



A Cost-Benefit Analysis of Criminal Record Expungement in Santa Clara County

Prepared by:

Meyli Chapin • Alon Elhanan •
Matthew Rillera • Audrey K. Solomon •
Tyler L. Woods

Undergraduate Public Policy Senior Practicum
Stanford University

March 2014

Table of Contents

Acknowledgements3

Executive Summary4

Introduction.....7

Table 1: Estimates of costs and benefits of expungement in one year9

The Record Clearance Project.....9

Background.....9

RCP data9

Costs and Benefits10

Costs.....10

 Probation office.....10

 Court costs11

 RCP costs.....11

 Legal fees.....12

 Costs to employers.....13

Benefits15

 Increased income15

 Economic growth.....15

 Increased tax revenues16

 Reduction in government assistance payments.....16

 Reduction in recidivism17

 Additional benefits to society19

Main Findings23

 Table 1: Estimates of costs and benefits of expungement in one year23

 Government benefits.....24

 Table 2: Estimates of costs and benefits to the government over three years25

Aggregate impact of RCP’s efforts.....25

Discussion and Policy Implications26

Generalizability.....26

Policy implications.....26

Appendix28

Appendix 1: RCP’s phone survey questions.....28

Appendix 2: Hazard rate for 18-year-olds29

 Figure 1: Hazard rate for 18-year-olds.....29

 Figure 2: Arrest hazard rate by age among age 18 offenders30

Appendix 3: RCP data31

Appendix 4: Demographic breakdown comparison32

Appendix 5: Summary of RCP data.....33

Appendix 6: Theoretical rational actor cost.....35



Acknowledgements

We would like to acknowledge everyone who assisted us throughout this project. We are especially grateful to our client, the San Jose State University Record Clearance Project (RCP), for working with us over the last couple months. Their continued support was much appreciated during this process. We extend a special thanks to RCP's founder and director, Margaret Stevenson, as well as Nishtha Jolly and Lisseth Castillo-Valencia.

Our project also benefited from the people we interviewed. We gained valuable insight from our discussions with Professor Joan Petersilia of the Stanford Law School and economist Gregory Rosston from the Stanford Institute for Economic Policy Research (SIEPR). Buu Thai from San Jose Office of Reentry Services, J.J. Kapp from the Public Defender's office, and Jana Taylor from the Santa Clara Adult Probation Office were tremendous resources to us as well.

Lastly, we would like to thank Stanford University's Public Policy Program and the Stanford Institute for Economic Policy Research. In particular, Mary Sprague, Alyssa O'Brien and Bruce Owen provided crucial guidance and support for this project. Our team greatly appreciated the opportunity to gain practical experience in policy analysis through this undergraduate senior practicum project.

Executive Summary

In this report, we conduct a cost-benefit analysis of record expungement in Santa Clara County, California. Through the criminal record expungement process, individuals who have committed offenses and then served time in county jail or a period of probation can legally apply to have these past offenses erased from their public record. Applying for expungement is a legal right. However, it is not pursued by many people with eligible convictions who could benefit from it due to lack of awareness and/or inadequate resources.

Having one's record expunged greatly increases the chances of being hired because it prevents a potential employer from seeing the criminal record of a job applicant. The stigma of a criminal record is enough to discourage more than half of employers from hiring someone.¹ Expunging records helps improve economic productivity and increases tax revenue.

In this report, we present a cost-benefit analysis of record clearance. Due to data considerations, we focus on the costs and benefits of expunging the records of ex-offenders served by the RCP of San Jose State University.

We identified preliminary costs and benefits by carrying out a literature review of relevant reports, academic journals, studies, and books. We also conducted several interviews with practitioners and experts from the Public Defender's office, the Stanford Law School, San Jose Office of Reentry Services, and the Santa Clara Probation Office. Concurrently, we analyzed original data collected by members of San Jose State University's Record Clearance Project (RCP). These steps allowed us to further refine our costs and benefits, which we then converted into dollar amounts to the greatest extent possible.

We found the following costs to be the most relevant to our analysis: processing costs for the probation office and the court system, legal assistance, as well as the perceived costs to employers. These costs were weighed against the following benefits: increased income, increased GDP, increased tax revenues, a reduction in government assistance, a reduction in recidivism, and an increase in additional societal benefits, such as access to housing.

Main Findings

- *Net benefits:* Estimated benefits of expungement outweigh costs by \$5,760 per RCP client *in one year*. This number is an underestimate of the net benefits, because it does not include identified benefits that could not be quantified. Since

¹ Pager, Devah. "Evidence-Based Policy for Successful Prisoner Reentry." Accessed 3 February 2014. https://www.princeton.edu/~pager/cpp_pager.pdf

² In misdemeanor and infraction cases where the sentence does not include probation, the person is eligible

most benefits accrue across years but costs do not, cumulative net benefits would increase over time.

- *Government's benefits:* After the first year, government's expungement costs are zero but benefits of increased taxes and reduced public assistance continue to accumulate. Government's estimated cumulative net benefits are \$651 per RCP client in year 3 and continue to grow over time.
- *RCP's impact:* Through expunging the records of RCP's average number of clients per year, there is an estimated overall gain of \$303,552 in net benefits in a year and an estimated gain for the government of \$34,308 in net benefits across three years. These cumulative net benefits would increase across time.

Recommendations

- *Increase awareness and accessibility:* Considering the widespread unawareness of expungement rights and lack of resources for pursuing expungement among individuals with criminal records, the government should make the expungement process more widely known and accessible to those who can legally have their records cleared.
- *Increase funding for programs that provide legal expungement assistance:* The state, counties, and nonprofits should increase funding for organizations like RCP and the Public Defender's Office to help people with criminal records apply to get their records cleared.
- *Provide more resources for processing and hearing expungement cases:* The government should put more resources towards the courts and probation offices for processing and hearing more expungement cases.
- *Conduct additional research:* More research should be done on quantifying the costs and benefits of expungement across different populations and across time. In addition, researchers should explore the relationship between expungement and recidivism and examine the claim that increased internet exposure negates some of the expected benefits of expungement.

Table 1: Estimates of costs and benefits of expungement per RCP client in one year

Costs		Benefits	
Probation Office costs	\$59	Increased income*	\$6,190
Court costs	\$242	Increased GDP*	\$1,153
RCP costs	\$3,412	Increased tax revenues*	\$750
Legal fees (cost to offender)	\$44	Legal fees (benefit to government)	\$44
Cost to employers	Negligible	Reduction in government assistance*	\$1,380
		Reduction in recidivism^	
		Additional benefits to society^	
Total costs:	\$3,757	Total benefits:	\$9,517

*These benefits are multi-year benefits.

^These benefits exist but were not quantified.

Introduction

Record clearance, also referred to as expungement, is the act by which people who have been sentenced to either county jail or probation time can legally apply to have past offenses erased from their public record. Murder, rape, and other crimes that resulted in the offender being held in state prison (as opposed to county jail) are not eligible for county expungement. Additionally, some less serious felonies have the potential to be reduced to misdemeanors, in addition to being dismissed.

Once clearance is granted, the ‘expunged’ crime is no longer publicly viewable, and thus does not show up in employment background checks, housing applications, education forms, credit scores, etc. However, the crime remains visible to law enforcement and other relevant authorities.

In this report, we focus only on crimes that can be expunged, and thus all mentions hereafter (unless otherwise noted) to people with criminal records or conviction histories are in reference to people who have committed crimes that are eligible to be expunged from his or her record.

There are two types of expungement: 1) mandatory, in which the offense is legally required to be cleared as soon as the ex-offender completes probation² and submits all relevant fees and forms, and 2) discretionary, in which the ex-offender must first explain in a court petition why they are seeking expungement, and then appear in court before a judge who decides whether or not to approve the record clearance proposal. Generally, all offenses with jail or probation sentences are eligible to be expunged; sex and child pornography offenses are excluded.³ In this report, we typically do not distinguish between the two types of expungement, unless otherwise mentioned.

An objective analysis of expungement policy is critical because of the important role it plays in various aspects of society. Evidence shows that having a record negatively affects a person’s employment prospects. For example, in 2006, more than 60% of employers claimed they would not knowingly hire an applicant with a criminal background.⁴ Additionally, several studies agree that serving time either in jail or prison reduces annual earnings for men. One study demonstrated an average decrease in earnings of 40% after their release.⁵ Increasing the rate of expungement could also have a positive impact on the economy as a whole by helping ex-offenders find jobs. Another study found that just in the year 2008, all people with criminal records (including those

² In misdemeanor and infraction cases where the sentence does not include probation, the person is eligible to apply after one year from the date of sentencing.

³ Applicable California Penal Code sections are 1203.4, 1203.4a and 1203.41.

⁴ Devah Pager. “Evidence-Based Policy for Successful Prisoner Reentry.” Princeton University. 2006.

⁵ Inimai M Chettiar, et al. “Guidance of the US Equal Employment Opportunity Commissions, Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act.” Letter to Honorable Members of the US Commission on Civil Rights. 17 Jan 2013. Brennan Center for Justice at NYU School of Law. <http://www.brennancenter.org/analysis/comments-us-civil-rights-commission-economic-impact-criminal-records>

whose records cannot be expunged) lowered the total male employment rate by .8 to .9 percentage points and cost the US economy between 57 and 65 billion dollars in lost output.⁶ Finally, there are also social and familial effects of unemployment because parents with criminal records are less likely to be employed.

In this report, we present a cost-benefit analysis of criminal record expungement. We focus on the costs and benefits of expunging the criminal records of ex-offenders served by the Record Clearance Project of San Jose State University. We focus on this population because we had access to benefit and cost data for it that we did not have for other populations of people with criminal records. Although our focus is on RCP clients, many of our findings apply to other populations of ex-offenders, as will be discussed in our conclusion.

To conduct this analysis, we first identified some preliminary costs and benefits. We then conducted a literature review of relevant reports, academic journals, studies, and books. In addition, we interviewed and consulted experts and practitioners in this field, including Joan Petersilia from the Stanford Law School, Gregory Rosston from the Stanford Institute for Economic Policy Research, Buu Thai from the San Jose Office of Reentry Services, J.J. Kapp from the Public Defender's office, and Jana Taylor from the Santa Clara Adult Probation Office. Our analysis also consisted of examining the data on people with criminal records that was collected by the Record Clearance Project. These steps allowed us to further refine our identified costs and benefits, which we then converted into dollar amounts where possible. Finally, we identified the policy implications of our findings.

In this report, we first discuss the San Jose State University Record Clearance Project and the data they have collected on people with eligible convictions who they have served through their program. We then present our analysis of the costs and benefits of expungement. Our analysis is followed by a summary of our findings and a discussion of what these conclusions suggest for future policy change in the area of record clearance.

⁶ Melissa Boteach, et al. "Restoring Shared Prosperity: Strategies to Cut Poverty and Expand Economic Growth." *Half in Ten* (October 2011): 45.
<http://www.aecf.org/~media/Pubs/Topics/Economic%20Security/Asset%20and%20Wealth%20Development/RestoringSharedProsperity/restoring%20shared%20prosperity%202010.pdf>

The Record Clearance Project

Background

The Record Clearance Project (RCP) operates out of San Jose State University (SJSU). Its founder, director, and lead attorney, Margaret Stevenson, offers two classes at SJSU in which students can work with people who are potentially eligible to have their convictions expunged and felonies reduced to misdemeanors.

Following training, the students (under attorney supervision) participate in a “Speed Screening” in which they assess people’s eligibility for expungement and provide information regarding the “next steps” toward expungement. If clients are eligible for mandatory expungement, the RCP students fill out the necessary form at the screening, if the client desires. The students explain that no court appearance is necessary, and that if everything is as expected, the client will receive a letter notifying him or her that the conviction(s) have been dismissed.

In cases of discretionary expungement where a court appearance is required, clients are assigned a team of students to assist them in preparing paperwork for court. These students interview the client to get a more acute understanding of the original offense(s), as well as the changes the client has made since the offense(s), and why he or she is seeking expungement. Twice during the semester, the students will have prepared a thorough petition on behalf of the ex-offender for each eligible offense, requesting a judge to grant expungement and/or reduce an eligible felony to a misdemeanor. The client, team of students, and RCP’s volunteer attorneys then attend a hearing where the petition for record clearance is considered and decided by the overseeing judge. The RCP has filed 680 petitions since its inception in 2008, with an expungement rate of 99%.

RCP’s data of people with eligible convictions

To aid in our analysis, the RCP provided us with data they have collected on their clients. For all 198 of their former clients as of the fall of 2013, they have information on various factors, including their demographics and past convictions.⁷ In addition to these data, the RCP has data on employment variables for 48 of the 198 clients, or 24%. This data was collected through phone interviews with their clients in 2013.

We use the RCP’s data to better understand the RCP client population and to help us estimate various costs and benefits in our analysis. We provide descriptive statistics on many of the RCP data variables in Appendix 5. Some pertinent findings are the following: clients’ average number of past offenses (3.34), the average amount of time between clearance and last offense (9.05 years), and the average change in yearly income after expungement (\$6,190).⁸

⁷ See Appendix 1

⁸ See Appendix 5

Costs and Benefits

Though the RCP data provides useful insights on the effects of expungement for ex-offenders in Santa Clara County, the data is limited. Therefore, calculating costs and benefits required our team to conduct research relating to the broader economic and social implications of clearing criminal records. The combination of the RCP data and our wider research allowed us to quantify many of the costs and benefits of expungement that we identified. Where applicable, we have provided a monetary estimate for each cost and benefit. In cases where no numerical conclusion was possible, we provide qualitative information.

In this section, we examine the following costs: processing costs for the probation office and court system, legal assistance, fees, and cost to employers. In appendix 6, we also explore a cost from economic theory, the theoretical rational actor cost, but determine that it is not a relevant cost. The most important benefits we identified were increased income, increased GDP, increased government tax revenues, reduction in government assistance, reduction in recidivism, and an increase in additional societal benefits, such as access to housing.

We calculate the costs and benefits for the average RCP client, which may differ from the average Santa Clara county individual eligible for expungement. We will later discuss the generalizability of our findings to other populations.

Costs

Probation Office: processing costs

As part of the filing of cases for clients with discretionary petitions, the Santa Clara County Adult Probation Department does an analysis of the person's criminal history. Employees of this office have noted that processing RCP cases greatly increases their workload. The Probation Department has requested that the RCP present no more than 25 petitions at a time, four times per year, for the special calendars set for RCP clients. Twenty-five petitions equate to 7-12 RCP clients,⁹ as most clients submit more than one discretionary expungement petition at a time.

After an interview with an Adult Probation Manager in Santa Clara County, our team was able to estimate the total processing costs for the Probation Department for 25 petitions, the typical number of petitions on a specially set RCP court calendar. Each petition requires the time of 4 staff members at the Probation Office: the clerk, the probation officer, the supervisor, and the person who makes copies. For 25 petitions to be processed, the clerk must spend about 2 hours, the probation officer and supervisor each must spend about 5 hours, and the copy person must spend about 1 hour and 15 minutes.

⁹ Margaret Stevenson of RCP estimates that an average of 7-12 RCP clients are seen per semester, and there are 4 semesters per year, meaning 38 RCP clients per year, on average

Hourly salary estimates were found for all four employees on the Santa Clara government website.¹⁰ We can then estimate that the cost of processing these 25 petitions is \$561. Given that these 25 petitions are on behalf of an average of 9.5 clients, that implies a processing cost of approximately \$59 per RCP client.

Court costs

In addition to the probation office, the courts must spend time and resources on expungement cases. RCP cases for discretionary expungements are heard at four two-hour court sessions per year, generally with 25 cases addressed at each hearing. That yields a total in-court time of eight hours for RCP petitions annually. For each of those sessions, the people who must be present are the judge, courtroom clerk (judge's assistant), bailiff, district attorney (DA), Public Defender, and court recorder. Additionally, we assumed that the judge needs to spend approximately 5 hours per hearing (20 hours per year) reading over the petitions outside the courtroom to prepare for the hearings. The DA and Public Defender must also spend additional time preparing for these hearings outside the courtroom, so our team estimated an additional 20 hours for each of them as well. Finally, these hearings require the time of the legal processing clerk who must file, request, and send out documents, totaling approximately 19 hours per year for RCP cases.¹¹

To get a monetary estimate for court costs, our team estimated the hourly wage of the relevant personnel¹² and multiplied it by the number of hours spent on RCP expungement cases per year. In total, the hourly cost of the bailiff, DA, public defender, court recorder, legal processing clerk, and judge for hours spent on RCP cases is approximately \$9202 annually. This number can then be divided by the average number of RCP clients seen in court per year (38) to get an estimate of \$242 per client. The cost of these hours is important to consider because in the larger analysis of expungement, increased caseload would require additional hours from all court parties.

RCP costs

People seeking record clearance can seek private legal counsel, use a service like RCP, go to the Public Defender's office, or attempt to file his or her own petition. Oftentimes, a low-income offender will use RCP, referred by the Public Defender's office. Until the Public Defender began providing expungement services in September 2013, the Public Defender referred almost all its discretionary expungement cases to the RCP for

¹⁰ Basic Salary Plan for Employee Services Agencies of Santa Clara County: http://www.sccgov.org/sites/esa/classification_and_compensation/basic_salary_information/Documents/basic_salary_plan.pdf

¹¹ Court administrative staff provided information for this estimate.

¹² Sources for salaries include: <http://bailiffsalary.org/CA/Santa-Clara/salary/Bailiff-Salary>, California Judiciary's Public Employee Salary Database, and Basic Salary Plan for Employee Services Agencies of Santa Clara County (http://www.sccgov.org/sites/esa/classification_and_compensation/basic_salary_information/Documents/basic_salary_plan.pdf)

handling. The RCP also assists clients who are not Public Defender referrals. An estimated 75% of RCP's clients are clients from the Public Defender's office.

RCP clients' low-income status makes it impossible for them to afford private legal counsel. Margaret Stevenson of RCP has stated that RCP's clients cannot afford private lawyers and without RCP would be unable to clear their record because the Public Defender's office has been unable to take most requests. The RCP does not charge for legal services.

In a social return on investment (SROI) study, Mathur estimated RCP's costs for 2011-2012 to be \$174,061.¹³ With RCP assisting 51 clients that year, RCP costs were \$3,412 per client. This number includes the following RCP costs: director's salary, director's uncompensated time, project coordinator's salary, materials, supplies, and other costs. Students' costs are not included because they work for university credit (averaging 10 hours of work/client), but we note that other expungement assistance organizations likely would have to pay for some of the labor RCP students do. The time given by volunteer attorneys is also not included.

The RCP costs cover all RCP activities, including their outreach efforts and community education presentations. Since most clients have more than one petition for expungement, RCP costs per petition are much lower.

Legal fees: cost to ex-offenders, benefit to government

In addition to lawyer costs, there are fees that need to be paid to complete the record clearance process. Generally, a candidate requires a criminal history report (also known as a Record of Arrests and Prosecutions—RAP sheet), and the fee for that in Santa Clara County is \$25. For those who have convictions in more than one county, a California LiveScan criminal history report is recommended; these cost approximately \$45.

The filing fee for most individuals is \$150.¹⁴ There is no filing fee for people who are clients of the Public Defender's Office, or who currently receive public assistance.

The County of Santa Clara has made some funds available for the payment of RCP sheets and filing fees for RCP clients who otherwise would be unable to afford the expungement process. Since these funds are also received by the government, we do not consider them as a cost in this analysis.

The required fees can be translated to an average cost per RCP client. RCP claims that 25% of their 51 clients¹⁵ (12.75 clients) paid one of the probation office fees and a county RAP sheet fee because they did not come from the Public Defender's office, nor are they on public assistance. The average fee paid to the probation office is \$175, the \$150 filing

¹³ Mathur, Shishir. *SROI Study of the Record Clearance Project*, 2012. RCP.

¹⁴ Individuals who have only cases in which a probation period was not part of any sentence pay a filing fee of \$60.

¹⁵ There were 51 clients assisted by RCP during the 2011-12 period examined in the 2012 Mathur study.

fee and the \$25 county RAP sheet fee. So if 12.75 clients pay \$175, then the total fees paid by all RCP clients per year is \$2,231. Divided by the total number of clients (51), this yields an average cost per client of \$44.

Costs to employers

Many studies show that a high percentage of employers do not want to hire people with a criminal record due to perceived risks of those employees committing another crime while on the job. When faced with multiple candidates for a position, most employers tend to prefer candidates with no records, regardless of the degree of offense. Hananel states that 73% of employers conduct background checks on employees.¹⁶ In a 2006 study, Pager found that about 60% of employers would not knowingly hire an applicant with a criminal record.¹⁷

If an individual's record is expunged, then most employers would no longer be aware of convictions and thus would not remove the applicant from the job pool.¹⁸ However, our research shows that employers' notion that hiring a person with a criminal record is costly and false after a certain amount of time passes after the conviction.

We found that the cost to employers of hiring a person with a criminal record can be estimated at \$0 after about seven years. In a study by Brame, Bushway, and Kurlycheck, the authors show that for age 18 offenders (both violent and non-violent offenders), after seven years the likelihood of re-arrest closes in and levels off at a probability no higher than that of a citizen who has never committed a crime (See Appendix 2, Figure 2).¹⁹

In a study by Blumstein and Nakamura, the authors compare the probability of new arrests for 18-years-olds in the general population to the probability of new arrests for 18-year-olds with prior convictions for burglary, robbery, or aggravated assault.²⁰ As shown in Figure 1 of Appendix 2, the probability that offenders will be arrested again declines over time and eventually reaches a level as low as the general population. For individuals arrested for burglary, hazard rates for new arrest declined even faster than the stated seven years above; after 3.8 years the hazard rate for people arrested for burglary dropped below that of the general population.

Since second-degree burglary can be considered a misdemeanor, which is on the same level of severity as most RCP clients' offenses, it can be argued that after just 3.8 years (instead of 7 years) people who participated in the RCP no longer pose a potential cost to

¹⁶ Hananel, Sam. "US Puts Limit on Employee Background Checks to Protect Minorities." <http://jobs.aol.com/articles/2012/04/26/eeoc-issues-updated-guidance-on-employee-background-checks/>

¹⁷ Pager, Devah. "Evidence-Based Policy for Successful Prisoner Reentry." https://www.princeton.edu/~pager/cpp_pager.pdf

¹⁸ A law effective January 1, 2014 makes it illegal for most employers to ask about dismissed convictions. See Labor Code section 432.7.

¹⁹ Brame, Robert, Bushway, Shawn D. and Kurlychek, Megan C. "Scarlet Letters and Recidivism: Does An Old Criminal Record Predict Future Offending?" *Criminology and Public Policy*, Vol. 5. No. 3 (2006).

²⁰ Blumstein, Alfred and Kiminori Nakamura. "'Redemption' in an Era of Widespread Criminal Background Checks." *National Institute of Justice Journal*, Issue No. 263 (June 2009)

employers. Approximately three-quarters of the RCP clients had more than four years between their last offense and getting their record expunged. Among RCP clients, the average time period between last offense and expungement was 9.05 years, and the median time period was seven years.

It is also important to note that after 7.7 years for people arrested for robbery and 3.8 years for those arrested for burglary, the probability of being arrested again is actually lower than for the general population. For people arrested for burglary, the probability for re-arrest is lower by multiple percentage points (See Appendix 2, Figure 1). This shows that the hazard rates between people with a criminal history and the general population average out over a certain period of time.

Even for the RCP clients who had offenses within four years of getting them expunged, the cost to employers is estimated to be negligible for multiple reasons. First, the law does not permit offenders to apply for expungement until either they complete probation or (in non-probation cases), one year after conviction.²¹ In addition, the first year is the year in which recidivism rates are typically highest; as Figure 2 in Appendix 2 shows, the hazard rate for people with a criminal record dropped by more than half from the first to second year. Second, as shown in Appendix 2, people with nonviolent offenses have an even quicker decline in probability of re-offending over time. Since most RCP clients were convicted of nonviolent offenses, one would expect their recidivism rates to be lower than the rates for all offenders combined. In addition, all offenses that RCP clients had within four years of expungement were misdemeanors. Third, as will be discussed in the benefits section, expungement has a positive effect on employment, which has been shown to reduce recidivism rates. Fourth, as a NELP study reports, “the probability of committing an offense at the workplace, which is a significantly smaller subset of offenses, would likely be even more remote” than non job-related offenses.²² Lastly, RCP reported that they are unaware of any of their clients having recidivated. For discretionary cases, a judge also takes risk factors into account when determining whether to expunge a record. If a person seeking expungement seems to pose a notable risk to employers or the public, the judge is unlikely to grant expungement.

Considering all of these factors, we find the average estimated cost to employers of hiring an RCP client to be negligible.

²¹ Stevenson, Margaret. "Client Update Meeting." Personal interview. 10 Feb. 2014.

²² Rodriguez, Michelle Natividad and Maurice Emsellem. “65 Million ‘Need Not Apply’: The Case for Reforming Criminal Background Checks for Employment.” The National Employment Law Project. Accessed 13 February 2014. http://www.nelp.org/page/-/65_Million_Need_Not_Apply.pdf?nocdn=1

Benefits

Increased income

The clearest benefit of expungement to people with conviction histories is the potential increase in their income after their record has been cleared. RCP interviewed 48 past RCP clients, who provided information about their perceived change in income once their record had been cleared. The average respondent reported an increase in yearly income of \$6,190 after record clearance. In line with past studies of self-reported income measures, we expect that the income data has low levels of response bias and random error.²³ In addition, 93% of respondents who received RCP's assistance felt confident about their future job prospects, and 69% believed that earlier expungement would have made a difference in their previous income. This demonstrates that expungement affects the income of people with criminal records both immediately following record clearance and well into the future.

In addition, increased income due to expungement provides other positive economic benefits. A New York study shows that serving jail time decreased hourly wages for ex-offenders by 11%, decreased annual employment by 9 weeks, and decreased annual earnings by 40% as compared to the general population.²⁴ An average low-income worker with a family of four in the U.S. has an income below \$38,000 per year.²⁵ Taking into account the aforementioned 40% reduction in income for people with conviction histories, the expected average yearly income would drop to \$22,800, which is \$1,000 below the 2013 poverty line for a family of four. The RCP data shows that expungement can help people with criminal records not lose as much income as they would otherwise. In addition, the larger economy will prosper, as a substantial number of individuals will add worker productivity and gain increased spending power, and many families will be in much safer economic conditions.

Economic growth: increase in GDP

A criminal record can cause a person with a criminal record to be underemployed, as addressed in the section above. This cost is treated as a personal cost, but there is also the societal cost, which manifests in decreased GDP. As Schmitt and Warner found, formerly incarcerated males lower overall employment rates by as much as .8 to .9 percentage points, costing the US economy the equivalent of 1.5-1.7 million workers, which reduced US GDP by \$57-65 billion in 2008 alone.²⁶

This estimate looks only at males, and includes those who have been in prison and/or jail. While this does not conform to the same composition as the RCP population, it provides a reasonable estimate for the possible GDP contribution of certain RCP clients given that Stevenson has estimated that almost all of RCP's clients have served jail time.

²³ J.C. Moore, L.L. Stinson and E.V. Werniack. "Income Measurement in Surveys: A Review." *Journal of Official Statistics* 16: 331-361. 2000.

²⁴ Inimai M Chettiar, et al

²⁵ "Low-Income Working Families: Facts and Figures." *Low-Income Working Families: Facts and Figures*. Web. 06 Mar. 2014. Provide web address.

²⁶ John Schmitt and Kris Warner. "Ex-Offenders and the Labor Market". *Center for Economic and Policy Research*. November 2010. <http://www.cepr.net/documents/publications/ex-offenders-2010-11.pdf>.

In the above study, the average of the GDP loss is \$61 billion and the average of the estimated loss in workers is 1.6 million workers. This averages to \$38,125 per worker (GDP loss divided by loss in workers). For the RCP population, over the five-year span from 2009-2013, 6 of the 48 clients surveyed by phone reported going from unemployed to employed after expungement, with an average change in income of \$26,250. Because the change in income was accounted for in the previous section, we need to subtract \$26,250 from \$38,125 to isolate the GDP multiplier effects, implying that the effects per person are \$11,875. Given that the surveyed population had an average of 1.2 clients gaining employment after expungement (5 clients/6 years) and that population is 24% of RCP's total clients for that time period, we can estimate that about 4.95 total RCP clients gain employment after expungement each year. This gain is divided across the 51 clients during the 2011-12 per year examined in the Mathur study, which implies a GDP increase of approximately \$1,153 per RCP client per year. This GDP effect does not account for already employed RCP clients who saw an increase in income, so this is most likely an underestimate of the effect.

Increased tax revenues

With increased individual income generated by those clients whose records were expunged comes a corresponding increase in government tax revenues from income taxes and other sources. In 2010, the Congressional Budget Office estimated that the lowest income quintile of the U.S. population pays an average of 1.5% of their income in Federal taxes.²⁷ In order to calculate state and local taxes, we referred to a 2013 study by the Institute on Taxation & Economic Policy, which found that the lowest income quintile pays an average of 10.6% of their income to state and local taxes in California.²⁸ This percent takes into account sales and excise taxes, property taxes, and income taxes. Based on this average tax rate, the estimated percent of total income paid for taxes by RCP clients is 12.1%. If the average increase in income for an RCP client after expungement is \$6,190, then the additional average total income taxes paid per person equals \$750 ($\$6,190 \times 12.1\%$).

Reduction in government assistance payments

As stated previously, one of the core benefits of clearing criminal records is that it improves the employment prospects of people with conviction histories. Related to this, we found that increased employment has the potential to reduce government expenditures on welfare programs.

In this analysis, we focus on California's primary public assistance program, which is California Work Opportunities and Responsibility to Kids (CalWORKs). CalWORKs is a cash assistance and welfare-to-work program for low-income families. The

²⁷ "The Distribution of Household Income and Federal Taxes, 2010." Congress of the United States: Congressional Budget Office, Dec. 2013. <http://cbo.gov/sites/default/files/cbofiles/attachments/44604-AverageTaxRates.pdf>.

²⁸ Institute on Taxation & Economic Policy. "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States." Fourth ed. Jan 2013. Page 34.

CalWORKs program assists families that have fallen on hard times by supplementing their income with cash subsidies.²⁹ The Public Policy Institute of California (PPIC) estimated that the average CalWORKs grant per case was \$460 per month, or \$5,520 per case per year.³⁰

Federal and state restrictions stipulate that the maximum amount of time a family can receive assistance is five years. California is one of the few states that provides child-only grants to families until the child is 18 years of age, even if the parent is no longer eligible for assistance. For this reason, many families have made use of public assistance for longer than the mandated time. A report by PPIC found that “over half of families who have ever made use of CalWORKs have an assistance history that is two years or less”³¹ however, about one in five families has depended on assistance for over 6 years.³² It reported that families who tended to receive welfare benefits the longest were often those with the greatest disadvantages in finding employment. Recognizing the difficulties of finding employment with a criminal record, we expect that many RCP clients fit in this group.

According to the RCP, approximately 50% of RCP’s clients were on public assistance during the record-clearance process. RCP did not collect data on how many of their clients have families, but a study on ex-offenders found that over 50% of inmates have children under 18.³³ Therefore we multiply 50% by 50% to estimate the percent of RCP clients on CalWORKs, 25%. By multiplying 25% by the average yearly grant amount of \$5,520, we get an average yearly CalWORKs grant amount per RCP client of \$1,380.

If we assume that all ex-offenders on CalWORKs stop getting CalWORKs benefits after getting their record expunged due to increased employment, the CalWORKs savings from expungement would be \$1,380 per RCP client in the year after expungement. It is more likely that ex-offenders with expunged records become less reliant on public assistance programs across time due to higher wages. For example, their level of benefits and/or the amount of time they are dependent on benefits would decrease. Therefore, \$1,380 is certainly an overestimate of CalWORKs savings due to expungement. To counterbalance this overestimation, we do not factor in reductions that certainly would occur in other welfare programs, such as General Assistance, Supplemental Nutrition Assistance Program (SNAP) and Medicaid.

Reduction in recidivism

Currently, there is a lack of empirical research that has demonstrated that expungement is directly correlated with a decrease in recidivism rates for ex-offenders. However, there are studies that have shown that employment is one of many factors that contributes to an

²⁹ Individuals who have drug felonies are ineligible for certain public assistance programs.

³⁰ "CalWORKs: Governor Proposes a “Work First” Approach." *California Budget Fact Check*. California State Assembly

³¹ Danielson, Caroline. "California’s Welfare Recipients: Family Circumstances, Income, and Time on Aid among CalWORKs Families." Public Policy Institute of California

³² Ibid.

³³ Inimai M Chettiar, et al.

ex-offender's chances of not reoffending. Since expungement increases employment, it may help reduce recidivism as well.

When inmates first leave incarceration, they are immediately pitted against many societal disadvantages that leave them more likely to recommit offenses. The University of Cincinnati College of Law conducted a report that analyzed the benefits of expanding expungements and pardons. In the report, they cited a study from the Federal Bureau of Prisons that found that in a sample of 1,205 inmates, 40.8% of these people had re-offended.³⁴

The study also found that recidivism rates decreased over time, signifying a negative correlation between the lapsed time since last conviction and the likelihood of recommitting an offense or violating the terms of probation. As discussed earlier, multiple studies have reported that after seven years, the likelihood of an offender re-offending is negligibly higher than the likelihood of an average citizen committing a first crime.³⁵ Our RCP data also found that the median number of years since last offense for its clients was seven years, highlighting the possibility that regardless of expungement, the likelihood of the average RCP client re-offending is no more than that of the average U.S. citizen.

There is no way of accurately predicting whether or not a person with a criminal record will reoffend; however, research shows that having a job significantly decreases recidivism rates. A Safer Foundation study found that former inmates who received Safer's employment services and achieved 30-day employment retention had a 62% lower recidivism rate than the state's rate.³⁶ The University of Cincinnati study found that inmates who arranged for post-release employment were almost half as likely to re-offend compared to those who did not (27.6% versus 53.9%).³⁷ The report also suggested that of the non-violent crimes committed, the most common offenses were those that were seeking an economic end, such as larceny. A book by Stanford Professor Joan Petersilia cites a study that stated that the overall recidivism rate for people originally convicted of property crimes was 73.8%.³⁸ Since expungement has been shown to make people with criminal histories more employable, it has the potential to lower an individual's likelihood of recommitting a crime, due to greater economic possibilities.

A reduction in crime is clearly beneficial to society, and it is potentially cost-saving as well; however, there are few studies that attempt to quantify the cost of crime. One study

³⁴ Silva, Lahny. "Clean Slate: Expanding Expungements and Pardons for Non-violent Federal Offenders." University of Cincinnati Law Review.

³⁵ Pager, Devah. "Evidence-Based Police for Prisoner Reentry." https://www.princeton.edu/~pager/cpp_pager.pdf. Princeton University.

³⁶ Safer Foundation Three –Year Recidivism Study. 2008.. <http://saferfoundation.org/files/documents/Safer%20Recidivism%20Study%202008%20Summary.pdf>

³⁷ Silva, Lahny. "Clean Slate: Expanding Expungements and Pardons for Non-violent Federal Offenders." University of Cincinnati Law Review.

³⁸ Petersilia, Joan. "How We Hinder." *When Prisoners Come Home: Parole and Prisoner Reentry*. Oxford: Oxford UP, 2003. Print.

is from the United Kingdom's Home Office, a government institution that handles immigration and passports, drug policy, crime policy, and counter-terrorism. This study attempted to monetize the impact that crime has on society and individuals. In its report, the Home Office estimates the aggregate costs associated with various offenses. Below are the costs for the most common expunged crimes converted to USD, on a per case basis:³⁹

- Vehicle theft – \$7840
- Burglaries – \$3830
- Robberies – \$8340
- Assault – \$830

By providing greater economic opportunities to people with conviction histories, clearing criminal records has the potential to help bring down the high rates of recidivism for ex-offenders. Fewer criminal offenses would limit the costs to society of these crimes.

Additional benefits to society

In this section, we explore additional ways that expungement improves the well being of people with conviction histories, their families, and the community. A 2006 study cited by Chettiar, Austin-Hillery, Giovanni, and Philip found that a 10% decrease in a state's unemployment rate corresponded with a 16% reduction in property crime rates.⁴⁰ In another study titled, "Income Inequality Affects Quality of Life for All," it was found that reducing the income gap in developed countries could save 1.5 million lives a year.⁴¹ These points show how expungement, at least in the United States, can aid in decreasing the income inequality gap by placing more people into the workforce, which in turn improves quality and length of life. Although these additional benefits to society are not necessarily quantifiable, our team also examined qualitative information on the following benefits: decreasing the fear of crime due to lower crime rates and safer communities, preserving healthy family relationships, and increasing accessibility to housing for ex-offenders.

Decreased fear of crime

Through employment leading to reduced recidivism, expungement has the capability of lowering the fear of crime in communities, which in turn leads to certain economic benefits. A study by Dolan and Peasgood quantifies the fear of crime in the Netherlands by estimating the costs that go into avoiding crime or securing oneself against crime. In their study, they noted that if the quality of life is valued at 30,000 pounds, then the associated cost of crime is 19.50 pounds per capita annually.⁴² These costs include the

³⁹ Brand, Sam, and Richard Price. "The Economic and Social Costs of Crime." [Http://pdba.georgetown.edu/Security/citizenssecurity/eeuu/documents/brandandprice.pdf](http://pdba.georgetown.edu/Security/citizenssecurity/eeuu/documents/brandandprice.pdf). Home Office.

⁴⁰ Inimai M Chettiar, et al

⁴¹ Preidt, Robert. "Income Inequality Affects Quality of Life for All." <http://abcnews.go.com/Health/Healthday/income-inequality-affects-quality-life/story?id=9057038>. Accessed 6 February 2014.

⁴² Paul Dolan and Tessa Peasgood. "Estimating the Economic and Social Costs of the Fear of Crime." <http://bjc.oxfordjournals.org/content/47/1/121.full.pdf+html>.

costs to secure oneself against crime, such as adding security bars to windows. When applied to the U.S. in terms of dollars, these costs are estimated to be \$32.50 per capita annually. This study demonstrates that even the fear of crime has a cost, and if expungement is able to increase employment opportunities for people with criminal records and keep them from reoffending, crime rates would decrease and thus people would feel safer and likely avoid some of these estimated crime prevention costs every year.

Preserved family life

Expungement also has the potential to help preserve family life. The 2006 article by Chettiar et al. states that more than 1.2 million inmates (more than half the people behind bars) are parents of children under the age of 18.⁴³ Other studies showed that should an individual become incarcerated because of recidivism, family life would be adversely affected. Without expungement and the employment opportunities it offers to people with criminal records, it makes it more likely that they will commit crimes again to obtain income illegally. Expungement benefits not only people with conviction histories but also their families in the sense that it provides economic opportunity that leads to a healthier family atmosphere.

The studies that follow further outline the negative effects that incarceration has on family dynamics outcome, and thus the effects that expungement may help avoid. The book *Imprisoning America* contained multiple studies that analyzed the effects of incarceration on family life, specifically having to do with incarcerated males and the effects that their absence has on their families, particularly their children. One study by Edin, Nelson and Paranal found that men who experienced severed ties with their families due to incarceration had several characteristics in common: 1) the vast majority offended infrequently or moderately, 2) most had combined criminal activity with other legal/under the table employment to make ends meet, and 3) these men generally reported no heavy drug or alcohol abuse before any episode of incarceration.⁴⁴ These characteristics imply that these fathers may have felt they had to offend to support their family, and that they had the potential to be responsible role models in their children's lives. However, incarceration damaged their ties to their children as well as to the spouses who often left them. Even when mothers attempt to preserve the father-child relationship, incarceration made fathers miss out on key events in a child's life which serve to "build parental bonds and to signal to the community that they intend to support their children both emotionally and financially."⁴⁵

In another study by Johnson and Waldfogel, they found that of the 1.3 million children of state and federal inmates in 1997, an estimated 24,000 were in foster care, and 155,049 were in the care of grandparents.⁴⁶ They determined that parental incarceration is

⁴³ Inimai M Chettiar, et al.

⁴⁴ Timothy Nelson and Rechelle Paranal. "Fatherhood and Incarceration as Potential Turning Points in the Criminal Careers of Unskilled Men." *Imprisoning America*. By Kathryn Edin. New York: Russell Sage Foundation, 2004. 46-75. Print.

⁴⁵ Nelson and Paranal.

⁴⁶ Jane Waldfogel. "Children of Incarcerated Parents: Multiple Risks and Children's Living Arrangements." *Imprisoning America*. By Elizabeth I. Johnson. New York: Russell Sage Foundation, 2004. 97-134. Print.

associated with poorer emotional, behavioral, and psychological development of children; problems such as aggression, withdrawal, criminal involvement, depression and concentration problems have also been observed among children whose parents are imprisoned.⁴⁷ The absence of a parental figure due to a detrimental factor like incarceration causes adverse disturbances in children's psychological development. Other studies cited by the authors suggested that strong parental presence during infancy has important positive consequences for later child psychological development. Securely attached infants have been shown to be more socially competent with peers and parents, less dependent on teachers, and better able to regulate impulses and feelings than otherwise attached infants.⁴⁸

Rutter and Quinton conducted a study in which they identified six risk factors associated with child psychiatric disorder, two among them being low social status and paternal criminality; their analyses showed that the presence of two or more stressors was associated with a fourfold increase in risk for psychiatric disorders in children.⁴⁹ In a separate analysis by Sameroff, he found that children with a greater amount of family risk factors fared worse in terms of socio-emotional competence than children with fewer family risk factors.⁵⁰ Research indicates that children of incarcerated parents have experienced many of the risk factors delineated in these studies, including low-income status and single-parent family. Expungement has the ability to assist individuals in gaining employment which in turn helps prevent them from reoffending, reducing the risks of the aforementioned negative family dynamics from taking place.

Increased access to housing

Another benefit that expungement provides is more housing opportunities for people with criminal records. This population generally finds it difficult to find suitable housing due to the fact that the law prohibits them from obtaining certain public housing and owners of private housing often refuse to provide housing to them. One study found that some laws actually require public housing agencies to deny housing to individuals with certain criminal backgrounds; Congress has also passed legislation giving public housing authorities more discretion in prohibiting ex-offenders from living on their properties.⁵¹

Ninety-seven percent of the housing market is privately owned.⁵² A study found that 66% of surveyed landlord and property managers would not knowingly accept an individual applicant who has a criminal background.⁵³ The law enables owners to refuse housing to ex-offenders who have “any drug-related or violent criminal activity or other activity which would adversely affect the health, safety, or right to peaceful enjoyment of

⁴⁷ Waldfogel.

⁴⁸ Waldfogel

⁴⁹ Waldfogel.

⁵⁰ Waldfogel.

⁵¹ Petersilia.

⁵² Petersilia.

⁵³ Silva, Lahny. “Clean Slate: Expanding Expungements and Pardons for Non-violent Federal Offenders.” <http://scholarship.law.uc.edu/cgi/viewcontent.cgi?article=1046&context=uclr>.

the premises by other residents, the owner, or public housing agency employees' for a 'reasonable time.'"⁵⁴

Considering that people who have criminal records may not be eligible for some public housing, it is more difficult for them to reunite with their families who often rely on public assistance for housing. Since trying to reunite with his or her family might endanger their family's access to public assistance, this contributes to having a fragmented family unit.⁵⁵ Their limited housing options increase the likelihood that people with criminal records might even have no housing at all since "public housing represents a last resort of the returning prisoner to avoid a shelter of the streets."⁵⁶

Expungement allows people with conviction histories to apply for better housing without having the handicap of his or her criminal background. It offers the potential to provide better housing opportunities to ex-offenders, thereby preserving family units and reducing the likelihood of recidivism.

It is difficult to put specific numbers on these benefits since there are so many that can be discerned. Furthermore, no matter which benefits are chosen, each one is hard to quantify and the link to expungement is less than straightforward. Although the literature provides mostly qualitative descriptions of these additional benefits to society, it is still important to acknowledge them.

⁵⁴ Silva. "Clean Slate."

⁵⁵ Silva.

⁵⁶ Petersilia.

Main Findings

Table 1 is here presented again to display the summary of our estimates for each cost and benefit per RCP client in one year. Total costs are \$3,757, and total benefits are \$9,517, so the estimated benefits outweigh the costs by \$5,760 per RCP client in one year. This figure is an underestimate of the net benefits, because our estimate does not include the benefits that we were unable to quantify: reduced recidivism and additional societal benefits.

Table 1: Estimates of costs and benefits of expungement per RCP client in one year

Costs		Benefits	
Probation Office costs	\$59	Increased income*	\$6,190
Court costs	\$242	Increased GDP*	\$1,153
RCP costs	\$3,412	Increased tax revenues*	\$750
Legal fees (cost to offender)	\$44	Legal fees (benefit to government)	\$44
Cost to employers	Negligible	Reduction in government assistance*	\$1,380
		Reduction in recidivism^	
		Additional benefits to society^	
Total costs	\$3,757	Total benefits	\$9,517

*These benefits are multi-year benefits.

^These benefits exist but were not quantified.

The benefits and costs are shown for one year only, but many of the benefits accrue over multiple years while the costs do not. For example, many individuals with expunged records will continue to have increased income and pay increased taxes due to expungement over multiple years although the exact amounts will vary by year. Therefore expungement's benefits actually outweigh costs across time by a much larger amount than shown in the table above.

Government benefits

There are multiple costs and benefits to the government from expunging criminal records. The costs include Probation Office costs, Court costs, and RCP costs; the benefits include increased tax revenues, reduction in government assistance, and legal fees. Considering that most of the benefits accrue across time while the costs do not, we find that the government costs exceed benefits in the first year only, and the cumulative benefits outweigh cumulative costs for the government by the third year.

In estimating the government's costs and benefits across the first three years, we use the same level of tax revenues for each year based on the assumptions that the tax rate and reported \$6,190 income bump due to expungement would not decrease across the three years. We expect public assistance savings to decrease across time, because some recipients may have reached CalWORKs time limits and other recipients likely will have gained employment or increased their previous income, becoming less reliant on public assistance. To be conservative, we estimate that the savings due to reduced public assistance payments will be cut in half in the second year and will be eliminated in the third year.

Our estimates for government costs and benefits for each of the three years are presented in the table below. The net benefits are -\$1,539 in the first year, \$1,440 in the second year, and \$750 in the third year. Across the three years, the estimated total costs are \$3,713 and total benefits are \$4,364, so the government's estimated benefits outweigh their costs by \$651 per RCP client. We expect that tax revenues and public assistance savings from expungement would continue to grow across time, resulting in further net benefits to the government.

Table 2: Estimates of costs and benefits to the government per RCP client over three years

	Year 1	Year 2	Year 3	Total across 3 years
Costs				
Probation Office costs	59	0	0	59
Court costs	242	0	0	242
RCP costs	3412	0	0	3,412
Total costs	\$3,713	0	0	\$3,713
Benefits				
Increased tax revenues*	750	750	750	\$2,250
Reduction in government assistance*	1,380	690	0	\$2,070
Legal fees	44	0	0	44
Total benefits	\$2,174	\$1,440	\$750	\$4364
Net benefits	-\$1,539	\$1,440	\$750	\$651

* These benefits are multi-year benefits.

Aggregate impact of RCP’s efforts

To estimate the overall impact of RCP’s efforts, we consider the average number of clients served by RCP in a year, which is 52.7 clients per year over the last three years. By multiplying 52.7 by the estimated net benefits of \$5,760 per client in one year, we estimate that expunging RCP client records leads to net benefits of \$303,552 *in one year*. By multiplying 52.7 by the government’s estimated net benefits of \$651 per client across three years, we estimate that the gain for the government would be \$34,308 in net benefits across three years. Since most benefits accrue across years but costs do not, cumulative net benefits would increase over time.

Discussion and Policy Implications

Generalizability

The major finding of our analysis, that expungement's benefits outweigh its costs, is generalizable to populations beyond the RCP client base. Even if people with criminal histories across a larger cross-section of society have different demographic backgrounds than RCP clients, their expungement will most likely lead to higher income, higher tax revenues, and increased social benefits.

However, our exact cost and benefit estimates based on the RCP data are not going to perfectly represent the costs and benefits of other populations of people with criminal records. For example, compared to the Santa Clara County population, a higher percentage of RCP clients are non-white and thus the RCP population is not fully representative of the County population and, presumably, higher income people who are eligible for record expungement. See Appendix 5 for more data.

Furthermore, in looking at applying our findings, there are very different factors to consider depending on geographic area. Some parts of California, for example, will have a much higher number of ex-offenders and thus have much more need for organizations like RCP to assist with expungements. In addition, there are different local and county policies that must be considered in making policy recommendations for other areas. Finally, expungement might not be as useful moving into the future as it has been shown to be in the past due to increased exposure enabled by the internet. For example, someone might have their record expunged, but because their original crime was reported in a local newspaper or website, employers will still be able to use the internet to identify them as having a conviction and then remove them from the hiring pool. Previous expungement studies have not fully taken this into account, and therefore make generalizations about future benefits from expungement somewhat suspect. We recommend further research on the effect of the internet on the benefits of expungement.

Policy implications

When considering the policy implications of our findings, it is important to recognize that many people with criminal records do not pursue expungement due to a lack of awareness about and/or resources for pursuing the expungement process. In surveys of over 700 people to whom the RCP has explained expungement law in community education presentations, over 85% were unaware prior to the presentation that some convictions must be dismissed. One can assume that the relative unawareness of the specific expungement law provisions means that people generally lack information about their rights under the law.

We recommend that the expungement process be made more widely known and accessible to help people with criminal records pursue their legal expungement rights and to help them, their families, the government and the public receive the benefits we

identified in our report. This might require providing more information to people who have criminal records and establishing more organizations like RCP. The latter suggestion will depend on the particular county and whether or not the local Public Defender's office handles expungements, and if so, whether it needs assistance. In some rural counties the Public Defender's office might be completely capable of handling all low-income expungement requests, and additional resources would be unnecessary, while in high-density areas similar to Santa Clara County additional resources could be highly effective.

In order to make the expungement process more widely known and accessible, our team recommends many of the same conclusions found in the June 2013 Stanford Public Policy Senior Practicum report titled, *Improving the Implementation of California's Expungement Policy*.⁵⁷ That team suggested that the state should "revise the court information sheet, post [expungement-related] weblinks on key websites, modify expungement petitions, and provide additional notifications [to ex-offenders] about expungement." All of these steps would increase outreach efforts and ease-of-use in regards to the expungement process, and would therefore allow more people with criminal histories the opportunity to expunge their records.

To help facilitate the expungement process, we also recommend that existing expungement service organizations, such as RCP and the Public Defender's office, get additional financial and organizational support. In addition, we recommend that more governmental resources be given to courts and probation offices for processing and hearing expungement cases. This will allow these offices to process more expungement cases.

Lastly, we recommend that further research be conducted on some of the areas that were covered in our report. First, we recommend that more research be done to try to quantify the costs and benefits of expungement across different populations and across time, and to compare the results to those found in this report. We also recommend that more research be done on the relationship between expungement and recidivism. While in this report we were able to assume that expungement affected recidivism through increased employment, it would be useful to see if expungement itself causes decreased recidivism, in isolation from employment, due to its positive economic and societal benefits on other aspects of the lives of people with criminal records. If a direct causal relationship is demonstrated between the two, then the case for increased expungement could be made more strongly to both the public and our politicians as a way of decreasing the societal cost of crime and incarceration, and therefore saving valuable public funds. Lastly, we recommend research be done to examine the validity of the claim that increased internet exposure negates some of the benefits of expungement discussed in this report.

⁵⁷ Chayabunjonglerd, Sirada, Marcia Levitan, Chris Paiji, and Sam Storey.

Appendix

Appendix 1

RCP's phone survey questions

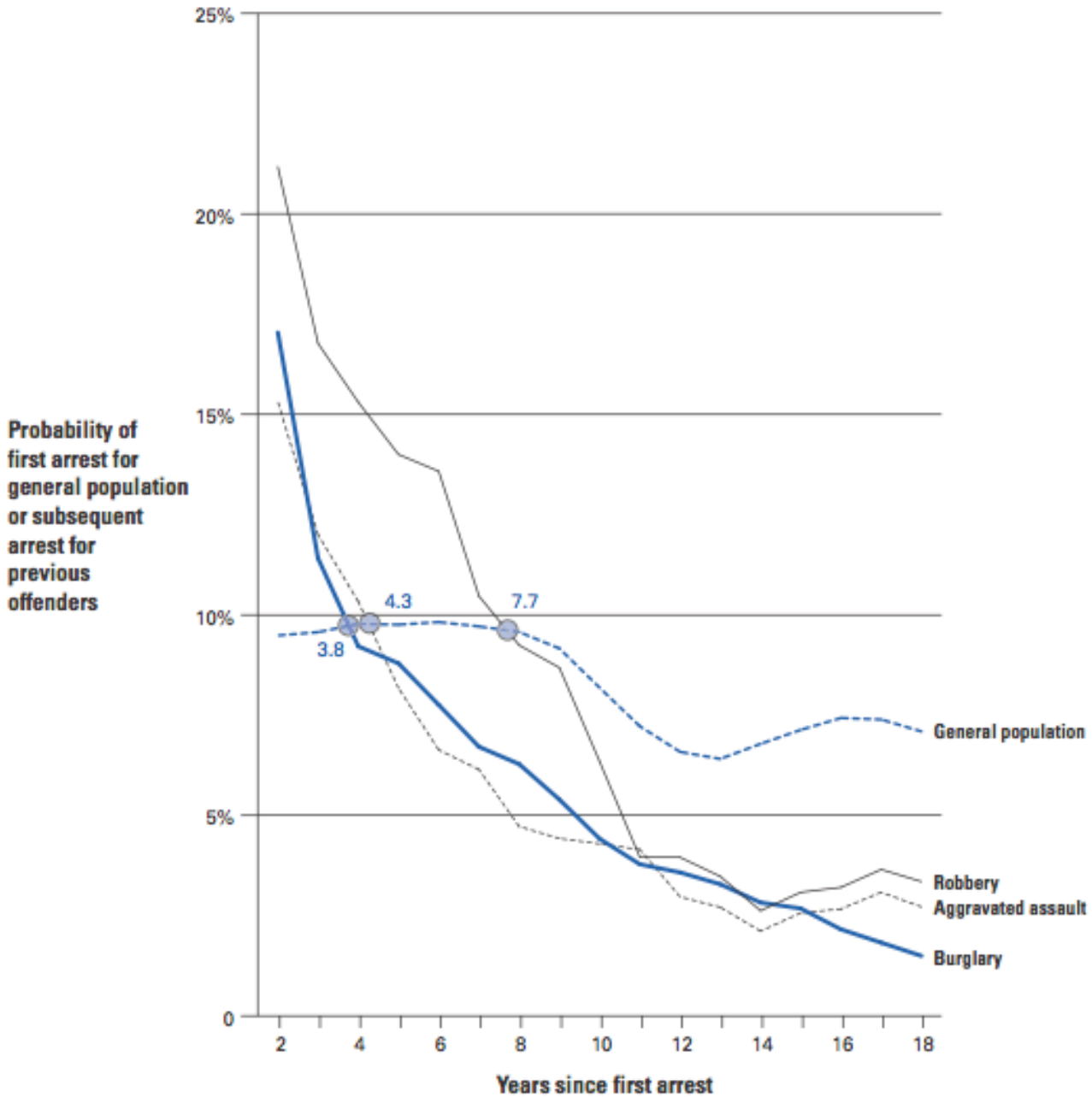
- What type of work were you doing before your expungement?
 - What type of work are you doing now?
 - Has there been a difference in your income as a result of expungement?
 - If so, how much?
 - If no difference in income as a result of expungement, do you expect that expungement will make a difference in your earnings in the future? If so, why?
 - If your record had been cleared earlier, do you think that it would have made a difference in your work experience? How so?
 - If your record had been cleared earlier, do you think that it would have made a difference in your income? How so?
- Do you have future job prospects or plans leading to higher income in the future?
Is it okay if we stay in touch via email / phone?

Appendix 2

Figure 1

Hazard rate for 18-Year-Olds: first-time offenders compared to general population⁵⁸

The probability of new arrests for offenders declines over the years and eventually becomes as low as the general population

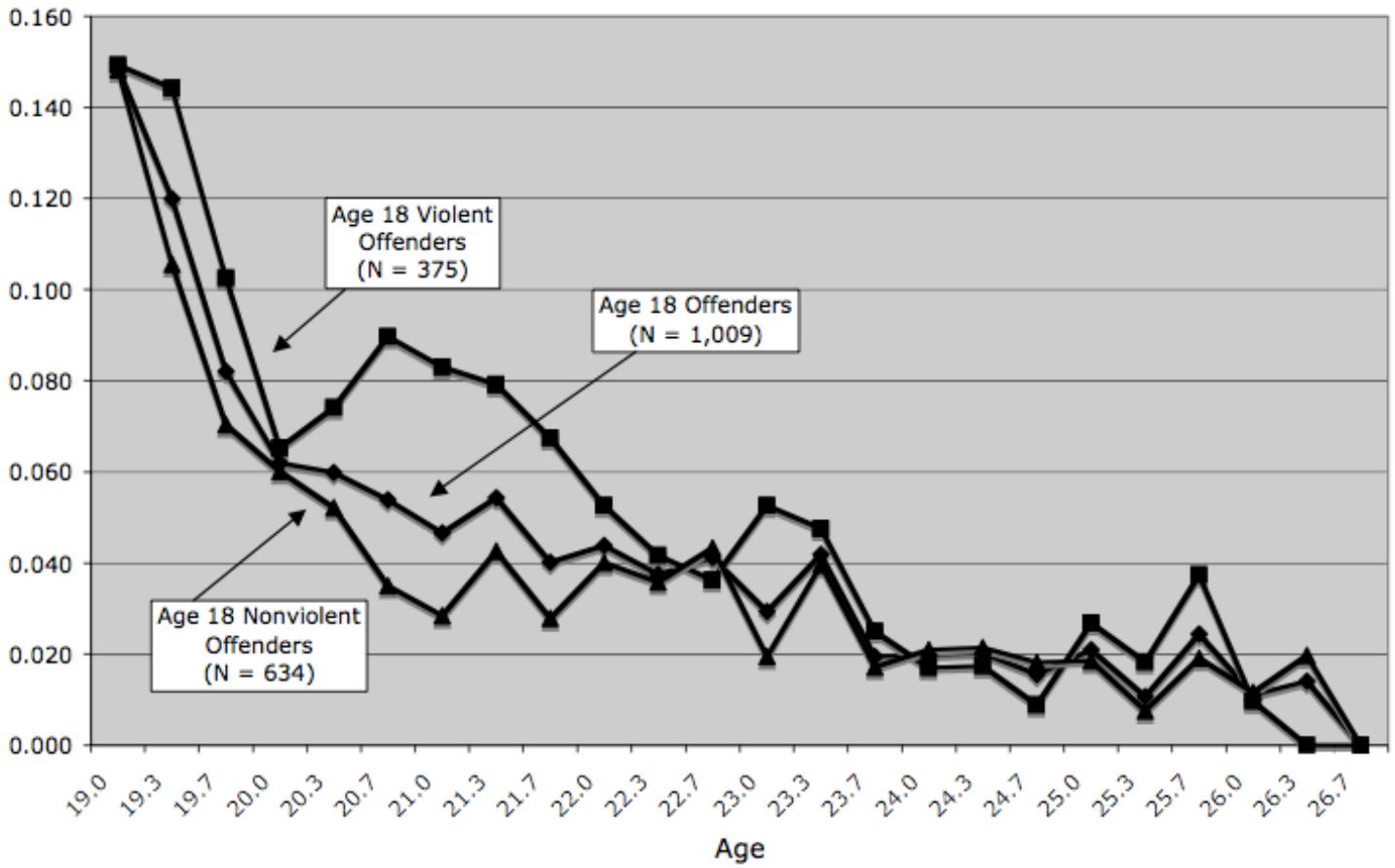


⁵⁸ Blumstein, Alfred and Nakamura, Kiminori. “Redemption’ in an Era of Widespread Criminal Background Checks.” Accessed 6 February 2014. <https://www.ncjrs.gov/pdffiles1/nij/226872.pdf>

Appendix 2

Figure 2

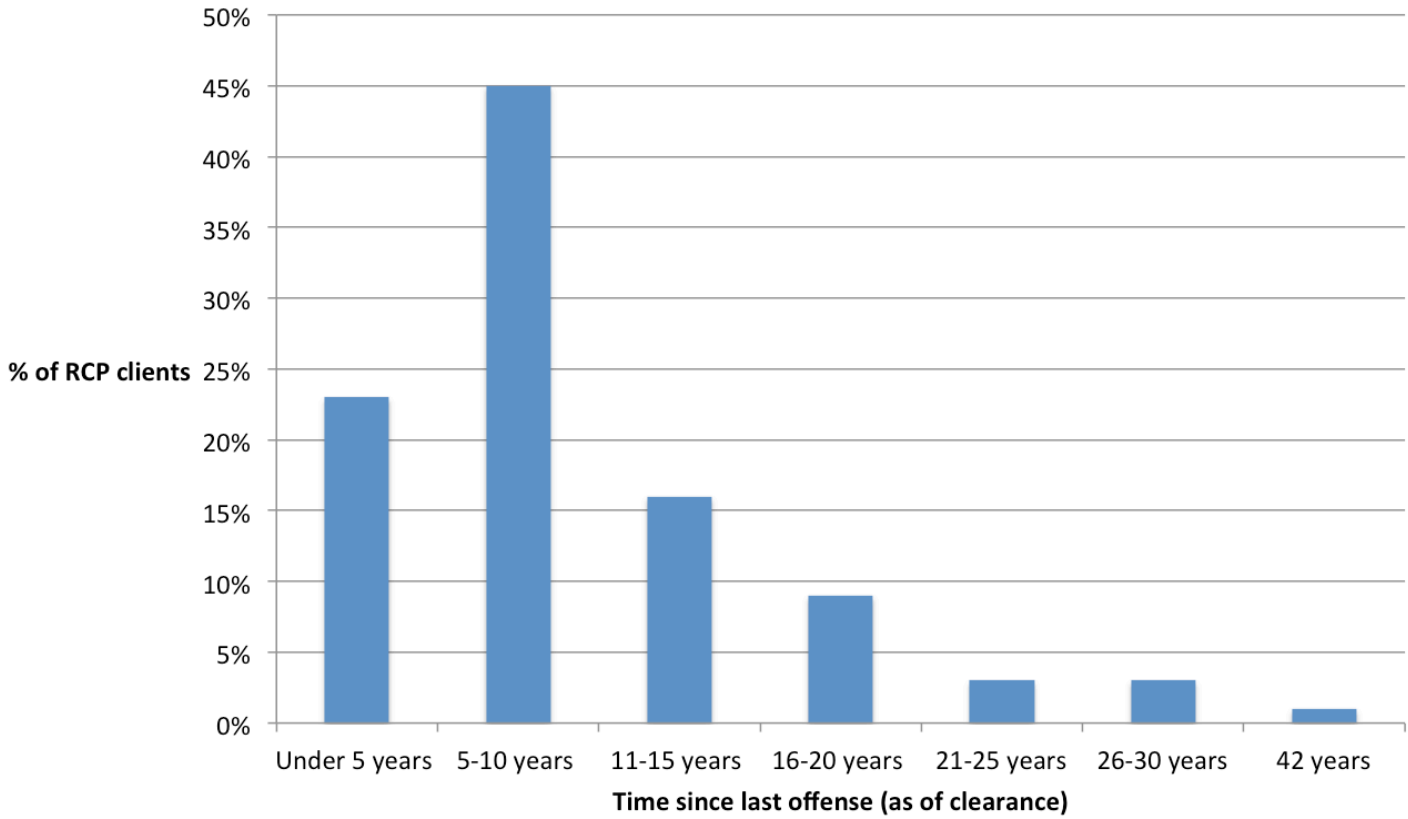
Arrest hazard rate by age among age-18 offenders (N=1,009)⁵⁹



⁵⁹ Brame, Robert, Bushway, Shawn D. and Kurlychek, Megan C.. “Scarlet Letters and Recidivism: Does An Old Criminal Record Predict Future Offending?”. Accessed 6 February 2014. <http://www.jjay.cuny.edu/ScarletLetter.pdf>

Appendix 3

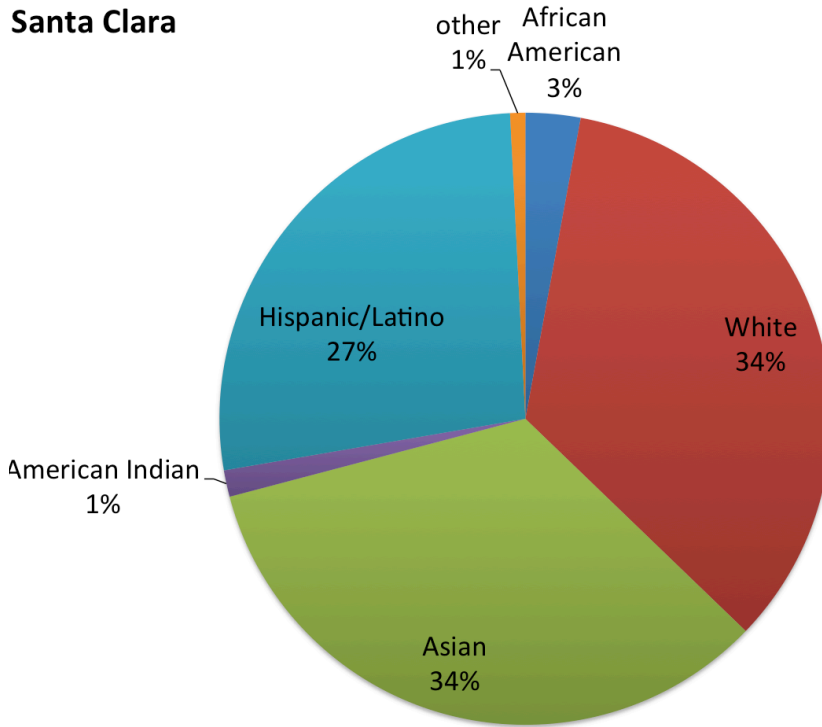
RCP data: statistics on clients, time since last offense as of clearance



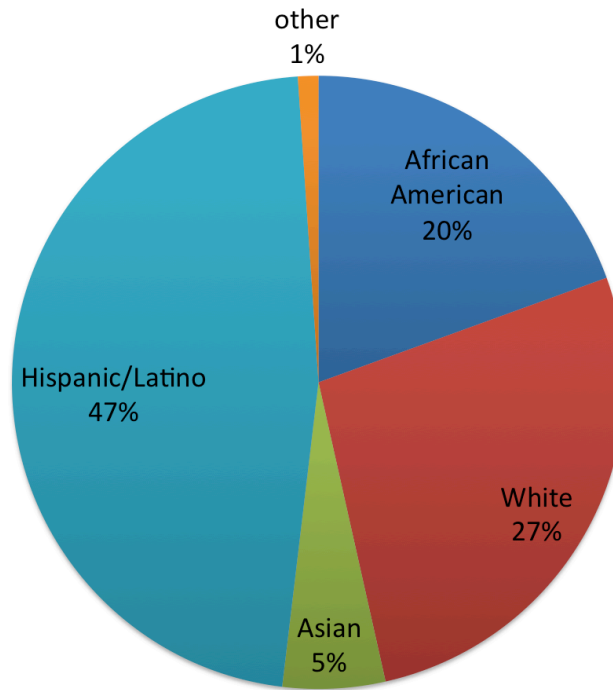
Appendix 4

Demographic breakdown comparison between Santa Clara and RCP clients

Santa Clara



RCP



Appendix 5
Summary of RCP data

Employment

Good future job prospects?		%
Yes		91%
No		9%

Average change in yearly income following expungement		
average	6188.26	
people who gave useful response	46	
% of total people who gave a response	23%	

If no difference in income as a result of expungement, do you think it will make a difference in future earnings?	n	%
yes	38	86%
no	6	14%

Would early expungement have mattered in work experience?	n	%
yes	30	68%
no	7	16%
maybe	7	16%
# people who responded	44	

Would early expungement have mattered in income?	n	%
yes	33	72%
no	7	15%
maybe	6	13%
# people who responded	46	

Offenses

Multiple offenses?	n	%
single	64	42%
multiple	90	58%

Average total number of offenses	3.34
---	-------------

Amount of time between clearance and last offense	n	%
total average time	9.05	
average for cases with less than 10 years between	5.34	
average for cases with more than 10 years between	16.92	
median	7.00	

Mandated versus discretionary	n	
Mandatory	204	30%
Discretionary	466	70%

Other

Gender	n	%
Female	96	48%
Male	102	52%

Age (as of 1/1/13)	n	%
20's	21	11%
30's	55	30%
40's	57	31%
50's	42	23%
60's	8	4%

Either drug or alcohol Issues?	n	%
yes	128	65%
no	70	35%

Appendix 6

Theoretical rational actor cost

In this section, we explore a cost of record expungement that we would expect to find under economic theory; however, we ultimately conclude that in the real world its effect is negligible. This theoretical cost is that expungement raises the likelihood that someone would choose to commit a crime by lowering the personal costs of committing the aforementioned crime. To clarify, the crime discussed in this section is the first crime by the would-be offender (therefore not under the purview of a recidivism debate), and would occur before the offender ever served in jail or was eligible for expungement. In addition, the offender is assumed to be amoral, risk-neutral, and perfectly rational.

Currently, the costs of committing a crime in Santa Clara County (and the larger U.S.) are not limited to time spent in jail or on probation; there are sustained negative effects of being labeled an offender or ex-offender in our society. Salary, credit score, volunteer opportunities, and more are all harmed by being an ex-offender. A perfectly rational would-be offender would have to take these long-term costs into consideration when conducting his own cost-benefit analysis of whether to commit the intended crime. A perfectly rational, risk-neutral offender should commit a crime only when the benefits of committing the aforementioned crime outweigh the costs of getting caught for the crime multiplied by the probability of the offender getting caught.

Benefits of Crime > Costs of Getting Caught x Probability of Getting Caught

If our cost-benefit analysis ultimately demonstrates that expungement improves the lives of people with criminal records, then an argument could be made that a would-be offender therefore, *ceteris paribus*, has a lower "cost of getting caught" than he did before expungement. Therefore, the would-be offender should decide that more crimes are ultimately rational to commit and that the benefits of his future hypothetical crimes could be lower than pre-expungement. The effects this could have on society are potentially massive; it is a huge cost of expungement that must be considered, if valid.

However, we determine that there are several holes in this line of argument, and therefore do not believe the hypothetical cost to society is too high. First, people are not perfectly rational. Potential offenders are unable to analyze in a perfectly rational way the costs and benefits of committing a crime due to the effects of bounded rationality (the idea that people are not capable of being completely rational due to cognitive inability), lack of knowledge in regards to the long-term effects of committing a crime (not many people are aware of the effects of crime post-jail),⁶⁰ lack of knowledge in regards to expungement (even fewer would-be offenders are knowledgeable about expungement)⁶¹

⁶⁰ Visher, Christy, Sara Debus, and Jennifer Yahner. "Employment after Prison: A Longitudinal Study of Releases in Three States." Urban Institute Justice Policy Center, n.d. Web.

⁶¹ Chayabunjonglerd, Sirada, Marcia Levitan, Chris Paiji, and Sam Storey. "Improving the Implementation of California's Expungement Policy." Undergraduate Public Policy Senior Practicum, Stanford University.
<http://publicpolicy.stanford.edu/system/files/California%20Expungement%20Final%20Report.2013.pdf>

and a natural human emphasis on the short-term (humans tend to overvalue the near-term and de-value the long-term).⁶²

Second, would-be offenders are not risk-neutral, as it has been demonstrated that humans are much more likely to be naturally risk-averse, and there is little evidence to suggest that offenders are inherently more risk-taking than the general public. Third, would-be offenders are not perfectly amoral. Although they would choose to commit a crime, there is again no evidence that offenders are inherently any more or less moral than the general public. Finally, our team believes a questioning of the legitimacy of the harmful effects of post jail/parole life on people with a criminal record is necessary. If expungement lowers the costs to the offender of committing a crime, isn't that simply reverting societal punishment of offenders to what it was originally intended to be: incarceration and subsequent supervision? Is it just that offenders are severely negatively impacted beyond the punishment designated for them by society? These are all reasons we do not believe the hypothetical cost significantly impacts the overall cost-benefit analysis.

⁶² "Study: Brain Battles Itself over Short-term Rewards, Long-term Goals."
<http://www.princeton.edu/pr/news/04/q4/1014-brain.htm>. Princeton University