. New York: National Employment Law Project.
- Solomon, A. (2012). In search of a job: criminal records as barriers to employment. *National Institute of Justice Journal*, 270, 42-51.
- Travis, J. (2005). *But they all come back: Facing the challenges of prisoner reentry*. The Urban Institute.
- Travis, J., Solomon, A. L., & Waul, M. (2001). *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*. Washington, D.C.: Urban Institute.
- Travis, J., Western, B., & Redburn, S. (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. Washington, DC: The National Academies Press.

- Tyler, T. R. (2003). Procedural justice, legitimacy, and the effective rule of law. *Crime and Justice*, 283-357.
- Uggen, C. (2000). Work as a turning point in the life course of criminals: A duration model of age, employment, and recidivism. *American Sociological Review*, 529-546.
- Uggen, C., & Kruttschnitt, C. (1998). Crime in the breaking: Gender differences in desistance. *Law and Society Review*, 339-366.
- Uggen, C., Manza, J., & Behrens, A. (2004). 'Less than the average citizen': Stigma, role transition and the civic reintegration of convicted felons. *After crime and punishment: Pathways to offender reintegration*, 261-293.
- Visher, C. A., & Travis, J. (2003). Transitions from prison to community: Understanding individual pathways. *Annual Review of Sociology*, 89-113.
- Warr, M. (1998). Life-Course Transitions and Desistance from Crime. *Criminology*, 36(2), 183-216.
- Wayne, L. D. (2012). Data-Broker Threat: Proposing Federal Legislation to Protect Post-Expungement Privacy, *The J. Crim. L. & Criminology*, 102, 253-282.
- Wexler, D. B. (2001). Robes and Rehabilitation: How Judges Can Help Offenders "Make Good". *Court Review: The Journal of the American Judges Association*, 38(1), 18-23.