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## Facing Your Criminal Record: Expungement and the Collateral Problem of Wrongfully Represented Self

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Amy Myrick

While substantial sociolegal research has analyzed the deleterious effects of criminal records on life outcomes, little has examined the records themselves, or their relationship to the people they represent. In this article I take a novel tact, treating criminal records as the material, textual documentations of an individual's past. I then observe expungement seekers—people who encounter their own records—to understand their reactions. From this data, I use inductive theories of symbolic interactionism to theorize another collateral effect of the criminal record: it represents people in ways that depersonalize their social identities, and prevents them from communicating corrective self-understandings to the governing bodies that author the records. I conclude with my main theoretical contribution: “having a criminal record,” literally, means having a textual proxy that the state has authored on its own terms, without input from the people whom it permanently represents, and while concealing from those people the apparatus behind authorship. As a consequence, the criminal records system serves as a barrier to reciprocal communication between ex-arrestees and a legal system that represents them in ways that they may want to contest. This “wrongful representation” is a collateral effect of having a criminal record that impedes the ability of ex-arrestees to manage or repair their relationship with the state that has punished them.

Sociolegal scholars have demonstrated the socially rupturing effects of having a criminal record. People with records are barred from jobs, housing, and forms of public aid. They often cannot vote. Their personal, family, and community ties may suffer, and they are subject to increasingly elaborate types of public surveillance. Much of this work treats the criminal record as general source of information about past involvement with the criminal justice system, focusing on what happens when knowledge of such history becomes available to employers, agencies, law enforcement,

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and the like. In this article I document and theorize another aspect of the criminal record: it exists as a material, textual set of documents. Whether paper or electronic, records are not just sources of information; they are literal records, complete with a format, coding scheme, and typographic errors. Recognizing this material property of criminal records leads to the inquiry that I address in this article: what happens when peoples' criminal records become available to *themselves*, and what can this process reveal about the long term social consequences that former subjects of the criminal justice system experience?

I analyze the unique legal process of expungement to show that when people encounter their criminal records, a process of truncated interaction unfolds, in which people try to re-negotiate how they appear in text, but are unable to succeed because no communicative channels exist through which subjects can advance their self-perceptions to state record-keepers. People experience this "effect" of their criminal record when they encounter them long after criminal justice involvement has terminated, and apart from their instrumental desires to manage their records in order to obtain employment or other benefits. The literal criminal record thus serves to constrain the ability of some former subjects of the criminal justice system to assert their own self-understandings, even as they comprehend the extent to which their records distort them.

In the sections that follow I briefly review sociolegal literatures that begin to theorize the criminal record, but stop short of treating it as a material account that its subjects may confront face-to-face. I then discuss symbolic interactionism as the theory that emerged inductively from my fieldwork on expungement. Using ethnographic data, I document and theorize four common reactions that expungement seekers experienced when they confronted their own textual records: dispersion, categorization, conflation, and multiplication of the self. I then show how people trying to interact with their records, and thereby correct how they "appeared," used personal narrative to advance complex moral identities including parent, worker, and owner, but that legal structures provided them with no means to relay their narratives to record keepers, or even to understand who the record keepers were.

In the final two sections I expand on the theoretical consequences of this misrepresentation of self via criminal records that people could not interactively correct. First, people viewed records themselves as carriers of symbolism in ways that urge scholars to treat them as meaning repositories, instead of instrumental sources of information for which matters of presentation and format are secondary. Second, many people who saw their criminal records

wanted an opportunity to give a fuller, more complex account of how they understood themselves, suggesting that existing communicative channels between ex-arrestees and the criminal justice system are inadequate; I briefly discuss other legal processes for comparative insights. Last, I offer my broader contribution: “having a criminal record,” literally, means having a textual proxy that the state has authored on its own terms, without input from the people whom it permanently represents, and while concealing from those people the apparatus behind authorship. As a consequence, the criminal records system serves as a barrier to reciprocal communication between ex-arrestees and a legal system that represents them in ways that they may want to contest. This “wrongful representation” is a collateral effect of having a criminal record that impedes the ability of ex-arrestees to manage or repair their relationship with the state that has punished them.

### **Theories of the Criminal Record: Collateral Effects, Surveillance, and Legal Consciousness**

While several sociolegal literatures speak to the problem of criminal records and their long term consequences, researchers have not generally treated them as textual accounts that, in some circumstances, become available to the people whom they depict. This is largely true of important work on the collateral effects of criminal punishment, which examines the impacts on employment, income, and personal relationships that convicted (and especially imprisoned) people face, as well as their loss of civil rights and benefits such as voting and public assistance (Pattillo, Weiman, & Western 2004; Uggen, Manza, & Thompson 2006; Western 2006; Western & Pettit 2005). Some scholars have looked at criminal history documentation, in the form of background checks, as a practice that has recently expanded collateral consequences, especially in the area of employment (Holzer, Raphael, & Stoll 2006; Pager 2003; Pager 2007; Raphael 2011). While this work implicitly recognizes that criminal records are material accounts subject to dissemination, it does not look closely at the content and format of the records, instead treating them as an information source for members of the public. Given this focus, the “collateral consequences” literature has not addressed situations in which subjects confront their own material records, nor theorized them as complex textual proxies for the people they document.

Sociolegal scholars of surveillance provide a more theoretical take on what it means to “have a record,” drawing broadly on Foucault’s claim that records allow people to be sorted into normal and deviant types, ultimately forcing them to self-discipline or else

suffer social punishment (Foucault 1978; Foucault 1995; Foucault & Gordon 1980). A large and recent literature on surveillance has followed in this tradition, much of it focusing on how records and databases enable more total forms of law enforcement (Deflem 2008; Ericson & Haggerty 2006; Jenness, Smith, & Stepan-Norris 2007; Lyon 2007). But perhaps because of empirical constraints, surveillance scholars have not generally observed people in the act of viewing their own personal records; instead, most recent work views record-keeping from the side of the record-keepers, focusing on how systems and their agents use data to manage subjects. This approach, while acknowledging that records have special material properties and effects, tends to lack anything more than theoretical speculation about the *people* who are represented in the records, and how they might react if able to view them face-to-face.

A third body of sociolegal scholarship looks directly at people and their reactions to legal systems and artifacts, but again skirts my interest in face-to-face encounters between people and their criminal records. Legal consciousness research focuses on the ways that people interpret law—ranging from statutes to legal processes—in the course of everyday life (Ewick & Silbey 2003, 1998; Marshall 2006; McCann & March 1995; Merry 1995; Nielsen 2000; Nielsen 2004; Sarat 1990; Silbey 2005). This work carefully attends to how people react when they encounter the law. But with limited exceptions, legal consciousness scholars have not looked at the special category of legal *personal records* that document individuals and their features, as opposed to a widely-applicable rule or process (but see Ewick & Silbey 1998:103–05). As a consequence, we know little about how textual personal records might inform legal experiences that are similar to or different from those that unfold in courtrooms, legal agencies, or the street.

While all these literatures speak to aspects of the criminal record, and show its centrality to sociolegal theory, none examine the record as a textual representation of an individual who may come face-to-face with it long after formal criminal justice proceedings have terminated, thereby seeing themselves from the record's perspective. Accordingly, in the following section I turn to another body of work that grapples with how people express themselves when confronted with an external proxy: symbolic interactionism. Symbolic interactionist theory emerged inductively from my fieldwork observing people who confronted their criminal records while seeking expungement. To preview, many expungement seekers initiated an interactive process, in which they tried to correct the state's vision of them as they appeared in their criminal records. But because the textual records could not respond, interactive

reciprocity failed, and the truncated exchange prevented people from expressing their self-understandings to the state, or even understanding what entity was responsible for misrepresenting them.

## The Symbolic Problem of Interacting with Text

The truncated interactive processes that I observed draws on classical theories of symbolic interactionism, before departing in ways that I detail below. Interactionists in the mode of Charles Cooley (Cooley 1983), George Herbert Mead (Mead & Morris 1934), and Erving Goffman (Goffman 1959; Goffman 1963; Goffman 1971; Goffman 1981) theorized that social interaction “produces” people by shaping both their self-understandings and their roles in relation to other social entities. Because parties in interaction have views of each other that serve to constrain how each can self-project, sanctions are likely when people diverge from expectations (Goffman 1959; Goffman 1961b; Goffman 1963). Thus, participants in interaction must try to advance their persons based on how others see them. This reciprocal vantage point is the source of the social self, and allows people to act as agents even within constraints on how they are viewed (Cahill 1998; Callero 2003; Cerulo 1997). Goffman, in particular, stressed that selfhood was contextual, with people inhabiting different selves in different social contexts, depending always on their relational self-images and ability to advance them.

In work relevant to my expungement research, Goffman studied how people interactively manage their identities when they have a social stigma, which he defined as “an attribute that makes [a person] different from others. . . . and of a less desirable kind” (Goffman 1963:3). People with disclosed stigmas are “discredited” in interaction, and so must deal with how they see others perceiving their “spoiled identity.” Goffman theorized that stigmatized people may try to assuage the unease that they see in others by acting as “normal” as possible, short of pretending full normalcy, which would itself discomfit their interactive partners. He thought this impulse came from stigmatized peoples’ tendency to see themselves as normal, even while understanding that others did not. Even if they did not successfully change others’ views, stigmatized people benefitted from interaction because they could advance their preferred self-understandings, while also showing their grasp of social norms. Their alternative was to passively accept external perceptions, which Goffman saw as a dehumanizing experience that mental patients exemplified (Goffman 1961a). Thus, interactive stigma management offered “spoiled” people a chance at

redemption, and the affirmation that came from participating in the process.<sup>1</sup>

While Goffman's work on stigma management speaks directly to the question of how people react when confronted with a self-image that they want to contest, he, unlike the sociolegal literatures that I review above, did not address the special case of criminal records. Instead, he treated records generally as examples of "personal identity markers," which also included faces, names, fingerprints, and licenses (Goffman 1963:51–71). Goffman theorized that personal identity markers stayed constant over time, thereby serving as connective material between the always changing, context-dependent social identities that people assumed in different situations. While people were free to use symbolic, normalizing self-projections to manage their social identities, the only way to manage personal identity was to provide a fake name, conceal one's face and documents, or execute a similar act of subterfuge. Thus, in Goffman's theory, records were a constraint on symbolic interaction, and were not themselves carriers of symbolic meaning. Surprisingly, he never discussed ways in which people might view their records as symbolic constructs, even apart from their identifying function.

Goffman's symbolic interactive theory thus provides a basis for understanding face-to-face confrontations between people and their stigmatized representations, but does not speak directly to the problem of interacting with personal records in general, or criminal records in particular, in situations where the records themselves may carry symbolic weight. And while interactionism has flourished (Fine 1993; Link & Phelan 2001; Sauder 2005; Stryker & Burke 2000), scholars still know little about how people interact with texts that depict them in fixed ways. People who encounter their own criminal records occupy this under-theorized area between sociolegal studies of the criminal record and classical symbolic interactionism. Because criminal records now play a central and growing role in how criminal legal systems represent their subjects, serving as intermediaries between those subjects and the human agents of their punishment, this gap is highly salient. I explore it by posing the empirical question that I now address: what happens when people "see" themselves like their criminal records, and how does the interactive process unfold? To answer I next turn

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<sup>1</sup> The author is grateful to an anonymous reviewer for pointing out that Howard Becker and other labeling theorists offer relevant examples of how interaction, especially in the presence of deviance labels, places people in identity categories that change their self-perceptions over time. Because of space constraints, and my primary focus on the moment of face-to-face encounter instead of long-term identity formation, I acknowledge this salient work without giving it its due.

to my data on expungement, the legal process through which people ask the state to delete or modify their criminal records, and in doing so meet them face-to-face.

## Background on Expungement and Sealing

In the midwestern state where I conducted my research, expungement and sealing are statutory processes through which a person with a state criminal record can petition a judge to either order its destruction (*expungement*) or order it to be selectively sealed from public access (*sealing*). Criminal records include arrests, convictions, issuance of warrants by police departments, court proceedings, and sometimes other items such as parole and probation histories. State criminal records exist in several places: police departments maintain records of arrests limited to those made by the agency or reported to the agency on an ad hoc basis; the State Police Agency maintains a criminal database collecting cases from across the state; the Federal Bureau of Investigation maintains a database containing cases passed on to it by state agencies as well as federal cases; state's attorneys keep records of cases they have prosecuted; and the twenty-three state circuit courts maintain criminal records databases containing records limited to the circuit that they serve.

My research focuses on the Circuit Court of what I call Spring County, the most populous county in the state. The Spring County court includes six districts, each with a separate courthouse and criminal records department storing paper files for that district only. I completed my fieldwork at a legal aid help desk located in the criminal records department of Spring County District 1, which encompasses only the county's largest city, which is a major metropolitan center that I call Center City. However, all electronic court records are consolidated in a single Spring County criminal records database, accessible through self-serve public access computers in each of the courthouses and criminal records departments, or by request from a criminal records clerk.

State laws governing expungement and sealing make some aspects of the processes uniform across the state. *Expungement* involves asking a judge to "impound" the court's physical files and remove the applicant's name from the registry used to access the court's database, and to order other record-keeping bodies—the local and state police, the prosecuting state's attorney's office, and others at the court's discretion—to physically destroy the records. The outcome of expungement is that only the court retains the ability to access records in the future, and is only permitted to do so under extremely narrow statutory conditions. As a major caveat,

only applicants who have *never been permanently convicted* of an offense are eligible to expunge their records, and if eligible the entire contents of their record will be destroyed at once. Expungement is thus available only to applicants who have been arrested but then had their cases dismissed prior to conviction, or who have been found guilty of an offense but then sentenced to “supervision,” a legal construct that serves as a temporary conviction but reverts to a non-conviction upon fulfillment of court-ordered conditions.

A single permanent conviction, regardless of when it occurred or for what offense, renders a person ineligible for expungement, leaving the option of *sealing*. A *sealing* applicant asks a judge and other record keepers to make portions of his record inaccessible to the general public without actually destroying it. Unlike expungement, which by definition destroys the entire contents of a record, state law specifies that some types of cases are eligible for sealing, while others are not. At the time of my fieldwork, misdemeanor arrests could be sealed, as could misdemeanor convictions, unless they were categorized as “violent”<sup>2</sup> or “sexual”<sup>3</sup> under the applicable statutes, or one of the other sundry exceptions.<sup>4</sup> Neither felony arrests nor convictions could be sealed, with four exceptions for simple possession of controlled substances (Class 4), simple possession of marijuana (Class 4), felony prostitute, and a particular type of weapons charge. Importantly, state law allows certain state agencies and private organizations to access sealed records. Sealing thus limits public access to some items on an applicant’s criminal record, but not all items are eligible for sealing, and even those that are can be selectively viewed. Both sealing and expungement are at the discretion of judges, who may deny petitions at will, but may not grant petitions if applicants are ineligible under the statutory criteria.

While state-wide law dictates the substance of expungement and sealing as above, individual circuit courts and districts have choices about how to implement the process. In Spring County District 1, where I conducted my fieldwork, the court requires applicants to file a rap sheet from the city police with their petitions.

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<sup>2</sup> Assault, aggravated assault, battery, aggravated battery, aggravated battery with a firearm, aggravated battery of a child, domestic battery, aggravated domestic battery, reckless conduct, criminal sexual abuse, sexual relations with families, stalking, criminal sexual assault.

<sup>3</sup> Indecent solicitation of an adult, adultery, child pornography, fornication, public indecency, sexual exploitation of a child, marrying a bigamist, solicitation of a sexual act, soliciting for a prostitute, keeping a place of prostitution, patronizing a prostitute, pimping, obscenity, harmful material, tie-in sales of obscene publications to distributors.

<sup>4</sup> Violating a Protective Order, Failing to Register as a Sex Offender, Inhumanity to Animals, Dog Fighting, Driving Under the Influence, or Reckless Driving.



Counties and districts also vary in the fees that they charged for applications. Spring County fees total \$120.00 for an application, with \$9.00 added for each criminal case listed on the application, but the court offered fee waivers based on income guidelines. In District 1, after filing the court averaged 6 to 8 months to reach a decision, although streamlining steps reduced the time to about 5 months late in my fieldwork. Some districts required all applicants to attend a hearing with a judge, but at the time of my fieldwork District 1 did not.

This brief technical overview shows that the expungement and sealing process invokes complex state apparatus taking the form of statutes, courts, records departments, police departments, and myriad individuals working anonymously within them. The material output of this apparatus is a criminal record that describes an individual, subject to modification only on the state's legal terms. Individuals confront their criminal records in this legal context. From their vantage point, they see limited features of the state that produces their records in the records themselves, both independently, and in more detail when legal aid attorneys explain their genesis and the state's terms of modification. I discuss below the extent to which people recognized the state in their records, which is sometimes unclear. More directly, they see themselves as they appear in the records, which exist as material, textual accounts of identity and history. As such, people who view their records are poised for an interactive encounter that does not quite fit with how Goffman and others theorized face-to-face interaction. I now describe the methods I used to observe how they experienced the process.

## Methods

I conducted field research for a total of approximately 115 hours between January 2009 and January 2010 at an Expungement Help Desk where I served as a volunteer law student providing legal aid directly to drop-in clients. The Help Desk was located in the Spring County Court, District 1, Criminal Records Department in one of the city's main municipal buildings, but was not affiliated with the court or municipality. A local non-profit legal clinic ran the desk with trained volunteer attorneys and law students working under a rotating staff supervisor. An average of four volunteers served a limit of 30 clients on weekday mornings, on a first-come-first-served basis.<sup>5</sup> Clients were required to have a

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<sup>5</sup> Many clients arrive via court employees who divert them for immediate assistance when they inquire about clearing their records. Others learned that free legal aid was available from a social service provider, employer, friend, etc.

Center City Police rap sheet to received help; those who did not were told to obtain one and return. On a typical day the desk reached its limit and turned away clients. It was a busy and often chaotic enterprise. In the 2008–2009 fiscal year, for which data was available from the clinic, the Desk served approximately 4,823 clients.

Clients signed up on a list and waited to be called. Each volunteer worked one-on-one with an individual for the duration of the consultation (varying widely from less than 20 minutes to more than 1 hour), which took place in the public hallway where benches provided seating, or at a counter with computer terminals and two nearby tables. Desk volunteers informed clients that their role was to provide legal aid with the preparation of expungement and sealing applications, and that they worked independently of the court. They then reviewed clients' police rap sheets, located their records in the court's on-site electronic database, advised clients based on this information, answered questions, and filled out standardized, court-produced petitions for filing as indicated. Eligible clients filed their petitions with a court clerk at the conclusion of their legal aid session, receiving a decision several months later.

During my year of fieldwork I volunteered for an average of one weekly shift on varying days of the week. During each shift I helped an average of three to four clients. I did not select which clients to assist, instead calling each from the daily sign-in list in the order of arrival. I recorded notes on each interaction for a total of 152 documented client encounters representing a randomized sample of the people who visited the Help Desk over this time period. In addition, I took notes on interactions in which I was not directly involved when they were of particular interest, separately denoting these observations as non-random.

The circumstances of my research setting required me to apply to my institution's IRB for an exemption from informed consent requirements, and to collect data while appearing to clients as a regular legal aid volunteer. Most importantly, the chaotic, uncontained nature of the research site made it impossible for me to explain my research to everyone I spoke with, and the legal aid clinic granted me access on the condition that I not distribute paperwork apart from its own official forms. Second, because I did not record peoples' names or personal identifying details, I felt uneasy about maintaining a written consent form with a record of clients' identity that I would not otherwise possess. Third, I wanted to avoid biasing clients' interactions and accounts, which they offered spontaneously to both me and other legal aid providers. I would not, however, have concealed my role as a researcher if clients expected privacy when they spoke with me; the entirely public setting of the hallway and desk area removed this concern,

and ensured that I was recording only publically audible statements. In my notes I identified clients only by age and race, information that they provided to me on desk intake forms. My institutional review board approval all project details.<sup>6</sup>

During the analysis phase I used Nvivo qualitative coding software to identify and code themes within the 152 individual client observations. I also tabulated basic demographics: my subjects included: 105 self-described African Americans (65 men, 40 women), 25 Latinos/as (19 men, 6 women), 15 Caucasians (10 men, 5 women), 2 Asians (1 man, 1 woman), 2 Arabic men, 1 Native American man, 1 Asian Indian man, and 1 client whose demographics I did not record. Ages ranged from 17 to 72.

### **How People Saw Themselves in their Criminal Records: Dispersion, Categorization, Conflation, and Multiplication**

In this section I present four themes that I found to characterize how people saw themselves through the lens of their material, textual criminal records: dispersion, classification, conflation, and multiplication. I identified these themes based on aspects of the process to which clients consistently reacted over the course of my 152 encounters. Alone and in combination, these four themes describe the first part of the interactive process, in which people become aware of how they appear to others, thereby sensing the constraints within which they may self-project.

#### **Dispersion**

Expungement seekers in Spring County quickly realized that they had multiple histories stored in physically separate locations and often in disagreement with each other. In my theoretical frame, *dispersion* thus refers to the state's practice of maintaining multiple accounts of an individual's criminal past, each compiled and stored by a different state agency or body. Clients could resolve discrepancies only by traveling to a given physical repository and accessing the required information. In doing so, they became aware that their records showed them as dispersed, incoherent, and incomplete pieces of history. The material nature of records facilitates dispersion.

Per the chief judge's requirement, all clients arrested in Spring County District 1 had to obtain a rap sheet from Center City Police

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<sup>6</sup> I am especially sensitive to privacy intrusions that my research subjects have likely encountered in other settings, and regret that I could not have conducted this research in any other way.

headquarters for inclusion in their expungement or sealing petition. To obtain a rap sheet, applicants went to Police Headquarters, paid a \$16 dollar fee, were fingerprinted, and then returned two business days later between the hours of 8 a.m. and 12 p.m. to pick up the document. Police clerks generated rap sheets by searching an internal computerized database for arrests coded with a number matching one they obtained from the sample fingerprint (an “IR” number). When people arrived at the Help Desk without a rap sheet, a fairly common occurrence, help desk staff instructed them on how to acquire one and told them to return.

Some clients arrived without their rap sheets after having made unsuccessful attempts. Betty, a 27-year-old African-American woman, complained about having gone to City Hall, where she was told to go to the criminal courthouse, where she was told to go to Police Headquarters. At Police Headquarters, she was told that she had no police record. We determined that she had been arrested in the suburbs, not in within District 1’s city limits, which explained why the Center City Police were unaware of her record. An Iranian man in his late 50 s showed me his receipt for \$16 and an official Center City Police letter stating that “no record was found” based on his fingerprint search, although he admitted to having been arrested in Center City and his case appeared in the court’s electronic database. He was irate because a criminal records clerk had told him he could not file his expungement without this missing record. The Help Desk supervising attorney concluded that the man’s fingerprints had become smudged at the time of his arrest, or else the police had neglected to take them, explaining why a record was never created in the police system. The supervisor instructed the man to obtain his arrest report from the police (see below for a discussion of arrest reports) and attach it to his expungement petition instead of a rap sheet, along with a letter explaining his unusual circumstance. He accepted this solution but was astounded that the police had failed to create a document on which his outcome seemed to depend.

When a client arrived with the required rap sheet a legal aid volunteer attempted to locate each case on it using the court’s computerized criminal record database, which listed cases according to fingerprint numbers and names. This step was crucial because the database—not the rap sheet—served as the official source of information about criminal records, both for public access and for the court personnel who reviewed expungement and sealing petitions. At this stage of the process discrepancies between the “history” that the rap sheet presented and the “history” from the database typically surfaced. A frequent discrepancy took the form of an item that appeared in the criminal database but not on the rap sheet, or vice versa.

Clients were often unaware that rap sheets were not the definitive source of information for the courts, and in fact were prone to contain errors. Because most clients obtained their rap sheets before viewing their records in the database, some became invested in the account that the rap sheet offered, and were displeased to learn that the database account took precedence. For example, Jeff, a 33-year-old African-American man, had two Class 4 (sealable) simple drug possession arrests on his rap sheet, which the court database showed had been amended to Class 1 (unsealable) drug delivery charges prior to his conviction. The client insisted that the rap sheet “had” to be correct, noting that he had gone to boot camp instead of prison, a sentence that he (wrongly) believed would not be given for a Class 1 felony. While he later came to accept that the rap sheet was in error, he insisted that “they’re just messing with you” by maintaining multiple recorded histories, some of were advantageous yet invalid. Jeff experienced dispersion as an effect of records that created multiple personal histories, generating hope and then disappointment.

Some clients needed records beyond their rap sheet and court database entries. This happened when the database was missing information or contained ambiguities. Common examples were database entries that failed to specify what sentence a person received after conviction (a crucial determinant of their expungement or sealing eligibility); entries that terminated prematurely, making it appear that a case remained open; and entries that contained conflicting information about the charged offense or procedural history. In such cases, legal aid volunteers instructed clients to obtain documents that might include a police arrest report, physical court file, or state police case record. Each document type invoked a different process: a state law made arrest reports available only through Freedom of Information Act requests filed at police departments; court files could be obtained either from the criminal records department (for misdemeanor cases) or from the criminal courthouse (for felonies), with several days delay. State Police background checks posed unique challenges because state law prohibited police from giving requestors a hard copy of their record unless they made a formal written request and purchase it for \$16. As an alternative, police could read its contents out loud, telling people to write down anything of interest. Clients pursuing this option were responsible for accurately transcribing the information.

The difficulty of assembling dispersed records provoked anxiety for many clients. When I explained to Anne, a 27-year-old African-American woman, how to go to a suburban court house, request her case file, locate a particular document in it, and determine whether a sentence of “probation” or “supervision” had been

entered, she became flustered and said she felt sure it was supervision because “it had to have been,” but asked me to write down the “exact words” that she should look for in the file in case she did not recognize them. I instructed another client, a 34-year-old African-American woman Julie, how to obtain her state police background check by writing down any convictions as an officer narrated them. After asking me to repeat the instructions several times she expressed anxiety that she would not be able to capture the information through dictation, especially because she was nervous around police. Some clients worried that the additional records, once obtained, would still not contain a definitive account of their histories, and they thus would be unable to complete the legal process for expungement.

Apart from anxiety, some clients were angered by the requirement that they collect their own personal histories from disparate locations and state agencies. For example, Carol, a white woman in her mid-20s, told me she had been arrested for shoplifting in a town outside of Spring County, and had received probation; this out-of-county case did not appear in the database, but was nonetheless relevant to her sealing eligibility. When I instructed Carol to go to a distant courthouse to obtain documentation of when her probation ended she became angry, claiming she had no transportation to get there, had already missed work to “run around [Center City]” in search of her rap sheet, and furthermore was “absolutely sure” her probation ended in 2001 or 2002. Carol thought her recollection should suffice, and was angry that only a state-sanctioned personal history could serve as an official source of information. Another client, a 35-year-old white man, was infuriated that he had to obtain official documentation of when he was paroled from prison, asking “I did my time, don’t they think I know when I got out?” Clients like these thought that state decision-makers should accept their own their recollections instead of conflicting records, and were angered that the burden of collecting histories that they thought were superfluous fell on them.

While many clients experienced the dispersed nature of textual records as provocative of anxiety or anger about the process of re-assembly, or about blatant inconsistencies that “mess[ed] with you” (Jeff, 33-year-old African-American man with an inconsistent rap sheet quoted above), most did not see dispersion as a deliberate strategy of derogation by record keepers. Instead, the record-producing apparatus was merely impenetrable or needlessly technical, and surprisingly devoid of agents. Most clients criticized how they appeared in their records without expanding on *who* was responsible for creating the image. Instead, the experience of seeing the records, with their perceived inconsistencies and distortions, catalyzed anger at the records themselves. Some people

implied that behind them, a vague and sprawling “they” had made mistakes and should take corrective action, but clients seemed to care mainly that the textual output, the primary insult, get fixed or supplemented. Indirect references aside to an unspecified “they” aside, the extent to which people recognized the state, as such, in their records remains opaque to me. In contrast, they clearly and consistently took offense at their criminally recorded selves. It was the records, apart from their authors, that people felt were frustratingly blind to their self-knowledge. I will return shortly to the interactive implications when people tried to correct how they appeared.

### **Categorization**

Expungement seekers were often incredulous about the extent to which criminal records reduce their personal histories to categorical indicators. *Categorization* was a theme that defined the way subjects saw themselves through the lens of their criminal record. Clients routinely questioned why incidents ended up with seemingly arbitrary categorizations that portrayed them in ways that diverged from their self-understandings. Two forms of recorded categorization were especially discomfiting to clients: (1) assignment of a formal charge, which clients often felt did not relate to the incident; (2) categorization of the offense as a misdemeanor or a felony of a particular class.

### **Charge**

Clients were often baffled as to why their records labeled their actions with a given statutory charge. For example, Jin, a 32-year-old Southeast Asian man, could not understand why he had been charged with and convicted of reckless conduct, a non-sealable misdemeanor. Jin said he was originally charged with unlawful use of a weapon (a more serious felony), a recollection that his rap sheet (in contrast to the database) confirmed. Jin claimed that the incident involved improper storage of a gun in his home. He thus could not understand why “they came up with reckless conduct” as the final charge when he understood the incident differently. Unconcerned that the lesser charge worked to his advantage, Jin demanded to “see the number” of the statute to figure out what “they thought” he had done. Another 53-year-old African-American man, Bruce, could not understand why he had been charged with “manufacturing or delivery” during a period two decades past when he consumed drugs but, unlike friends who he remembered as much more involved with drug activities in his housing complex, did not sell them. What he actually recalled was “I had four nickel bags of cocaine, and now they got me dealing.” Such comments

suggest that clients sensed a rift between their actions and intentions, as they recalled them, and records that placed them in seemingly inappropriate categories.

Some clients implicitly described this process as one in which the recorded categories created an alternative image, as did Cliff, a 57-year-old African-American man who was arrested for murder in a round-up, then released without charges the next morning. Commenting on the murder arrest that remained on his permanent record, he said "It looks really bad, they kept me for one night, and suddenly I'm a murderer." The idea that a given recorded categorization created a false appearance recurred in the account of John, a 47-year-old African-American man, who was arrested on a warrant for possession of a controlled substance that turned out to have been issued for a different man. But John had an open case for domestic battery that police subsequently discovered and he was ultimately convicted on this charge (a non-sealable "violent" misdemeanor conviction.) Because the sealing process provided no way to seal warrants that appeared on a record as part of a case ending in an un-sealable conviction, John had no means to erase the drug warrant from his record. John, upset because the warrant made him "look like I use," pointed at the phrase *possession of controlled substance* on his rap sheet and lamented "it's these words right here."

John objected to the record's ability to permanently categorize him as something that he rejected based on his self-understanding. Notably, John did not take issue with other items on his fairly extensive record corresponding to acts that he admitted having done. Also notably, John's drug warrant did not appear in the official court database, but only as a procedural matter on his police rap sheet which was inaccessible to the public and to anyone performing a background check. The drug warrant would thus have no impact on John's public reputation, and yet he took personal insult in what he saw as the record's mistaken view.

### ***Felony or Misdemeanor***

A second form of jarring categorization for many clients was the way in which their records listed a charge as either a misdemeanor or a felony, and in the latter case, assigned it a class (felonies but not misdemeanors had classes ranging in severity from a low of 4 to a high of X). This distinction was legally crucial because most misdemeanors were eligible to be sealed, whereas felonies were not sealable (with four exceptions), and this applied to felony *arrests* or *acquittals* in addition to convictions. Adding to the sense of arbitrariness for some clients was the fact that misdemeanors were frequently changed to felonies in the course of a prosecution, or vice versa, and that police rap sheets typically did not reflect the changes. Thus, some clients wanted to rely on rap sheets that listed



a case as a misdemeanor, becoming angry or frustrated when the computer database (the authoritative source) showed the same case as a felony (see discussion of rap sheets in Dispersion section, above.)

The numerical class of a felony became important in drug cases, where only Class 4 possession charges and convictions were sealable. Tim, a 28-year-old African-American man, had a rap sheet that showed charges for Class X and Class 2 manufacturing and delivery of a controlled substance in two separate cases. But the database showed that the Class 2 charge in one case had been downgraded to Class 4 possession prior to conviction. When I explained that only the latter case was sealable, Tim could not understand why changing a number made such a difference in the legal outcome, given that he recalled the underlying acts to be indistinguishable incidents, and part of a longer string of habitual use and dealing that marked that period of his life. In his words, "I did what I did [back then]," meaning the same thing in both cases, different number on the record, and attendant legal status, notwithstanding.

Apart from the direct consequences of a felony categorization for expungement and sealing eligibility, many clients described deep moral aversion to having a felony on their textual record, even while showing ambivalence about misdemeanors. Of particular concern to some clients was the large boldfaced label of "convicted felon" that the police printed under mug shots on rap sheets that included felony convictions. Surprisingly, these labels were often in error and appeared even on the absence of felony cases, causing substantial confusion for clients. In the words of Paula, a 37-year-old woman, "Just tell me, am I a felon or am I not, because this bothers me." Paula was angry that because there was no legal process to correct mistakes on rap sheets, which were not authoritative records and thus not held to standards of accuracy, the police could make what she saw as a callous mistake without accountability. In another case, Lily, a 37-year-old African-American woman, was infuriated because one of her convictions—for misdemeanor theft—was marked with an "F" in the computer database, signifying "felony." She wanted to change this in spite of the fact that all other information in the database made it clear that the case was in reality a misdemeanor, and thus the error would have no bearing on her sealing petition. When the legal aid supervisor so advised her, she acknowledging that the error was a meaningless typo but still wanted it fixed because "they think they can put whatever they want in there." These clients felt that the record's ability to carelessly assign them to a category distorted their moral standing, even when the error had no bearing on legal outcomes.

As a final consequence of a felony categorization, a case that ended in acquittal—a finding of *not guilty*—still appeared as an arrest in the record, and was not eligible to be sealed.<sup>7</sup> Clients who had been acquitted of felony charges generally saw this as major injustice in the law; in effect, merely by labeling a charge as a felony, the record could permanently inscribe acts of which they had been proven innocent, and presumably did not commit. One man who had been acquitted of sexually abusing a minor became upset that there was no way to seal the arrest on this charge, repeating several times “they have to take this off!” He was incredulous that, in fact, no legal process existed to force the state to modify what he saw as version of personal history that never actually happened, but permanently existed on his rap sheet and in the court database.

These reactions to two types of categorization show clients’ discomfited awareness that categorical assignments not only allowed records to depict them in unfamiliar ways that they could not contest, but in extreme cases could determine whether they even had a criminal past, or not. Clients repeatedly chafed against categories that gave them attributes inconsistent with their self-understandings. While in some cases they focused on inaccuracies such as incorrect “felon” labels, in others they did not contest accuracy, but instead discussed the seemingly arbitrary and technical nature of the categories into which they fell. In addition to being legally confusing, these categories did not recognize them as nuanced subjects with personal lives, a point that I will develop shortly as a central problem that confronts people who see themselves from the perspective of a criminal record.

### **Conflation**

*Conflation* is a third feature of how clients saw themselves through the lens of their criminal record. I define *conflation* to mean the blurring of lines between individuals. Conflation happened when court records attributed a case to the wrong person, thereby merging their histories. Clients with someone else’s case entered erroneously in their record usually wanted it fixed, even if the problem had no importance from a legal or pragmatic point of view. Ben, a 64-year-old African-American man, had a case committed by a 23-year-old with an unfamiliar name and address listed under his fingerprint number in the database along with the cases that actually belonged to him. Because it would be obvious to anyone performing a background check that this entry was in error, the legal aid supervisor asked him if he thought it worthwhile to

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<sup>7</sup> In August 2011, after I had complete data collection, state legislators approved a change in the law to allow felony arrests to be sealed.

delay his process by asking a clerk to fix it. He responded that he would wait “all day” if needed because “they definitely need to fix this, this is just wrong.” As it turned out, one of Ben’s actual cases had been entered under the wrong fingerprint number—this one belonging to a woman with an entirely separate record. Although this misclassification, unlike the first, might have worked to the man’s advantage if background checks could not detect the case, he again insisted that the error be fixed. He expressed shock that “they had things so messed up.” Again, while Ben’s use of “they” is impossible to decipher, the insult that he drew from observing his conflated record is comparatively clear.

Conflation also happened when cases appeared under a person’s name in the database, but lacked all other identifying information such as a fingerprint number, birthday, or address. Such cases might belong either to the client or to another person with the same name, especially if the name was common. They tended to be minor offenses, such as drinking in public or loitering, which did little to jog clients’ memories. Clients often responded with bewilderment at the many people who shared similar records. They commonly tried to recall whether they had engaged in the type of behavior charged to a greater or lesser extent than other people they knew. Colin, a 43-year-old African-American man voiced shock at the sheer number of cases that his name search generated, two of which lacked definitive identifiers. He tried to remember if he might have been arrested for disorderly conduct in 1992, concluding that although such behavior was commonplace among people he knew, he had not because he was married at that time and “wasn’t hanging out.” But he could not rule it out completely, and elected to postpone his sealing application in order to order an arrest report on the case. He realized that he and many other people were conflated in the records database, and that his personal recollections, while unique, were too vague to reclaim his distinct history. This conflation defined how he understood himself to be an indistinguishable entity when viewed through his textual criminal record.

## **Multiplication**

*Multiplication* is a fourth and final theme that characterizes the way clients understood themselves from the perspective of their criminal records. Multiplication refers to the effect of expungement or sealing, which is to create multiple context-specific personal histories that are “true” only in so far as records allow them to be. Because select individuals and organizations may access cleared records according to complex and variable statutory exceptions, people who successfully completed the process had to learn how to

manage multiple histories by either disclosing or denying their record according to the state's rules. Thus, clients reacted to the prospect of records creating multiple versions of themselves.

Diana, a 30-year-old Hispanic woman who was eligible to seal her record, said she was applying for teaching jobs and wanted to know if schools would be able to "see" sealed cases. When a legal aid supervisor told her that only "government agencies" would have access, not schools, Diana then asked about the state licensing board for teachers, which she saw as ambiguously governmental. In response to her inquiry on how to answer questions about whether she had ever been arrested, the supervisor replied "you're allowed, by law, to say no." Diana clarified, "because I don't want to lie, and once they find out [trail off] . . ." She wanted to know precisely *when* she could start answering in the negative, worrying that she would not be aware when the judge approved her petition several months later and would accidentally lie. For her, the sealing process created multiple histories—the one she remembered, plus the state's variable versions, preserved in physical records that only some could access. The "truth" about herself thus became a source of anxiety.

Juan, a 33-year-old Hispanic man asked the same question about how to answer job application questions about prior convictions, with the difference that he was applying to work for a fire department, one of the government agencies that had access to sealed records. When I advised him that he would none-the-less have the legal right to answer "no" after sealing his record, he responded that he would "look like a liar" when the fire department checked his criminal background, so a better strategy would be to "tell them up front." Juan understood that his multiple recorded histories, although "legal," clashed with moral guidelines about telling the truth, and furthermore displaced what he viewed as an actual history that he could claim if he wanted, but with unknown consequences for employment. The records created multiple selves, but offered no way to manage them in practical terms. The criminal record, in these cases, was not an abstract synonym for past activity. Instead, people recognized them as material accounts that held great power to shape how they appeared.

### **Summary: The Depersonalizing View of the Criminal Record**

In social interactionist terms, people in the act of reading and interpreting their own criminal records are seeing themselves from an unfamiliar outside perspective. Interactionist theories stress that such outside viewpoints give people knowledge of their social standing. But, they have not generally considered what happens when the borrowed perspective is that of text. Such is the situation that criminal records present. I have identified four themes that

characterize how people experienced the process of viewing their own records: dispersion, categorization, conflation, and multiplication of self. These themes describe reactions that people had to the material, textual properties of their records: in short, the ways in which records presented information via a particular format with obvious limits on depth and accuracy.

I assert that these reactions were analytically distinct from those in which people objected to being seen as a felon, a drug user, or the like. While many clients also had substantive aversions to the content of particular categories, these aversions were mixed with dismay at how records conveyed such social statuses via inconsistent fragments, erroneous physical and electronic documents that, while legally meaningless, could not be corrected, and labels and numbers that seemed arbitrary. Not only did some reject certain moral identities, they also chafed at the way that “these words right here” (John, quoted above) could carelessly assign them. And other clients owned up to underlying acts and identities, but objected to how their records seemed to displace how they remembered them. Clients’ reactions showed that how they “looked” meant something more than just what social identities attached to their records. Instead, the records themselves were an important source of derogatory meaning.

This finding pushes the boundaries of Goffman’s interactionist theory to blur the line between fluid “social identity symbols” and fixed “personal identity markers,” which he treated as separate components of how people understand and manage their identities, with the latter serving as pragmatic identifiers instead of meaning carriers. The special circumstance of interaction with text shows that personal identity markers—in this case formatted records—themselves carried symbolic meaning for people who interpreted them as insulting distortions of the full, complex reality of their self-knowledge. People were consistently dismayed to see themselves like a record, apart from, and in addition to, the records’ varying content, which included what Goffman saw as typical stigmatizing social identity symbols, namely allegations of criminal acts.

This symbolic, but incoherent, property of records produced an effect that was different from the stigmatization that Goffman theorized in face-to-face interaction. People did not just feel stigmatized, or in violation of a norm; in addition to that, they felt reduced to pieces of personal information that did not represent a holistic identity, even a deviant one. Alone and in combination, the pieces seemed to defy coherence. Together, dispersion, categorization, conflation, and multiplication through textual records produced a sense of de-personalization for expungement seekers. De-personalization created the context for the next part of the

interactive process: attempts by people to manage and negotiate their self-understandings in response to how others see them. I now address their efforts.

### **Negotiating Criminal Recorded Selfhood through Narrative**

People in interaction do not only become aware of how others see them. They also consciously and unconsciously project themselves in response to this awareness. These projections serve to negotiate the contours of identity by asserting preferred self-images, but always within the constraints of the other's view. In this section I show how expungement seekers tried to assert identities that they valued, sometimes following Goffman's predictions about how people manage stigma by stressing their "normal" attributes. But, their responses also seemed to reflect the special nature of depersonalization. I focus especially on a feature of clients' accounts that is perhaps unremarkable in standard face-to-face interaction, but becomes striking when the encounter is with text: their expressly narrative quality.

Theories of interaction posit that people may shape their social identities by offering accounts, thematic interpretations, or narratives of themselves and their actions. The narrative structure differs from other types of communication: it involves selective retelling of past events in a format that has temporal order and makes connections between parts while typically featuring characters and emotion (Ewick & Silbey 2003; Orbuch 1997; Somers 1994; Taylor 1989). Such accounts can function in different ways. Goffman thought that people use them responsively, often to contest undesirable impressions that they project though symbols that they cannot readily control (Goffman 1959; Goffman 1971). Other researchers have suggested that narratives are more ubiquitous, serving not only as a strategic tool for social interaction but also as an introspective device through which people understand themselves in relation to the world (Callero 2003; Somers 1994). In the latter sense they are ontological, even as they serve public presentation functions that depend on the social contexts within which people compose them.

Expungement seekers often delivered their own accounts of events and identities that they felt their criminal records did not convey. These accounts had recurrent features. First, people tended to stress personal changes over time, often relating phases of life to each other. Second, many emphasized the social identities of parent, worker, and property owner. Clients couched these substantive themes in a narrative format that itself contested the

timeless, place-less quality of how the records seemed to view them. The accounts were antithetical to the records' way of representing, or misrepresenting, their subjects.

### Parents

Many clients delivered accounts that stressed parenthood. One came from William, a 52-year-old African-American man who had been charged with mob action in 2006 in a suburban district. Spontaneously reminiscing about the incident, he said he had been arrested outside a nightclub where he was celebrating his wife's birthday. It was a large, wild event, with lots of out-of-town family and friends. A police officer began harassing his daughter and when she talked back moved to arrest her. William recalled that the officer handcuffed his daughter's hands between her legs, a gesture he saw as unjustified and wildly offensive. He began taunting the officer because "I couldn't let him do that to my girl." Other crowd members joined in. The resulting arrest had been coded as "mob action," but William stressed that he had been defending his daughter's honor.

William's detailed account of parental concern countered the way his textual record presented him as an anonymous member of a criminal mob. His narrative served to "correct" the record's vision with his preferred image: where the record saw a criminal, he re-inserted a parent, thus showing the criminal record's blindness to a nuanced and socially preferable reality. Invocations of parenthood in clients' narratives were frequent; in one, Mary, a 42-year-old African-American woman charged with "theft of labor services" explained that she was pregnant and feared for her baby's health if she walked any farther on a hot day. Since she had no money she hailed a cab, jumping out without paying when she reached her destination. In Mary's account, the textual record, incapable of recognizing moral right, represented her as a thief when in fact she was acting as a responsible parent.

### Workers

Other narratives stressed the theme of employment. John, a 47-year-old African-American man who had been mistakenly arrested on a warrant for drug possession, recalled how he had been driving to work at a major local airport. The police who pulled him over failed to notice that "I'm like five shades darker than the guy in their picture." John also noted that he was dressed for work as a baggage handler with an airline; because all airline employees were drug tested at the time, he felt the police should have known that he could not possibly be a drug user. After being mistakenly

arrested on the drug warrant, John was ultimately convicted for an unrelated battery case that the police later discovered was open in his file. Because the battery conviction was not sealable, and the drug warrant was connected to that conviction, the warrant could not be sealed.

John was angry at this impossibility, explaining that he had assiduously avoided drugs even as his siblings and friends became regular users, a frequent happening in his neighborhood. Drug abstinence was central to John's identity, as was the fact that he held a good "airport job." He could not then accept that he "look[ed] like I use[d]" because of the warrant permanently included in his record. In John's narrative, employment—a socially valued identity status—served to counter the record's view of him as a drug user. He furthermore called attention to how the arresting police had erred in ignoring that he was an employee, a mistake he felt showed their lack of intelligent logic. John's account finally alluded to the non-categorical nature of selfhood—instead of invoking a binary, he described himself in "like five shades," a description that implied that the record, and the processes that created it, were incapable of "seeing" the complexity of life, and that his own vision was appreciably more perceptive.

### **Parents, Workers, and Property**

A narrative from Peter, a 56-year-old African-American man, combined themes of work, property ownership, and parenthood. Peter had an unsealable felony conviction for arson on his record from 1988 (his only case). He related how at the time he owned an auto repair shop and came up with a plan to "make a buck" by destroying an old car on the premises and filing an insurance claim under his generous policy. He was charged with arson and never ended up filing the claim. In his words, "it looks really bad, but it was my own car." Peter said he had gone on to a career in business management and recently retired, but wanted to earn a part-time income to assist his children who were in college. When he applied for a bus driving job his arson conviction had appeared on the background check. The interviewer said he would hire him none-the-less, but higher management later vetoed the decision. Peter remarked that the incident looked "terrible, but it was a stupid thing I did way back when." Although he believed his textual record misrepresented him through the inapt label of arsonist, it "felt bad" to tell his kids that "Pop can't help" with their expenses. In this narrative, Peter rebutted the categorical textual label of arsonist by stressing that the incident was related to his *work*, where he had the distinction of *owning* both the business and the damaged property. He then invoked his responsibilities as a parent and



potential wage earner and claimed the record's construction of him prevented their fulfillment, thus making the record into the wrongful impedement of socially sanctioned identities and goals.

These examples show that expungement seekers responded to their records' view of them as categorical, conflated subjects by using narrative to reassert identities as parents, property owners, and workers with individual histories and experiences. Of particular interest is the fact that many narratives expressly defied clean categorical descriptions, among them the man who recognized "like five shades" of skin color, a gradient that the police looking at a warrant photo could not see. Another client—a 49-year-old African-American woman—narrated a retail theft conviction from the late 1970s by blurring the boundaries of parenthood and race. In her account, she frequently babysat for a white woman and had a close bond with the woman's child. On one occasion while she babysat the mother shoplifted items from a supermarket and brought them home. When the police came, however, they arrested them both, remarking "Oh look, it's salt and pepper." In this complicated narrative the client blurred intimate caretaking with parenthood, while characterizing the police's perception of a racial binary as both offensive and misguided. The textual record's blunt label of "theft" as the outcome of actual complexity led her to offer the nuanced account.

### **The Criminal Record as a Barrier to Interaction with the State**

I noted above that because Goffman theorized records as static personal identifiers instead of social meaning repositories, his interactionist theory does not account for symbolism that people may read into the format of the records themselves. And yet, people I observed seemed to view their records as symbolic statements via their tendency to disperse, categorize, conflate, and multiply, in addition to and apart from their contents. Consistent with this finding, the responsive narratives that people offered support, at the level of format, that records depersonalize their subjects in "meaningful" ways by representing them as fragments and categories. The narrative format that people used to contest their records seemed to restore a sense of holism for clients who were shocked to see the extent of their reduction to textual identifiers. By trying to recall the chronological sequence of events, and supplying nuanced details that their records could not see as relevant, people resisted the symbolic depersonalization of their criminal record with a complex, emplotted version of their lives and selves. These clients sought to tell a personal story that reflected their own knowledge,

on their own terms, and registered change over time in a way that textual records simply could not.

At the level of content, expungement seekers' narratives were more consistent with Goffman's stigma management theory. Goffman held that stigmatized people try to enact their "normal" identities via personal histories that downplay their deviation from norms, thereby requesting normal status from their interactive partners. But, they cannot go too far by claiming full normality, which would itself trigger a sanction. The people I observed consistently presented symbols of their social normality—parenthood, employment, ownership, responsibility—but within bounds. Throughout my year of fieldwork, I found that few people denied all blame for their actions; instead, many strove to offer a fuller picture of the circumstances that their records omitted. In this sense, their accounts avoided claims to a completely normal social status that might overstep the bounds of interactive acceptability. Goffman saw this as a way that stigmatized people seek social redemption by accommodating those who see them as "spoiled," even while attempting to renegotiate that view. Thus, the people I observed were using classical stigma management techniques, but with an important difference: their attempts could not reach the source of their stigma, their literal criminal records.

What can we conclude from my finding that criminal records serve as symbolic triggers for redemptive attempts by people who feel misrepresented, but cannot ultimately register those attempts? For one, records are not merely information sources that their subjects seek to control for instrumental purposes such as to obtain employment and benefits. Although almost all clients had pressing goals of this nature, they also saw their records as sources of derogatory symbolism. In short, form and presentation mattered to people who had already experienced damage to their relationship with the state through the processes of arrest and (often) conviction. They saw their records not just as personal histories, but also as products of that same denigrating legal system, albeit without perceiving who, within the system, was responsible. This finding urges sociolegal scholars to focus on the under-researched format and presentation aspects of literal criminal records, in addition to their deleterious effects on employment and rights. While this article does not examine the record-keepers, or how they generate records, additional work should look at how form and presentation matter, or do not matter, to institutions and actors within the state. If their views differ from those of record holders, format may serve as another locus of inequity between ex-arrestees and the criminal legal system.

Second, this symbolic property of records makes the legal structures that surround them appear problematic. These legal structures provide no way for clients to understand or influence how

their records were generated, nor to relay their self-defining narratives to record keepers. Legal aid volunteers explained to clients that the only possible outcomes of the legal process, as it existed, were expungement or sealing of criminal records, after they filed a standardized petition (with no narrative content) and waited several months for the court to review it, and that there was no process available to make more nuanced modifications or explain what “really happened.” Volunteers did not record clients’ spontaneous accounts, and sometimes cut them short to speed the counseling session. Thus, the narratives that clients offered had no means of influencing how their records, the source of the stigma, saw them, and clients seemed aware of that fact.

And yet, people had an impulse to engage in the kind of self-redefinition that Goffman saw as integral to social redemption. Because textual records, in the absence of a face-to-face legal modification process, could not register their symbolic self-projections, expungement seekers were stuck in an incomplete interaction. They saw themselves through their records, and tried to respond, but were denied reciprocal potential to move the other party from its initial perspective. Adding to the truncation, textual criminal records insulated their authors—a complex bureaucracy including courts, police, and legislatures—from the vulnerability to observation and critique that face-to-face interaction typically creates for all participants, although to different degrees that depend on power relationships. The narratives that people offered did, in fact, include explicit and implicit critiques of the record-makers, prominently that they could not see nuance, or comprehend complex moral identities such as parent or employee. But, because the records obfuscated their authors, clients most often directed their critiques at an opaque “they,” not seeing their viewers as agentic parties within the state who could, if they wanted, create a clearer system of representation.

But is this truncated interaction a problem specific to criminal record holders? There are many other parts of the criminal justice system that inhibit the kind of full, reciprocal exchange in which participants may self-present on their own terms. They include street arrest, in which police agents “see” arrestees in particular ways that leave little room for them to assert different self-understandings. They also include courtroom encounters between legal officials and defendants, where the latter must adhere to a normative script and cannot freely project alternative identities. Face-to-face criminal justice processes in general involve power disparities that limit reciprocal interaction, especially if the accused are poor or members of minority groups.

Although these conditions inhibit interaction, they are qualitatively different from those surrounding criminal records because

they do not fully de-personalize, meaning reduce people to incoherent yet stigmatizing indicators that add up to less than a self. In addition, inequities aside, face-to-face encounters allow subjects the choice of breaking a norm by trying to tell their stories to people who might listen, and at least are subject to the small viewpoint adjustments that occur in face-to-face communication. While it is diminished, arrestees and defendants retain a modicum of the agency that reciprocal interaction allows. And, importantly, they are able to see the people who see (and judge) them—police, and other state personnel—thereby forming a clearer picture of how best to respond. In contrast, people who viewed their criminal records faced opacity behind their own distorted images, as they expressed by directing criticism at an ambiguous “they.” Textual records obscure the complex state apparatus that produced them as output, and allow it to de-personalize without consequence.

My finding that criminal records carry symbolism for their subjects, and trigger narrative self-redefinition attempts, highlights the inadequacy of communicative channels between ex-arrestees and the criminal legal system. While face-to-face alternatives may be imperfect, the stigma management impulse that many people felt when viewing their records recommends a reformed legal process that strives for more equity between people and the legal system that literally represents them. Detailed suggestions for how this process should function are beyond the scope of this article. But, I note that the nuanced detail with which people self-represented poses a challenge to extant formats such as the courtroom hearing in front of a powerful decision-maker. My data suggest many people with criminal records do not want to counter them with a simple redemption narrative, but instead to be recognized as complicated, and often flawed, individuals who struggle with multiple roles and commitments, but understand them in sophisticated ways. How the legal system might achieve this recognition is an enormous problem that scholars continue to address from multiple directions ranging from procedural justice to alternative dispute resolution. My contribution here is to show that literal records should be included in the wider focus on better representation, because they matter to the people who hold them in previously undemonstrated ways.

### **Conclusion: Wrongfully Represented Self as a Collateral Problem**

I have presented my data and findings about how people relate to their own criminal records, and discussed two consequences: first, format and presentation matter, and may convey inequity.

Second, extant legal structures cannot accommodate the kind of narrative self-presentation that many people wanted to make. These insights help fill the theoretical gap between sociolegal studies of the criminal record and classical symbolic interactionism, neither of which account for people who confront their own records face-to-face. I now conclude with my main theoretical contribution, which extends my findings beyond people who view their records, recasting it as a collateral problem located in the structure of the criminal legal system.

Above I argued that criminal records, recognized as text, achieve a double barrier to interaction. On the one hand, they prevent the criminal justice system from registering its ex-subjects as full, morally aware people, even when they announce themselves as such. On the other, they conceal the state agents who hold the limited perspective, depriving their subjects of interactive reciprocity. This truncated interaction stems from the symbolic aspects of records' formats, as they disperse, categorize, conflate, and multiply in ways that seem to de-personalize their subjects, even while conveying stigma. It also results from legal structures that do not accommodate the kinds of self-presentation that many people then want to initiate, in particular their narrative accounts of parenthood, employment, and ownership, all of which attempt to neutralize stigma at the level of format and content.

But an important question remains. Does this property of the criminal record matter only for the relatively few people, expungement seekers among them, who come face-to-face with their records? Or, does it generalize to people who have criminal records, as a permanent consequence of arrest, but never see them? Clearly, people who do not view their own records lack the situational conditions for an interactive encounter. They will not experience the dispersion, categorization, conflation, and multiplication that together constitute depersonalization via the record's perspective. Furthermore, they will not be prompted to offer self-defining narratives that re-establish them as whole, complicated people. Accordingly, people who have records but fail to view them will not personally experience truncated interaction as a collateral consequence of their arrest.

None-the-less, my extensive fieldwork supports that the material properties of records have a consistent tendency to elicit the responses I describe, across the representative sample of expungement seekers whom I observed. This tendency is not rooted in solely in individuals, but jointly in the records themselves, specifically because they have the inherent limitations of text consolidated into a standardized format: they reduce complex histories to simple indicators, they enable inconsistencies and errors, and they cannot register change. In addition, criminal records are inherently

durable; unlike street encounters or hearings, they remain in state repositories far beyond the time when a person's involvement with the criminal justice system terminates. This durability means that peoples' proxies exist unchanged, even when their self-understandings have evolved drastically over time, whether or not they view their records or make attempts to modify them.

Because the effect of truncated interaction is built into this type of text, I offer my broader theoretical contribution as a foundation for further work: "having a record," literally, means having a material proxy that the legal system has composed on its own terms. This practice creates a latent interactive barrier, one that many or most people will never detect, but that none-the-less represents them in symbolic ways, and limits the manner in which they can communicate their self-understandings in order to change how the state perceives them. My findings demonstrate an inequity within the criminal records system as it now exists, stemming from its wide power to represent people on its own terms, and inability to register how people want to present themselves. Only a subset of people with records will ever personally experience this problem, but it is structural in nature, because the criminal records system is itself a material structure. Thus, textual criminal records serve as a barrier to ex-arrestees who might want to manage or repair their seemingly wrongful representations, clearly when they make the attempt, but also as an invisible systemic feature of their post-arrest relationship with the state. Wrongful representation of self is a collateral effect of having a criminal record that is always present, but usually hidden in a way that is itself inequitable, since most people cannot begin to object.

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*Amy Myrick is a Ph.D. and J.D. candidate in Sociology at Northwestern University. Her research interests include legal governance through text, economic measurement techniques, and employment discrimination. Her dissertation examines U.S. constitutional amendment attempts as a case study of popular mobilization around text and its meanings.*