

## **Believing in a Positive Future as a Form of Stigma Resistance: Narratives of Denied Expungement-Seekers<sup>1</sup>**

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### *Abstract*

A large body of work documents how people contest and refute stigmatized definitions of themselves. Yet, research that examines the role of emotion displays in stigma resistance remains sparse. To begin to fill this gap, I analyze follow-up interview data with 17 people who, because of their past felony convictions, were deemed ineligible for expungement, a court-ordered destruction of the criminal record history. Overall, participants seized on the interview setting to challenge stigmatizing definitions of themselves. There were two key ways in which this occurred. First, participants offered optimistic accounts of their future well-being. These hopeful narratives suggested that, although they were aware of how people with criminal records are devalued, they did not accept a view of themselves as damaged. Second, participants drew on emotion displays of anger with the criminal justice system to underscore that they were not deserving of the discrimination they faced. Implications for research on the sociology of stigma and emotions are discussed.

Keywords: interviews, emotion display, stigma, anger, optimism, criminal records

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# Believing in a Positive Future as a Form of Stigma Resistance: Narratives of Denied Expungement-Seekers

## INTRODUCTION

In the past 20 years, researchers have challenged the thesis that stigmatized individuals share others' negative beliefs about them, and a large body of work documents how stigmatized people contest and refute negative stereotypes (Ashforth and Kreiner 1999; Fleming, Lamont and Welburn 2012; Opsal 2011; Orne 2013; Riessman 2000; Schwalbe et al. 2000; Young 2004a). In a separate research stream, scholars show how individuals use emotion and emotional displays to construct, maintain, and signal morally worthy identities (Denzin 1983; Rosenberg 1990; Wilkins 2012). For instance, emotional displays of positivity – including expressing hope and aspirations for the future – may serve as “moral equity” (Nielsen 2015: 14) for disadvantaged Americans. They are expected to identify as “strivers” who are pursuing better lives for themselves. However, to my knowledge, research has yet to synthesize these two research streams explicitly. In this paper, I do so by asking how, in challenging stigmatizing definitions of themselves, individuals might draw on emotion displays. In particular, I focus on how denied expungement-seekers use their emotion displays to convey morally worthy identities that challenge prevailing negative stereotypes about people with criminal records.

I draw on a longitudinal interview study of clients at a walk-in Expungement Help Desk in Chicago, which offers free assistance to ex-arrestees who wish to petition the courts

to have their criminal record histories concealed from public view.<sup>3</sup> The original sample included 53 expungement-seekers. They were interviewed on the same day that they met with Legal Aid lawyers for help in filing an expungement petition. Because felony convictions and some misdemeanors usually cannot be expunged in Illinois (Myrick 2013), I knew that some of the participants in the original sample would be deemed ineligible for expungement. To learn more about how individuals cope with long-term stigma, I conducted follow-up interviews with members of the original sample roughly six to nine months after the original interviews. At this point, 17 of the 21 follow-up respondents had learned that they were ineligible for expungement. I put their accounts at the center of this analysis, with the aim of identifying how they would respond to, and cope with, the stigma associated with a permanent criminal record history.

The narratives produced within the interview setting proved to be an ideal source of data on how people cope with stigma. Indeed, narratives in which individuals discuss their past, present, and futures have provided a key source of data in scholarship on stigma to date (Lageson 2016; Lamont and Swidler 2014; Maruna 2001; Myrick 2013; Young 2004a). For members of marginalized groups, opportunities to produce personal narratives may appear especially attractive. These individuals often lack access to the political, financial or social capital necessary for more collective forms of identity work (Opsal 2011). Further, researchers find that, in general, people seize on interactions, including those occurring within a research setting, as a way to communicate and construct versions of themselves that align with positive self-concepts (McAdams 2006). Thus, a large body of work concludes

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<sup>3</sup> In the US, each state has its own eligibility requirements for expungement, leading to considerable variation in expungement statutes across states (Author 2016).

that interaction not only produces stigma, but can also serve as a vehicle for challenging it (Link and Phelan 2001).

I begin by offering a short overview of the consequences of having a criminal record and how expungement, or a court-ordered destruction of a person's criminal record history, has arisen to provide opportunities for people to overcome criminal-record related stigma. Then, I provide a brief summary of scholarship on stigma and emotional displays of anger and optimism.

### CRIMINAL RECORDS AND EXPUNGEMENT

With a criminal record history, the smear of criminal justice contact can follow individuals throughout their lives, continually eroding their eligibility for employment, student financial aid, housing, and social services (Goffman 2014; Jacobs 2015; Lageson 2016; Maruna 2011; Uggen et al. 2014). Thus, individuals marked by criminal records face an enduring barrier to participation in mainstream society. The legal remedy of expungement, which removes the criminal record from public view, has arisen as a response to these problems (Love 2002).

However, because many cases are not expungeable, scholars have described these legal remedies as “riddled with qualifications and exceptions, and of uncertain effect” (Love 2002: 113). Record-bearers who are ineligible for these remedies may spend their lifetimes paying for their past criminal justice contact. Further, because having a criminal record history is stigmatizing, individuals who find themselves ineligible for expungement must find a way to manage a negative social identity that they know will endure for the rest of their lives. Yet, little is known about how denied expungement-seekers understand, and cope with, these long-term challenges.

## *Coping with Stigma*

According to classic stigma theory, a *stigma* is a label that distinguishes an individual from others and is associated with negative characteristics. There are several reasons why the negative stereotypes associated with stigmatizing labels are damaging. First, the stigma discredits the individuals' total self, rather than his/her isolated features (Goffman 1963; Link and Phelan 2001).

Second, stigmatized persons rarely have the power to escape either the label, or the discriminatory consequences associated with being labeled (Link and Phelan 2001). This is because stigmatization depends on power difference. It blocks access to social, cultural, economic, and/or political power that allows stigmatizers to identify, label, stereotype, separate, and discriminate against members of the stigmatized group. Further, it is the relative powerlessness of those who are stigmatized that makes it difficult to terminate these processes (Link and Phelan 2001), even though individuals may find creative ways to cope with stigma (Opsal 2011; Riessman 2000; Vassenden and Lie 2013).

Third, according to classic stigma theory, those who are stigmatized are thought to have the same beliefs about their condition as those who have stigmatized them, because they share the same ideology (Ezzell 2009; Goffman 1963; Keene and Padilla 2010; Riessman 2000; Schnittker and Bacak 2013). Goffman noted that "shame becomes a central possibility," as the stigmatized person becomes "intimately alive" to what others perceive as his deficits, and comes to understand that one of his or her attributes is "a defiling thing to possess" (Goffman 1963:7). Thus, the concept of stigma connects the attitudes of others with the self-beliefs of the individual, joining the sociological and the psychological (Grattet 2011). In recent years, however, researchers have sought to add nuance to this thesis, and

data suggests that stigmatized people use a number of strategies to challenge others' negative definitions of them (Schwalbe et al. 2000). Yet, the role of emotions in these processes remains under-explored.

### *Emotion Displays: Anger and Optimism*

Emotions play an important role in the intersubjective processes through which we construct, maintain, and signal our identities (Denzin 1983; Rosenberg 1990; Wilkins and Pace 2014). Indeed, we evaluate others, and ourselves, based in part on the emotions that are felt and displayed. For instance, individuals who feel inappropriate emotions, or who display emotions inappropriately, are in danger of being deemed mentally ill, psychologically fragile, rude, or depraved (Denzin 1985; Pugliesi 1987; Smith-Lovin and Heise 2016). By contrast, individuals who display emotions that are deemed appropriate to the situation – such as sadness at a funeral, outrage after a school shooting, and happiness with a work promotion – are viewed as mentally healthy, morally sound, and “normal.” These processes are rooted in an emotion culture that stipulates when and how we should interpret, identify, and display emotions (Hochschild 1979; Hochschild 1990)

American ideologies link striving with moral virtue, and social scientists have long described the American national character as one preoccupied with hard work and ambition (Lamont 1992; Massey 2007; Sherman 2013). In addition, for members of stigmatized groups, emotional displays related to optimism and a sense of possibility may reflect an unwillingness to accept others' negative stereotypes or discriminatory behavior. After all, for members of marginalized groups, optimism represents a tenacious belief in one's “own continued worth despite the external threats of devaluation” (Jackson 2010: 279, as cited in Gomberg-Muñoz 2016).

In another line of research, scholars have examined anger as the “central emotional enemy” (Stearns and Stearns 1986, as cited by DiIorio & Nusbaumer 1993) within contemporary American emotion culture. Special attention has been paid to why anger is most dangerous for members of society with the least social power (Wilkins and Pace 2014; Wingfield 2010). Yet, if people suffering from disadvantage can identify their responses to inequality or ill treatment as anger, and if they can classify their anger as legitimate, then anger can also serve as a powerful resource for collective action (DiIorio and Nusbaumer 1993; Thoits 1990). Indeed, psychologists have called anger a moral or “judicial” emotion (Averill 1978: 28, as cited in DiIorio and Nusbaumer 1993), because it can spur people to address and surmount the obstacles posed when others violate their rights, thwart their goals, and affront their dignity (Haidt 2003). Thus, anger suggests that the stigmatized person does not accept that discrimination against him/her is just.

In sum, for members of stigmatized groups, both optimism and anger may represent resistance to negative stereotypes. Yet, research that systematically examines the role of emotion displays in stigma resistance remains sparse. To begin to remedy this gap, in this article, I focus on how denied expungement-seekers used emotional displays to convey identities that went against stigmatizing definitions of criminal record-holders.

## METHODS

*The Walk-In Expungement Help Desk.* To conceal the criminal record from public view in Illinois, the state where my research was conducted, a person must file a petition in the county where his/her arrests occurred. A non-profit Legal Aid society operates a Walk-In Expungement Help Desk, where volunteers meet with clients and help them apply for one of several legal remedies. *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 (such as the police) and some other government entities retain access to them. *Partial sealing* may be offered to a person with a non-sealable offense on their record plus other sealable offenses.<sup>4</sup>

*Study Participants.* Interview data came from a larger longitudinal, qualitative study of the employment, housing, and legal experiences of 53 expungement-seekers who had sought the help of legal aid lawyers working at the Walk-In Expungement Help Desk (citation omitted). Most of the clients at the Help Desk are poor – according to statistics kept by the local Legal Aid Society, between 87% and 90% apply for a fee waiver because they cannot afford the \$120 court filing fees.

The 53 expungement-seekers who were interviewed ranged in age from 17 to 60, with a median age of 42. They were 64 percent male and 36 percent female. 94% were African-American, 3% were Hispanic, and 3% were of other races and ethnicities. Most (72%) resided in Chicago itself with the next largest group residing in surrounding Cook County

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<sup>4</sup> For instance, if a person has a felony conviction for armed robbery on their record (which is *not* sealable) and eight arrests for misdemeanors that were dismissed (which *are* sealable), then the armed robbery will remain on record, and the eight arrests will be sealed.



communities (17%). Nearly 8 percent resided outside of the State of Illinois.<sup>5</sup> These interviews were conducted during the summer months of 2012.

*Follow-up Recruitment and Sample.* In the winter of 2012 and the spring of 2013, I called and sent letters to all 53 participants, with the hopes of learning how they were faring after receiving a final decision from the court. Of the 53 original participants, only 21 could be re-contacted. The rest had moved, changed phone numbers, or did not respond to a letter and repeated (a minimum of 5) phone calls and voicemails.

Follow-up interviews were conducted with each of the 21 individuals who could be contacted. All of the follow-up participants still lived in Chicago or Cook County (where they had resided at the time of the first interview). They ranged in age from 31 to 60, with a median age of 44. They were 67 percent male and 33 percent female. Twenty were African-American and one was White.

At the follow-up interview, 17 of the 21 follow-up participants still had a visible criminal record history; the nature of their criminal record histories had rendered them ineligible for expungement. Four had received expungement. Forty-seven percent reported they were unemployed; 10% were self-employed, and 43% held relatively low-wage jobs in the formal labor market, including being a parking lot attendant, a taxicab driver, a steel mill worker, and a counselor for recovering drug addicts. Table 1 in the Appendix provides additional information on the follow-up sample.

#### *Procedure for Follow-Up Interviews*

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<sup>5</sup> Criminal history record information is generated and maintained locally. Thus, marked individuals must travel to the municipality where their records are maintained to address them even if they have moved.

Participants who were reached for the follow-up interviews were given a choice about whether to complete the second interview by phone, or in person at a mutually-agreed upon location. Out of the 21 follow-up interviews, 19 were conducted over the phone, and two were conducted at participants' workplaces -- one, at a union brigade office; the other, in a parking lot. Perhaps because participants remembered the interviewer from the initial face-to-face interviews at the Expungement Help Desk, they did not seem less forthcoming or more reserved over the phone than they had been in person. In fact, it was easy to establish rapport with participants over the phone.

Each follow-up interview lasted between 30 minutes and 2 hours. During these interviews, participants were asked open- and closed-ended questions about the outcome of their trip to the Expungement Help Desk and their experiences in applying for work, housing, and education in the intervening months. All interview questions were adapted to reflect participants' eligibility for expungement. For instance, four participants were asked how they felt about receiving expungement, and what they planned to do now. The seventeen remaining participants were asked how they felt about being ineligible to receive expungement and what they planned to do going forward.

At the end of the follow-up interview, each participant was given a \$10 gift card. Throughout the article, I provide pseudonyms for participants and conceal and/or scramble identifying details. For instance, if a person worked fixing cars, I reported that he worked doing flooring. All recruitment, consent, and interview procedures were approved by my university IRB.

All the interviews were professionally transcribed. I 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.”

### *Interviewing Across Difference*

I conducted roughly half of the interviews; a colleague conducted the other half. Both of us are white professionals. My colleague, a criminologist, is a man; I am a woman. Neither of us have ever been arrested, and we both have multiple degrees. Our professional status helped us gain access to the field, as legal aid lawyers and volunteers respected our credentials and wanted to partner with us to learn more about their clients’ everyday needs and experiences.

Our privilege sometimes functioned to block our understanding during the interviews, such as when we could not understand participants’ slang. At the same time, we tried to capitalize on our differences from participants. We were able to ask participants to explain their statements and circumstances to us in a way that insiders probably could not (see Young 2004b on this technique). For instance, I would often say to participants, “You know, I have no idea what that term means – can you please break down that for me?” I found that participants enjoyed teaching me about their lives; they often became visibly excited as they sought to convey their life-worlds to me.

Participants also enjoyed teasing me about my privilege and – as they saw it – sheltered naiveté. For instance, one participant, an older Black man, was describing his neighborhood to me. Then, he went into gales of laughter, saying, “You come down there, you end up wandering around five days later, not knowing what happened to you, your hair all messed up. I be having to put you back on a bus just to get you out of there!” We laughed

about an imaginary scenario in which he would “rescue” me from a neighborhood that I would be unable to navigate on my own. Through his joking and teasing, the participant successfully conveyed that, like me, he was also a knowledgeable expert. Further, as he reminded me, in different circumstances, he could easily have the upper hand, as his skills and knowledge would prove necessary to my survival.

Overall, it seems obvious that our race and social class influenced what participants told us, as well as how they told it, since they could not assume an automatic understanding or appreciation of their circumstances from us (Young 2004b). At the same time, participants’ reactions to us, and their beliefs about how we were different from them, revealed how they made sense of their own lives and social status.

#### *Grounded Theory Data Analysis*

I used a modified version of grounded theory, one that emphasizes the utility of moving between inductive and deductive phases of inquiry (Fine 2004). Before undertaking the current project, I had already coded the first round of interviews for a study on participants’ frustration with the incessant and ongoing repercussions of their past criminal justice contact (citation omitted). During data analysis for that study, I wrote a case study vignette (Miles and Huberman 1994) summarizing each of the 53 interviews. In the vignettes, I used participants’ own words to describe and summarize why they were seeking expungement and to record my own impressions of the participant.

While conducting the follow-up interviews, I recorded my impressions about the main problems that each participant was facing in a research log (Charmaz 1983; Charmaz 2006). Then, a professional transcriber transcribed each of the follow-up interviews. While coding the follow-up interviews, I did not use the codes that I had generated for my analysis

of the original interviews, or refer back to the original interview transcripts. I wanted to generate a fresh, clear view of what was happening for participants at the time of the follow-up interviews and thought that going back to my earlier coding scheme and memos could muddy my view. I finished data analysis for the first study over a year before beginning data analysis for this project, so while coding the follow-up interviews, I did not have a crisp recollection of what individual participants had said during the original interviews.

For the follow-up interviews, I used a grounded theory coding strategy, generating codes based on what I was observing in the data, rather than deriving codes from existing theory (Charmaz 1983; 2006). During this phase, I begin to develop a theoretical account of how stigma resistance and emotion displays were connected. I created codes such as “anger at the criminal justice system,” “undeserving of denied petition,” “expressing hope for the future” and “believing in my potential.” I then examined when and how these codes overlapped.

After coding the follow-up interviews, I wrote short vignettes about each of the participants at the time of the follow-up interview. In the final stages of data analysis, I again studied the excerpts from the follow-up interviews that had been coded and re-read the vignettes. I noticed that, within these coded passages, most of the participants emphasized that they would have a bright future, even though they also expressed anger that they had been denied expungement. I then wrote analytic memos that elaborated on participants’ anger and optimism, seeking to explicate how these emotion displays figured into participants’ ways of coping with stigma during the interviews.

## ANGER, OPTIMISM, and STIGMA

### *Anger at the Criminal Justice System*

For our follow-up interview, Rita, a 53-year grandmother and former prostitute and drug addict, met me at the office of a local union, where she had been hired part-time to canvass neighborhoods for an election. Dressed in a business suit and heels, Rita eagerly ushered me into a large empty room filled with tables and chairs, cheerfully greeting everyone who passed. Rita started the interview by saying that the “system don’t always work out for me and my kind,” a reference to the legal system’s poor treatment of Blacks. Rita, whose convictions for criminal drug cases rendered her ineligible for expungement, had been advised by the Legal Aid Lawyers at the Expungement Help Desk to apply for executive clemency, or a pardon from the governor with authorization to expunge the criminal record.

Executive clemency is considered an “extraordinary remedy” and requires a detailed petition, which is typically completed with the help of a lawyer. The petition must include a description of convictions for which pardon is sought, a birth-to-the-present personal life history highlighting a person’s deservingness of a pardon, and a statement about why the person needs a pardon and clean record (Illinois Legal Aid Online 2016). Letters of recommendation, or “character witness” letters, which describe the good deeds and character of the petitioner, are also part of the petition.<sup>6</sup> Throughout our interview, Rita expressed

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<sup>6</sup> In Illinois, as in other states, clemency is rarely granted. First, a clemency hearing board has to vote on whether to forward the petition to the governor for a final decision. Then, the governor has to decide the executive clemency is warranted, which is rare. For instance, over Labor Day Weekend in 2016, the Governor granted only eight out of 126 clemency petitions (Clean Record Illinois 2016).

anger and frustration that, to receive executive clemency, she would have to provide these letters of reference and essays. Rita's anger and frustration were particularly vivid as she described her interactions with "Heather," the legal aid lawyer who was pushing Rita to get the necessary letters of recommendation. As Rita explained,

The so-called justice system is just pathetic. That's how I feel about it. It's a joke. And I looked at her [Heather] that day [when she asked me to bring her the letters of recommendation for the clemency petition], and I said, 'Let me tell you something, Miss, I ain't got time for that.' If 14 years [of staying out of trouble] don't show you nothing, then what else can I possibly say that's gonna change their mind, you know? I ain't even gonna give them that, because if my actions don't show – then I'm not gonna worry about it. I told her [Heather], I said, 'All this extra stuff you want me to get – I don't really care, because you just got on my nerves. I was like very upset and pissed off.'

Rita found it unfair and unreasonable that the court system would require people with long "clean" periods (periods of time when they were arrest- and conviction-free) to demonstrate their moral character. Rita believed that her 14 years of criminal desistance should speak for itself, and that she should not have to produce additional paperwork to show her deservingness. Rita's angry reaction to being asked to provide this paperwork shows resistance to society's views about people with criminal record histories as deviant and undeserving of second chances.<sup>7</sup> Rita felt that she deserved of a second chance (through executive clemency) and bristled at the notion that she should have to carry the burden of

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<sup>7</sup> See Maruna & King (2009) on American social and legal beliefs that, "Once a criminal, always a criminal."

proving this to the court. Thus, during the interview, Rita used her anger at the criminal justice system to support and communicate a sense of herself as a good person, one undeserving of the “eternal stigma” associated with a criminal record history.

Leon, a 36-year-old Black man, was living in a homeless shelter at both our first and second interviews. Leon’s criminal background was lengthy – including felony convictions for carrying a concealed weapon on school property, auto theft, and drug distribution. The convictions on Leon’s record occurred when he was a teenager and in his twenties; his last conviction had occurred eight years prior, when he was 28. Because his felony convictions were not expungeable, the legal aid lawyers at the walk-in Expungement clinic advised Leon to apply for partial sealing. This would remove the misdemeanor and dismissed cases from Leon’s record, while keeping his felony convictions intact. Leon had followed the lawyer’s advice and petitioned the courts for a partial sealing, but his petition was denied. He was told he had 60 days to file a motion to reconsider. In his account, Leon responded to this denial with anger, because he felt that he was being treated in a way that violated his rights and dignity. As Leon explained,

I got a paper back saying they denied me. Yeah – they denied me and they just X’d me out... It frustrated me. I mean, when I first filed to get my record sealed, I hadn’t been doing anything – been in no trouble, been in no judge’s face, none of that prior to that time me and you [interviewer] met, and that’s been like eight, nine years. So for me to get denied, it just bothered me.

*Interviewer: Oh, yeah. Were you expecting it [the denial]?*

I didn’t know it was going to be a letter sent. I was told it was going to be a different process and I’d get a letter, come to court, I’d be able to bring like people that I



worked with, like at the community center, witnesses, letters, stuff like that – and it didn't come that way. It came totally different as far as getting the letter saying denied. I'm thinking I was going to get a chance to go in front of the judge or something like that, and present myself, and explain all I've been doing, and the people I've been working with that's not family could speak in my name. And it didn't work out like that.

In expressing anger at the criminal justice system during our interview, Leon showed me that he felt that his treatment was unjust – that he was undeserving of the stigma and discrimination he was facing as a person with a criminal record history.

Jonathan, a 47-year-old Black man, was also denied expungement. Jonathan's last felony conviction (for drug possession and distribution) had occurred 12 years ago, when he was 35. Jonathan been told by Legal Aid lawyers that he was eligible for partial sealing. Yet, while waiting to go before a judge to receive this partial sealing, Jonathan had been arrested during a sweep.<sup>8</sup> Although Jonathan's arrest did not lead to a conviction, it did delay his eligibility for the partial sealing; he reported that he was asked to complete a waiting period of 120 days after the arrest before returning to the court. Jonathan reported that he was "pissed off" and "upset" about the mandatory waiting period, especially since the case had been dismissed. As Jonathan reported,

I had went down to the court hearing, and they called my name and said, 'Well, no, you can't do yours [partial sealing] right now, because you had an arrest within the past six months. I didn't do nothing [wrong]!

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<sup>8</sup> A sweep is a police raid in which, following a lawful arrest, officers are allowed to search the premises without a warrant, often making multiple arrests of residents and bystanders.

*Interviewer: How did that make you feel?*

Pissed off, you know. I'm all upset, man... Like, the police, they always lock you for no reason. It was during a sweep, and I got arrested. And I wasn't charged with nothing, but it was the fact that I was arrested. I mean, I won't be out hanging out [getting into trouble]. It's just, if somebody did a crime – they lock up the whole neighborhood. So that like set me back. That's just how it is, man.

Jonathan was angry precisely because he saw himself as innocent. In explaining and narrating his anger, Jonathan communicated a version of himself that went against the stereotypes about people with criminal records as inherently guilty. Thus, Jonathan's anger reflects his resistance to stereotypes about people with criminal records.

Brian, a 26-year-old Black man, also resisted the stigma that was put on him by his criminal record history. Brian's felony convictions for armed robbery and drug distribution made him ineligible for expungement, and he, like Rita, had been advised by legal aid lawyers to apply for executive clemency. Like Rita, Brian expressed anger that he was ineligible for expungement and thus needed the "extraordinary remedy" of executive clemency. Brian felt that his ability to stay out of legal trouble for the last seven years constituted proof that he had changed his ways. He was also frustrated that filing for executive clemency was so complicated.

In narrating his reaction to learning about the requirements associated with filing for an executive clemency petition, Brian gave meaning to himself as a good person, undeserving of the stigma associated with a visible criminal record history. As Brian explained,

Well, to me I understand you have people who have cold hearts and you have people that actually have a conscience and actually have a heart and actually does regret the things that they've done in their past. And the way I feel about it is, if you see someone who hasn't been in trouble in years and years and years, like they got in trouble then, and it's been eight, nine years since they had any problems with the law, any even traffic tickets, anything – I feel that why, why should you have to go through all of this to to get a second chance? I mean, it's just too much. At the end of the day you still have families, you still have things you have to take care of, you don't want to focus all of your attention, like I have a deadline to get this [petition for executive clemency] in. You still have to work, you got to pay bills, there's still things you have to do in your life, and they kind of make it complicated for somebody to even get a felony taken off of their background, because of the things they put you through.

Here, Brian used the interview with me as an opportunity to convey and develop a sense of himself that aligned with his self-concept of himself as a good person. This narrative represented a direct challenge to the stereotype about people with criminal record histories as degenerate and irresponsible.

Brian emphasized that he was angry because, in his view, his rights – as an upstanding person deserving of a second chance in society – had been violated. Brian's reaction lends credence to the notion that anger is an essentially moral or judicial emotion that is called forth in response to a perceived injustice (Averill 1978; DiIorio and Nusbaumer 1993; Haidt 2003). It also suggests how emotional displays of anger can be used to challenge stigma.

At another point, sounding upset and exasperated, Brian recounted the reasons why it is unfair that the governor has the power to determine whether he is worthy of executive clemency. As he explained,

The governor doesn't follow me and see my life. He probably doesn't even care what I'm doing, you know – he's not thinking about me and my every day walk or my struggle, or if I cry or if I'm depressed. So to me, it's all about who's appointed to know that you're doing what you're supposed to do in life... I say that you can't convince them until they actually know you, until they actually can see what you're doing and know how you're doing, and know you're not getting into trouble. ... They don't know what's in my heart.

In declaring that the law was powerless to know how they lived their lives, and whether they were good people, ineligible expungement-seekers expressed their sense of themselves as good people who were dedicated to improving their lives – even if they had to do so without the help of expungement. They also reframed their ineligibility for expungement as an artifact of the bureaucracy of the legal system, rather than a true signal of their worthiness. This strategy helped them communicate their view of their ineligibility for expungement as a trivial and minor fact, rather than a devastating commentary on their worthiness.

*Negative Anger Cases.* Out of the 17 participants in the sample who were ineligible for expungement, only one – Stuart – did not express anger and frustration with the criminal justice system. Stuart was a 52-year-old Black man who had been granted a health care waiver, allowing him to work directly with patients despite his criminal background.<sup>9</sup> With

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<sup>9</sup> In Illinois, the Health Care Worker Background Check Act prevents many employers from hiring individuals with certain criminal convictions on their backgrounds. A health care

this waiver, Stuart had been employed as a hospital aide for the past nine years. Stuart had an extensive criminal record history from the years when he was struggling with a crack cocaine addiction and homelessness; his record included felony convictions for drug possession, distribution, and unlawful use of a weapon.

Stuart acknowledged how easy it would be for his friends, neighbors, and colleagues to find out about his past felony convictions and prison sentences, especially if they used a web-based background check service provider. Yet, Stuart was not angry about this, or about his ineligibility for expungement. Unlike other participants, Stuart did not feel that the criminal justice system was unfairly burdening him, and he was not upset that, despite his long years of desistance, he was only eligible for partial sealing, rather than expungement. Stuart said that he “accepted responsibility” for the crimes he had committed and saw it as only natural that he would continue to pay for them in perpetuity. Stuart spoke about this during a conversation about the kind of advice he would give to someone else with a criminal record history:

*Interviewer: What advice would you give to someone that already has a criminal record?*

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waiver allows some people with these convictions to be hired for some positions. Health care waivers are most often granted to people who have paid all their fines, successfully completed all the terms of their release, satisfactorily completed a drug and/or alcohol recovery program, and desisted from crime for a long time; see Illinois Department of Public Health 2012.

Don't give up. There's a better way out. Stay out of trouble; because the longer you stay out of trouble, the better it is for you. Because there was people there [at court] that had picked up charges, and once you pick up a charge, they're not going to seal your record. Because, you know, that's the whole thing with sealing. Some people think that this [system] is designed for you to screw up, designed for you not to succeed, but see, that whole case is on you. It's not on the system. Stay out of trouble. That's the bottom line. Look, I accept full responsibility for whatever's on my record. Here's the thing: I did that. So it's up to me to prove myself. You can't say uh, I was put in a bad situation or I was a victim of my environment. Yeah, that sounds real good, but didn't nobody put a pistol in your hand, didn't nobody put crack cocaine in your body, you know, you had a choice. Those are all bad choices. You know that selling dope is going to get you... You know that if you shoot somebody it costs you going to jail. Ain't no excuse. My choice was to do all that stuff, so I have another choice, to get my act together or stay in that same garbage.

Stuart, unlike other people in the sample, consciously distanced himself from an angry reaction to the criminal justice system and its treatment of people who have been arrested and convicted. He said that when people get upset with the criminal justice system, they are being unfair. He believes they are refusing to take the blame for the bad choices they have made, and putting that blame on the criminal justice system instead.

It seems possible that Stuart's outlier response could have to do with two related factors. First, Stuart, unlike any other person in the sample, had already received a legal remedy (the healthcare waiver) that helped him obtain full-time, lawful employment, even with his criminal record history. Second, the same characteristics that prompted Stuart to seek a health care

waiver, and then to be granted it, may be related to his propensity to have non-angry reactions in general. For instance, to receive the health care waiver, Stuart needed to prove to a judge that he had completed a drug and alcohol recovery program and could responsibly fulfill the duties associated with work in a health care setting. A person more prone to anger might not be able to complete a recovery program, or tolerate having a judge ask questions about his work ethic.

Thus, it is possible that the same factors that allowed Stuart to overcome some of the employment-related obstacles associated with a criminal record history are also responsible for his non-angry response to being denied expungement. In other words, Stuart could have been different from the 16 other participants who were ineligible for expungement. In part, he faced fewer challenges on account of the criminal record history (because of his health care waiver). In part, he may be less prone to anger overall, and these two factors may be related.

#### *Optimism about the Future*

Participants' optimistic predictions about their future also suggested that, although they were aware of the devaluation of people with criminal records, they did not see themselves as inadequate or impaired. Brian, introduced earlier, made it clear that he saw himself as being on an upward trajectory, his criminal record history notwithstanding:

I'm actually doing pretty well. Like I told you, I believe in the Lord, Jesus Christ, and I have a great job now. I work for Chrysler. I make cars, and I make \$26/hour now with the felony. I'm really happy where I'm at now, and I'm in school also, going for a computer programming degree... And, I want to buy a house, and it's going pretty good.

In expressing his satisfaction with what he had achieved, and in noting that he hopes to achieve even more in the near future, Brian portrayed himself as goal-oriented, ambitious,

and optimistic. This optimism reflects Brian's ability to use the interview setting to construct and narrate a version of himself that highlights his self-worth and promise – despite the negative messages that circulate about people with criminal records.

Similarly, Rita emphasized that her personal characteristics of persistence and faith were the most important factors to her well-being, her anger at the criminal justice system notwithstanding. As Rita explained,

Ever since I decided I wanted to go back to work, I had a job and that's all that counts in my life. But a lot of people just so depressed and they so negative. I don't know what to say about them, you know, but I don't have no in my vocabulary. I was raised that you could have any and everything you want. The sky's the limit up there!

In stressing her belief that “life is only what you make it and what your beliefs are,” Rita signaled her belief in her own value and promise, despite the devaluation she faced because of her criminal background. She also highlighted her recent accomplishments and goals. She noted that she had completed the coursework for an Associate's Degree in Psychology, and that she was in the process of learning how to apply for a four-year college (what she called “big girl school”). In recounting these accomplishments, as well as in expressing her sense of unlimited possibility, Rita conveyed a sense of optimism and hope about her future.

Mariana, a 39-year-old Black woman and social worker, was ineligible for expungement because of several felony convictions, all of which had occurred over 14 years ago. These convictions involved drug distribution, prostitution, and aggravated battery to a correctional officer. Although Mariana received a partial sealing, she knew that she would have to live with a criminal record history in perpetuity, and this would limit her options as a



social worker. Nonetheless, Mariana was resolutely optimistic about her future. As she explained,

A felony conviction never goes away.

*Interviewer: It must be hard.*

Yeah. But it depends on the agency, and it also depends on who I'm working with. The likelihood of me being able to work with anybody's that's disabled or the elderly, that's slim, because they're really strict about ex-felons working with the disabled. Even if you don't have a violent background, you're filling medication, because the elderly, they typically have strong medications around... But you know, the people who laid me off [from the social services agency] called me back. I'm elated to get back to work.

*Interviewer: Great. So what are your plans now?*

I'm hoping that our agency will continue to grow, so I can move up... I've always been in the field of social work – that's my livelihood, and that's what I'm really good at, because I've been there. It's like, when you've been to a place, you can understand and empathize with that person. So when you talking to somebody to where's you're not frowning up when they say, 'Hey, I was a prostitute,' – and you just understand, you're listening – they're more forthcoming. Some people, even though they're in the helping profession, they're kind of standoffish and they give them the minimal of help.

Mariana, far from conveying the belief that negative stereotypes about people with a criminal record histories are true or apply to her, turned a criminal past into a positive. She believed that her troubled past allowed her to develop an unusually empathic and compassionate

relationship with her clients. Further, Mariana expressed hope about her future, saying that she expected to grow professionally in the coming years. In expressing these positive emotions about the future and her own potential, Mariana was showing her resistance to negative and stigmatizing beliefs about people with criminal record histories.

Annette, a 26-year-old Black woman, was ineligible for expungement and sealing because her arrest and conviction - for shoplifting over \$1,200 worth of merchandise at a big-box store – had occurred within the past 5 years.<sup>10</sup> Despite this setback, Annette appeared cheerful and optimistic about her future when we met for her second interview.

*Interviewer: How's it been going [since we met]?*

I'm doing great. The last time I talked to you, I was trying to get my record sealed, but unfortunately, I have to wait, because it was freshly new. I was in shock, because people said you could go get it sealed, but unfortunately that wasn't the case.

*Interviewer: And are you still living in the same place?*

Yeah, I'm living in the same place. I'm doing great. Um, but I'm gonna be moving soon. I'm going to go back to beauty school and I will be moving three hours away, me and my children.

*Interviewer: Wow!*

I'm ready to find something new. I want to go somewhere different.

*Interviewer: Do you think the record will be a problem for you there?*

I don't believe so. Maybe if I try to get a job or something. I don't know (laughs). But remember, I told you I don't want to work for anybody. I want to work for myself, so it's probably not going to be a problem. Anyway, I want to get away from the drama in the

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<sup>10</sup> In Illinois, in certain cases, including retail theft, a person must complete a waiting period 5 years after the termination of court supervision.

city; I want to go somewhere where it's nice and quiet. I see it as an opportunity to get myself together.

Clearly, Annette had in mind a bright future for herself. Her displays of emotional positivity and emotion represented resistance to society's negative views about felons and their potential contributions to society (Opsal 2011).

Stuart, introduced earlier, also held on to his identity as a good person who had reformed and had a bright future, one in which he would be continuously acquiring more education and making more money. Stuart's vision for the future emerged during a discussion of what Stuart might one day tell his son and other family members about his past. As he explained,

Anything they [my family] want to know about, they can just ask. I mean, people already dig in your past and everything, you know – everybody wants to know about you. They got services online. \$29.95, I can check out anybody. It's scary that somebody can pay less than \$50 to find out your background. But this is the world we live in, and tomorrow I'm going to graduate [from a 60-credit hour degree program for surgical technology].

*Interviewer: That's fantastic. And then what?*

Go back to work as normal. Take my state boards on the eighth of December, and pray like hell that I pass. (chuckles). Here's the thing: one thing about me, I always stayed in school. I always got a certificate or something. Next five or ten years, I see myself working in the emergency room, 'cause that's where you see a lot of trauma, or maybe at the county jail in the infirmary. And I want to make the change to dialysis, 'cause you make more money.

Stuart portrayed himself as continuously taking the steps necessary to increase his income and acquire progressively more challenging and interesting work. His ambition and optimism expressed a strong sense of himself as worthy, despite the devaluation he faced on account of his prior felony convictions.

*Negative Optimism Cases.* The only participant in the sample who did not express optimism about the future was Lucian, a 50-year-old Black man with multiple drug and auto theft felony convictions. Lucian had been told to come back to the Expungement Help Desk after he completed a four-year waiting period and would become eligible for partial sealing.<sup>11</sup> Lucian, who had been completed six prison sentences and now lived with his wife and 82-year-old mother in a public housing complex, felt that his criminal record history made it impossible for him to find work. Like other participants, Lucian was disappointed to learn about the waiting period, and he was angry with the criminal justice system for not doing more to help him reintegrate into society. As Lucian explained,

I was trying to go forward and find me some jobs, and better my life in that aspect, but it didn't work out the way I thought it would...I did the time for them and paid my debt to society for them but yet still I can't get that second chance on proving myself that I'm worthy to be, you know, a legitimate and resourceful worker. Nobody want to give me the chance to prove myself.

Lucian's frustration with the criminal justice system and its capacity to permanently label him with a criminal record history was born out of his belief that he deserved a second chance. In this way, then, Lucian's interview reflected themes in common with other

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<sup>11</sup> In Illinois, if a person is seeking to seal more than one record, 4 years must have elapsed since the last case was finished.

participants. Like them, Lucian expressed resistance to negative stereotypes about criminal record holders as being irredeemably irresponsible and degenerate.

However, Lucian, unlike the other denied expungement-seekers, displayed a sense of despair about the future. For instance, Lucian said that he “looks for work all the time,” and noted that his children are even looking at job boards for him online. Yet, Lucian clearly felt futile about these efforts. He displayed marked feelings of defeat and weariness as he described his ongoing struggle with poverty and unemployment:

My other son, he’s doing research on the computer trying to send me different ways and different places. Some of them is far out and stuff like that. I don’t have the means and financials to get there, but I do give those a call or write a letter, but it’s still – they always say, “Well, we’ll call back, we’ll let you know and notify you,” but it never be done and I be knowing the reason [the criminal record history].

*Interviewer: Yeah. And can talk to me about how other things have been going?*

Well, basically there ain’t too much changed. It’s a struggle, but I’m trying to maintain and do what I’m supposed to do, and trying to stay out of trouble and trying to provide for the family the best way I can. But it’s not easy at all, and it really is getting a little harder – harder every day, still getting a little harder and harder to maintain.

*Interviewer: What’s making it harder?*

The rejection, the rejection, and then the financial of me trying to even get to the point B from point A, and my resources and stuff is going down ‘cause it’s hard to just keep asking for help. And people, they’ll help you to a certain extent, but then you get to that point where somebody say, “Well I just don’t have it today.” You’re

trying to get that bus to go to here or there, to try to make something happen... Right now I'm receiving \$200 worth of food stamps a month and you can't really turn that into money to move around, to get from point A to point B. And then you've got to eat. So it's rough.

For Lucian, the future seemed grim. He did not see a way out of his predicament, which included repeated rejections from potential employers, insufficient governmental aid, and the challenges of meeting everyday food and transportation needs.

In thinking about Lucian in comparison with other participants, it seems that Lucian may have been unusually disadvantaged. Other participants had been incarcerated before, but Lucian was the only one to have been sentenced to more than two prison spells (in his case, six). Previous research suggests that individuals who have been released from prison are especially stigmatized, even in comparison to others with criminal record histories (Opsal 2011; Pager 2003; Uggen et al. 2014).

Further, Lucian, unlike all but one other participant (Leon, who was homeless at both the original and the follow-up interviews), was not even eligible to petition the courts for executive clemency, because some of his arrest and felony convictions were so recent. Given the extraordinary challenges he faced, Lucian's lack of optimism makes sense. In addition, these extraordinary challenges could mean that Lucian is a different kind of person than the other people in the sample.

Finally, it's possible that Lucian, in addition to not knowing how to use a computer, was functionally illiterate or visually impaired. During our first interview at the Expungement Help Desk, Lucian mentioned that he was going to take some of the informational material he received home to his wife, to "see if she will sit down with me and

help me to go through it,” because he “can’t even hardly see” it. No other participant in the original sample appeared to experience the same level of challenges in reading the informational material as Lucian. For all these reasons, it is unsurprising that, out of all the participants, Lucian would be the one to fail to express optimism about the future.

## SUMMARY AND DISCUSSION

Previous research shows that members of marginalized groups often seize on interactions to resist stigma (Lageson 2016; Maruna 2001; Myrick 2013; Opsal 2011; Young 2004a). In this article, I push this research stream further by suggesting that a key way for individuals to resist stigma is to display emotions that reflect an unwillingness to accept negative stereotypes. Focusing on a group of denied expungement-seekers living in Chicago, I examined their anger (at the criminal justice system) and optimism (about the future) as artifacts of their ability to maintain and communicate positive beliefs about themselves and their potential to be contributing members of society.

Participants clearly conveyed a belief in their own value and potential, as indicated by their expressions of optimism about the future. Their displays of anger, on the other hand, signaled a belief that they deserved better treatment. This article thus provides further evidence that, contrary to Goffman’s assertion that the stigmatized generally internalize the notion of their own deficiency, they may actively resist it (see Maruna 2001; Myrick 2013, Opsal 2011; and Riessman 2000 for similar findings). Further, this article builds upon this research stream by suggesting that emotion displays play an integral role in stigma resistance, especially within one-to-one interactions – such as those characterized by the in-depth interview setting.

Future research could elucidate the extent to which the optimism expressed by sample participants was a function of the fact that, as people with criminal records who sought legal solutions to their problems, they may be more optimistic and proactive than the broader sample of people with criminal records who do not seek expungement. In general, more research is needed to begin to develop a greater understanding of how expungement-seekers differ from criminal record holders who do not seek expungement

Today, many criminal justice programs emphasize that ex-offenders ought to “take responsibility” for their past crimes. A key focus is on getting ex-offenders to view their current circumstances (such as poverty and unemployment) as the natural consequence of their prior decisions (Lynch 2002). Individuals who are unwilling to do so, especially before legal authorities, often face stiffer penalties, such as prolonged probation, longer prison sentences, and ineligibility for admission into treatment programs (Maruna et al. 2004). Garland (1997: 198) writes that many court-ordered treatment programs strive to shift offender thinking “towards a set of objectives that coincide with those prompted by governing authorities.” The criminal justice system’s longstanding emphasis on personal “responsibilization” (Garland 1997) extends to the criminal record history. Many legal remedies that are designed to remove the stigma of the criminal record history – such as health care waivers, partial sealing, or executive clemency – require a person to accept full blame for their crimes and current circumstances. Yet, in this article, I showed how a group of denied expungement-seekers showed a healthy resistance to stigma and self-blame, drawing on a combination of anger and optimism to construct identities as productive members of society with bright futures. Ultimately, the findings suggest that, for ex-offenders and other criminal record-holders, healthy stigma resistance may entail a refusal to



take the blame for the ways in which past criminal justice contact continues to negatively impact their lives.

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