



Removing Criminal Records as a Barrier for TANF Recipients

Pamela C. Ovwigho, Ph.D., Kathryn W. Patterson, B.F.A., & Catherine E. Born, Ph.D.



Research Brief May 2009

As more than a decade of welfare reform related research has documented, many women receiving Temporary Assistance for Needy Families (TANF) experience barriers to employment. Barriers such as physical health, child care, and a history of domestic violence have received the most attention. Legal problems, including having a criminal record or history of incarceration, have received little attention, yet for a significant minority of TANF recipients, these present very real obstacles to obtaining employment.

In a recent study, we have found that more than one in ten (13.1%) of female TANF caseheads self-reported having a criminal background (Head, Born, & Ovwigho, 2009). These women appear to be at higher risk of reaching the 60-month TANF time limit than non-reporters, consistent with prior research suggesting that female offenders typically have higher rates of welfare utilization. In addition, these individuals often have other barriers including low levels of education, little work experience, and substance abuse or mental health problems that make self-sufficiency difficult to achieve.

In general, employers are hesitant to hire persons with a criminal record. Some occupations, and the ability to hold certain occupational licenses, are legally closed to individuals with felony convictions under some state and federal laws. This includes those that require contact with children and certain health care-related occupations. In professions in which criminal records are not the subject of regulation, employers may refuse to hire individuals with criminal backgrounds simply because of a fear of theft or liability.

Thanks to the Internet, it is very easy for employers to obtain criminal records for job applicants. Often ex-offenders go through the job application process only to be told that their record is not the reason that they are not hired, although they suspect that is the case (Hirsch, et. al., 2002). In addition, employers demand dependable, honest employees, and past criminal activity signals something less (Holzer, et. al., 2003).

The "criminal record" problem is much larger in size than one might suspect because, until recently, records were created and maintained not only for persons convicted of crimes, but also for those found not guilty or whose

charges were dismissed. Indeed, until October 2007, criminal records were also established and maintained for persons who were arrested but not charged and there was no automatic expungement. According to the MD Criminal Justice Information System, in 2006 alone, 21,000 people statewide were arrested and released with no charges filed.

One option for some of these individuals is criminal record expungement. Expungement is the process of legally destroying, obliterating or striking out records or information in files, computers and other depositories relating to criminal charges. In Maryland, the records cannot be accessed for general law enforcement or civil use. An expunged record may usually not be considered by any private or public entity in employment matters, certification, licensing, revocation of certification or licensure, or registration. In addition, if a job applicant refuses to disclose information about expunged charges, an employer can neither discharge nor refuse to hire the person, nor can the state deny any application.

Expungement of records usually requires a formal request by the individual who is the subject of the records. In the state of Maryland, one may file a petition for expungement if he or she was: acquitted or found not guilty of a crime; if the charge was dismissed; or if the case received Probation Before Judgment, a Nolle Prosequi, was placed on the stet docket, or was transferred to juvenile court. Until recently, there was no such thing as automatic expungement. As of fall 2007, however, records are automatically expunged if there is an arrest, but no charges are filed.

In Maryland, three local Departments of Social Services (DSS) located on the Lower Eastern Shore¹ contracted with Maryland Volunteer Lawyers Service (MVLS) to help their customers deal with legal barriers. Specifically, MVLS provided free legal services for Lower Shore DSS clients who were seeking an expungement of their criminal records. Department of Social Services staff screened customers, collected proof of income and any case-related documentation and forwarded the information to MVLS for placement. From January 1, 2007 to September 30, 2008, 36 clients were referred to MVLS for possible record expungements. This research brief explores the demographic characteristics of these individuals, and their employment, welfare, and food stamp histories and outcomes.

Sample

Our sample consists of 36 individuals who applied for assistance from the MVLS Tri-County Legal Services Program between February 2007 and August 2008. All had requested expungement of their criminal records.

¹ These three local DSS are Somerset, Wicomico, and Worcester counties.

Data Sources

Study findings are based on analyses of administrative data retrieved from computerized management information systems maintained by the State of Maryland. Demographic and program participation data (including TCA, Food Stamps, Medical Assistance, and Social Services) were extracted from the Client Automated Resources and Eligibility System (CARES) and its predecessor, the Automated Information Management System/Automated Master File (AIMS/AMF). Employment and earnings data from all employers covered by the state's Unemployment Insurance (UI) law were obtained from the Maryland Automated Benefits System (MABS). Additional data were obtained via intake and case closing surveys.

Findings

First we examine the characteristics of those who requested expungement. Table 1, below, shows that a typical MVLS applicant is an African-American (83.3%) female (97.2%) in her early thirties (mean age 31) who resides in Wicomico County (83.3%) and has two or three children. Her monthly income is about \$650, and for most (58.3%), the main source of income was Temporary Cash Assistance. Out of the 34 individuals who supplied information on income sources, only one was employed at the time of intake. Additionally, six named "food stamps" and two "child support" as their sources of income.

Table 1. Demographic Characteristics.

Characteristics	Percent	Number
Gender		
Female	97.2%	35
Male	2.8%	1
Race		
African-American	83.3%	30
Caucasian	13.9%	5
Other	2.8%	1
Age (mean)	31.2 years	
Number of adults in family	1.15	
Number of children in family	2.68	
Self-reported monthly income		
Mean (median)	\$650.97 (\$616.00)	
Income Sources		
Employment	2.8%	1
TCA	58.3%	21
SSI	2.8%	1
Social Security	0.0%	0
Unemployment	8.3%	3
Other	22.2%	8
County		
Somerset	11.1%	4
Wicomico	83.3%	30
Worcester	5.6%	2

When clients approached MVLS for assistance with their legal case, they were asked to complete a questionnaire regarding their legal problem and how it affected their lives. The results are presented in Table 2, following this discussion.

More than half of the individuals in our sample self-reported that their legal problem has affected their lives for more than two years, during which time more than one in five (22.9%) tried to file legal papers on his or her own. Eight in ten (80.0%) were not employed but looking for work at the time the survey was taken.

Criminal record (57.1%) was the most common reason giving for not currently working. In some cases, program participants wished to attend school in order to work in an occupation that would not hire them because of their criminal record. Nearly three-fifths (60.5%) of respondents believed that their legal problem has caused them to be turned down for a job. However, the majority also disagree that their legal problem caused them lose time from work (84.4%) or to lose a job already held (65.6%).

Table 2. Legal Case

Question	Response*
How long has the legal problem affected your life?	
< 6 months	15.6% (5)
6 – 12 months	15.6% (5)
13 – 24 months	12.5% (4)
> 24 months	56.3% (18)
What methods have you taken to solve the problem?	
Wrote letters to other party	2.9% (1)
Tried to file legal papers on own	22.9% (8)
Contacted Legal Aid Bureau	14.3% (5)
Contact private attorney	0.0% (0)
What is your current employment status?	
Employed full-time	0.0% (0)
Employed part-time	12.1% (4)
Unemployed and looking for work	84.8% (28)
Unemployed and not looking for work	3.0% (1)
What do you think are the main reasons you are not currently working? (choose all that apply)	
Need more education	37.1% (13)
Need more work experience	25.7% (9)
There are no jobs available	11.4% (4)
Criminal record	57.1% (20)
Transportation problems	20.0% (7)
Paying or finding child care	17.1% (6)
Pregnant/maternity leave	2.9% (1)
Prefer/need to stay home with children	2.9% (1)
Own health/disability	2.9% (1)
Depressed or overwhelmed	5.7% (2)
In school or other training	14.3% (5)
Other family responsibilities	0.0% (0)
Wages offered are too low	0.0% (0)
Jobs don't offer health benefits	2.9% (1)
Husband/partner objects	0.0% (0)
I have been turned down for a job because of this problem	
Strongly disagree	15.2% (5)
Disagree	24.2% (8)
Agree	27.2% (9)
Strongly agree	33.3% (11)
I have lost time from work because of this problem	
Strongly disagree	28.1% (9)
Disagree	56.3% (18)
Agree	6.3% (2)
Strongly agree	9.4% (3)
I have lost a job because of this problem	
Strongly disagree	25.0% (8)
Disagree	40.6% (13)
Agree	6.3% (2)
Strongly agree	28.1% (9)

Note: Case opening surveys were completed by 35 participants.

In addition to the yes/no and multiple choice questions above, program participants were asked two open-ended questions.

For the first question regarding how their life is affected by their legal problem, more three of five responded that they had difficulty finding employment. For example, respondents wrote:

- “It is hard to find good jobs because of the background checks they do. So I never get called back.”
- “This legal problem is basically stopping me from getting a job in any field.”
- “It is causing employment hiring issues. I'm not able to support my children.”

Another one in five indicated that their criminal record affected their ability to further their education:

- “I can not enroll in a nursing program.”
- “It is stopping me from attending dental assistant classes therefore holding up my future plans.”

The second question asks the respondents how solving the legal problem will change their lives. Roughly seven in ten respondents indicated that expungement would positively affect their ability to find work.

- “Good job, better money, better lifestyle for children.”
- “I can feel confident when an employer does a background check and there's nothing on my record.”
- “I will be able to apply the many skills that I've attained and will be able to utilize my college education. Financially, I will be able to receive better employment.”

Welfare history

According to Table 1, the majority of customers' income came from Temporary Cash Assistance. Table 3, following, looks at historic welfare and food stamp usage for MVLS project participants. Most legal services participants (91.6%) had some receipt of TCA in the past five years, with an average of about fourteen months.

Because, in general, more people fit the eligibility requirements for food stamps, it has become an important means of survival for those who are unemployed or who are in low-paying jobs. With eight of ten in our sample unemployed at the time of intake, it is not surprising that food stamp utilization within that group is

high. As shown in Table 4, almost all program participants (97.2%) spent some time in the previous five years on food stamps; on average, they spent three and one-half years in receipt of FS benefits.

Table 3. Welfare and Food Stamp History

TCA History	Record Expungement Cases
Number of Months in the Previous Five Years	
% with any receipt	91.6% (33)
Mean	13.6 months
Median	11.0 months
Standard deviation	11.6 months
Food Stamp History	
Number of Months in the Previous Five Years	
% with any receipt	97.2% (35)
Mean	41.7 months
Median	46.0 months
Standard deviation	17.8 months

Welfare Outcomes

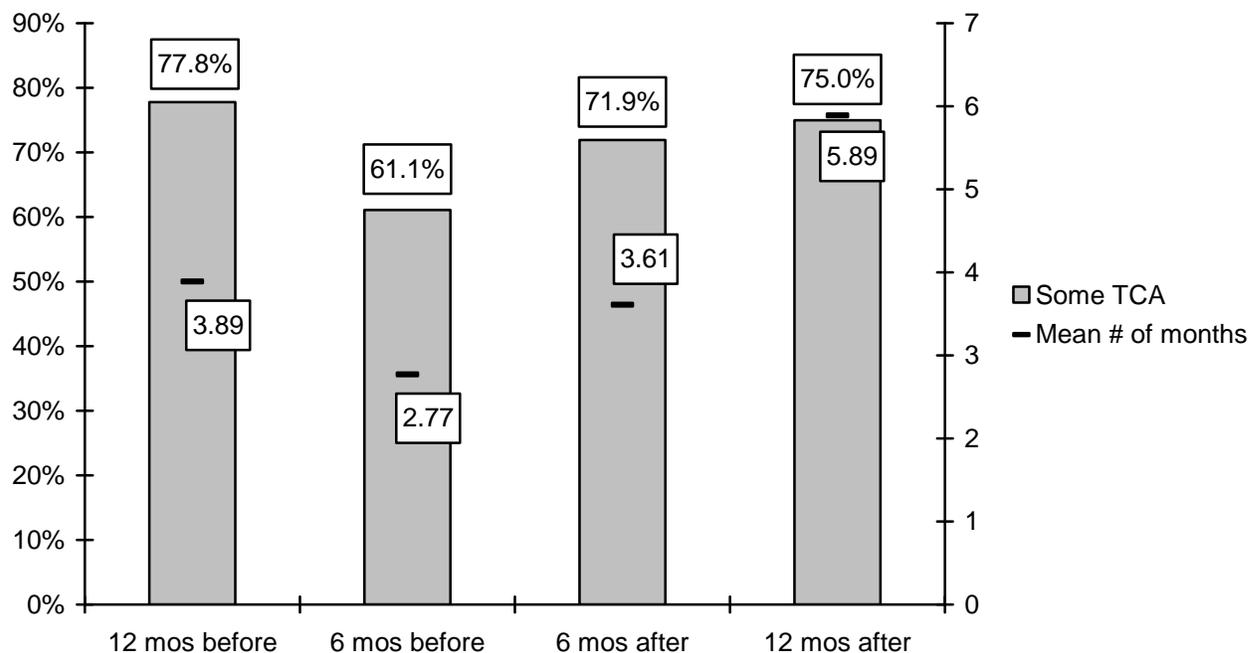
Ideally, expunging the criminal record of program participants would help them to obtain the employment they need to leave public assistance. Unfortunately, the process is a somewhat lengthy one, and, as noted, not all records can be expunged. Because we do not have final results for every case, we must examine the beginning of the process, in order to see if enrollment in the legal services program was followed by any changes in financial status of our sample. To do this, we compare welfare utilization from the year before program entry to the year after. Note that the amount of follow up data available varies depending on when the legal case was opened: we have six complete months for all clients and, for 12 of them, one full year of follow-up data.

In Figure 1, following, the first two columns represent the percentage of sample members who received TCA at any point in the period equaling one year or six months before entering the MVLS program. Nearly eight of ten (77.8%) received some TCA during the twelve months before the critical date and did so for an average of 3.89 months. In the period six months before contacting MVLS, three-fifths (61.1%) received assistance for an average of 2.77 months.

The number of program participants reliant on cash assistance increased somewhat in the year following program entry, as shown in the last two columns of Figure 1. More individuals were in receipt of TCA in the six months after the critical date than in the six months prior to that (71.9% v. 61.1%), with a larger number of average months (3.61 v. 2.77). Although the percentage receiving

benefits in the year after entry is quite similar as the year before (75.0% v. 77.8%), the mean number of months of receipt increases to 5.89 months.

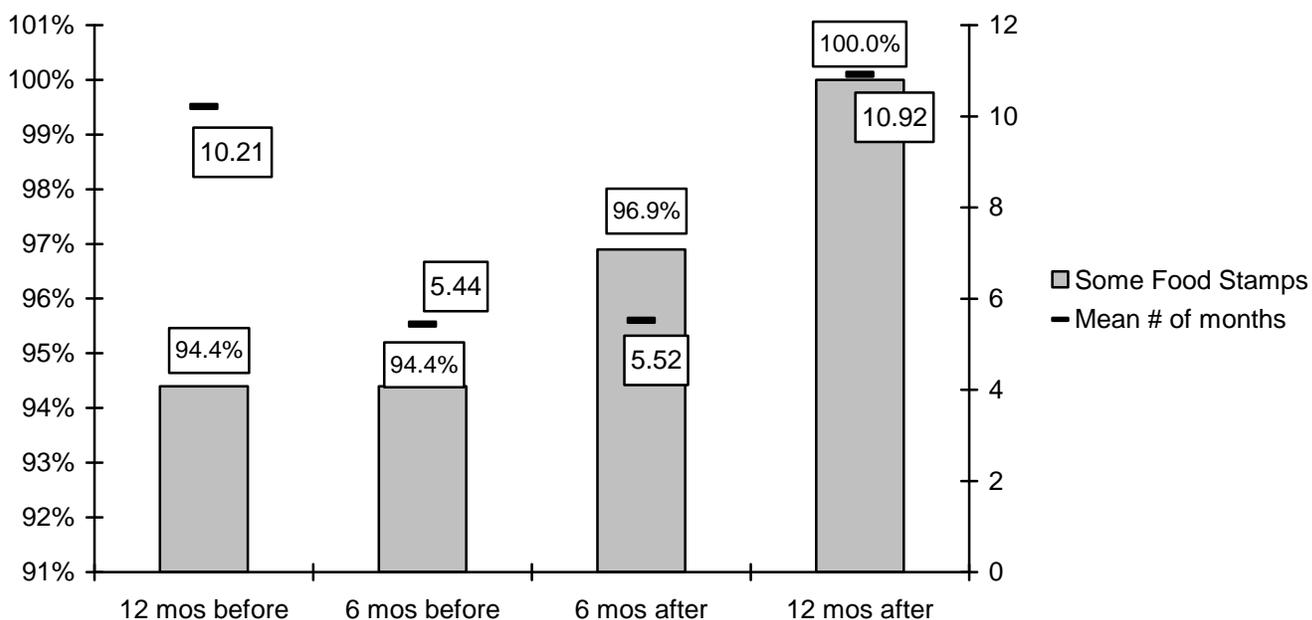
Figure 1. TCA Receipt Before and After Program Entry



FS Outcomes

As with TCA utilization, we can sometimes glean information on the amount of improvement, if any, program participation has created in the financial situations of our sample members by comparing pre- and post-enrollment food stamp usage. As shown in Figure 2, following this discussion, food stamp participation is very high (94.4%) in the periods both twelve and six months before program entry, and, on average, those who received FS during these time frames did so for the majority of months in each time period (i.e. 10.2 months out of 12 and 5.4 months out of six). FS utilization rates are similarly high in the periods after customers enrolled in the legal services program. Nearly all sample members (96.9%) received assistance at some point in the six months after enrollment, for an average of 5.52 months, or almost all of that period. Similarly, all of those for whom we have one full year of follow up data received benefits at some point in that year, and, on average, benefits were received in almost all months of the follow-up year (i.e., 10.9 months out of 12).

Figure 2. Food Stamp Receipt Before and After Program Entry



Employment History

Although only 2.8% of Tri-County Legal Services participants self-reported that their income came from employment at the time they enrolled in the project, most had worked in the past. Table 4, following, shows that the large majority (83.3%) worked in a Maryland UI-covered job at some point in the two years prior to entering the program. Those who worked earned just under \$14,000 for the two-year period, on average. Similarly, almost three-fourths (72.2%) had at least some Maryland UI-covered employment in the twelve month period immediately before program entry, and, on average, earned about half (\$7,300) of the earnings for the two-year period (\$14,000). An examination of the number of quarters worked indicates that participants' employment may have been fairly unstable. On average, customers worked an average of five quarters in the previous two years and 2.85 quarters in the year before entering the legal services program. In general, however, clients had at least some UI-covered earnings in about half of the available quarters before becoming involved with MVLS (i.e., 5 of 8 quarters and 2.8 of 4 quarters, on average).

Table 4. Employment History

Employment History	Record Expungement Cases
Two Years Before Program Entry	
% with UI-covered employment	83.3% (30)
Number of Quarters Worked	
Mean	5.10
Median	5.00
Standard deviation	2.34
Average Quarterly Earnings	
Mean	\$2,318.14
Median	\$2,016.05
Standard deviation	\$1,595.13
Total Earnings	
Mean	\$13,997.33
Median	\$10,405.78
Standard deviation	\$12,590.96
One Year Before Program Entry	
% with UI-covered employment	72.2% (26)
Number of Quarters Worked	
Mean	2.85
Median	3.00
Standard deviation	1.08
Average Quarterly Earnings	
Mean	\$2,169.92
Median	\$2,236.65
Standard deviation	\$1,599.67
Total Earnings	
Mean	\$7,299.98
Median	\$5,859.43
Standard deviation	\$6,766.03

Employment Outcomes

One of the main goals of the Tri-County Legal Services project is to enable participants to obtain and maintain employment. Not enough time has passed to allow us to compare longer-term employment and earnings before and after customers' records were expunged. However, an examination of employment outcomes relative to program enrollment reveals improvement in both rate of employment and earnings. Figure 3, following, compares three-month time periods ranging from the quarter before entering the Tri-County Legal Services Program to the fourth quarter after entry.

The percentage of program participants who were employed in the quarter before program entry is less than half (44.4%). This is not surprising, considering that one of the primary reasons for enrollment in the MVLS program was to eliminate a barrier to employment. About half of participants were employed in the quarter that they enrolled in the MVLS program, but the rate of employment decreases slightly (from 52.9% to 48.3%) in the following quarter.

It is encouraging to see that employment increases dramatically to 70.8% in the second quarter after program enrollment. Although the employment rate decreases slightly in the subsequent quarters, it remains higher than in the pre-enrollment period, with roughly two-thirds of participants having Maryland UI-covered employment in the third (66.7%) and fourth (63.6%) quarters. By the end of the first year after program enrollment, there is a nearly 20% increase in employment over the quarter before seeking help from MVLS. This finding is particularly noteworthy because, by definition, all clients had some type of criminal record.

Figure 3. Employment in the Quarters Before and After Program Entry

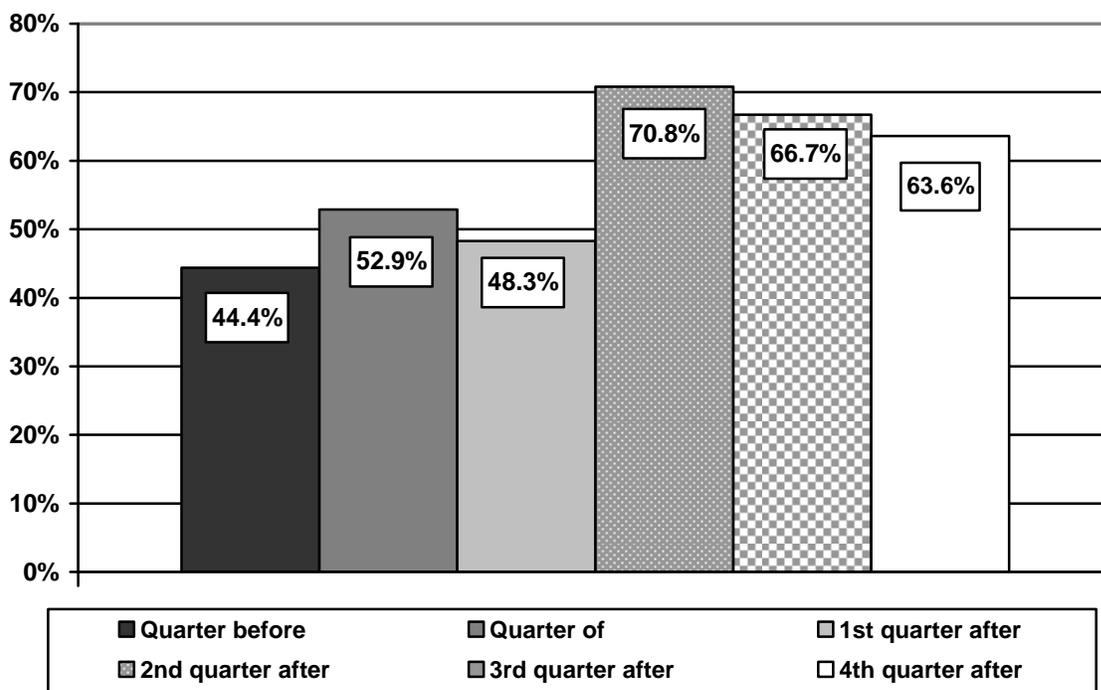
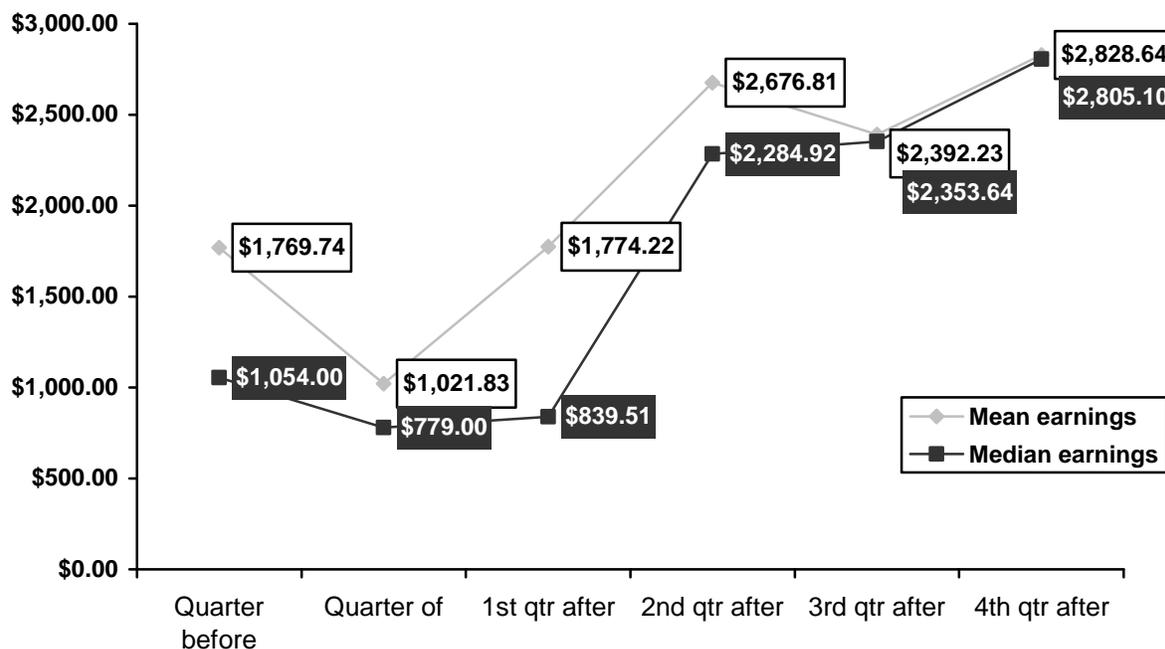


Figure 4, following, shows the amount of earnings, for program participants who had earnings, in each of six quarters, starting with the one immediately before enrollment and ending with the fourth quarter after program entry. As shown in the white boxes in Figure 4, mean earnings start out at \$1770 in the quarter before starting the program, and dip by nearly \$750 in the quarter of enrollment.

After enrollment in the legal services project, however, UI earnings increase dramatically reaching an average of \$2,829 by the end of the first follow up year. Median earnings for each quarter are presented in the dark blocks on Figure 4, and, as expected, are lower than the mean earnings in each time period.

Figure 4. Earnings in the Quarters Before and After Program Entry



Case Closure Results

Out of 36 open cases, 25 were closed by November 25, 2008. Unfortunately, only five closed cases received the desired result of record expungement. It must be noted, however, that failure to obtain expungements in all cases does not necessarily reflect poorly on the legal services provided. As noted previously, there are very specific conditions and time frames associated with expungement in Maryland. Recent legislation provides for automatic expungements in cases where persons are arrested, but not charged, but it is also the case that, absent full pardon by the Governor, misdemeanor and felony criminal convictions are not eligible for expungement. The majority of the other cases (n=12/20) closed because the customer withdrew from the program. In these cases, the individuals waited for a period ranging from two weeks to five months before removing themselves from the program. Nine of them had reported earnings in the quarter of or the quarter after enrollment, or both.

Participants whose cases were closed were given an additional three-question survey.

What affect has having this legal problem solved had on your life?
What do you feel is the main benefit of having your legal problem resolved?
What changes, if any, do you recommend for this program?

The survey response rate (32%, 8 of 25) was less than optimal; only eight surveys were completed and returned. Two respondents who had records expunged specifically stated that they were able to get good jobs afterward. As far as changes for the program is concerned, three respondents were satisfied with the process. However, two others would have liked better communication with the worker in charge of their case regarding the length of time the process would take.

Conclusions

It is often difficult for those with criminal backgrounds to gain employment, causing many to rely on public assistance to make ends meet. For many, particularly those who desire to move into particular occupations, record expungement could be an important barrier removal strategy. However, the potential of this strategy in a TANF welfare-to-work environment has not been empirically tested.

Thanks to the creativity of the Somerset, Wicomico, and Worcester Departments of Social Services and the Maryland Volunteer Lawyers Service, Maryland is able to present preliminary data on the value of record expungement. Our study of 36 participants in the Tri-County Legal Services Program contains some good news for program managers and policy makers. We find that both welfare and food stamp receipt were generally unchanged, but employment and earnings both increased over time. Qualitative survey data show that those whose records were ultimately expunged reported relief that this issue was resolved. A few reported obtaining the good jobs they had been seeking but had not been able to attain.

These data, while encouraging, should be considered as preliminary. In our analyses, we are not able to control for other welfare-to-work and barrier removal services clients may have received, in conjunction with their legal services program involvement. In addition, our sample is small and specific to one particular geographic area. Moreover, as study results indicate, the dream of expungement often may not be able to be realized. For other clients, however, expungement may well be possible and improve employment prospects and outcomes.

In sum, as our state moves forward in designing and implementing the Maryland RISE initiative, the findings from this report are worth consideration. In particular, it would seem prudent to insure that accurate information about any prior arrests or criminal convictions be obtained during the client assessment process. Reported information should be verified, if possible, so that appropriate next steps can be taken in each case and inappropriate case plans avoided. For example, even if a client were to express heartfelt desire to do so, it would not make sense to refer her for training in a skill or profession which, in general, is closed to persons with felony criminal convictions if said client has such a record in her past. As noted previously, criminal conviction records are not eligible for expungement except if a full pardon is issued by the Governor. Thus, for clients such as those, Maryland RISE case planning and welfare-to-work services will have to take the reality and the permanence of criminal conviction into account. On the other hand, for the likely much larger population of clients with criminal records but no convictions per se, and especially those with arrest-only records pre-dating October 2007, record expungement efforts would likely be a good tactic to pursue in conjunction with or perhaps prior to training and/or employment services.

References

Annotated Code of Maryland. Title 10, Subtitle 1. Expungement of police and criminal records.

Criminal Law and Procedure Expungement Law & Legal Definition. Retrieved November 21, 2008 from U.S. Legal.com.

<http://definitions.uslegal.com/c/criminal-law-and-procedure-expungement/>

Head, V., Born, C.E., & Ovwigho, P. (2009) *Criminal History as an employment barrier for TANF recipients*. Baltimore: University of Maryland Baltimore.

Hirsch, A.E., Dietrich, S.M., Landau, R., Schneider, P.D., Ackelsberg, I., Bernstein-Baker, J., and Hohenstein, J. (2002). *Every door closed: barriers facing parents with criminal records*. Washington, DC: Center for Law and Social Policy.

Holzer, H. J., Raphael, S., & Stoll, M. A. (2003). *Employment barriers facing ex-offenders*. Paper presented at the Urban Institute Roundtable on Offender Reentry, New York University Law School.