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RESEARCH ARTICLE

Scripting the Conviction: Power and Resistance in the Management of Criminal Stigma

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ABSTRACT People with criminal records seeking employment face a dilemma: how to discuss their conviction(s) in a job interview. Convicted job seekers are encouraged to draft, revise, and rehearse their "conviction scripts" and to approach their delivery as a Goffmanian performance. Drawing from participant observation within a nonprofit employment program in Southern California, this article analyzes job seekers' attempts to craft narratives that will satisfy employers' curiosities and concerns, with the assistance of professional coaches. I find that rather than challenge criminalizing practices or stigma itself, job seekers are encouraged to dissociate from criminal stigma and develop narratives that reinforce dominant frameworks of personal responsibility, remorse, and rehabilitation. They also regularly veer, however, from these conventions, in search of narratives that more accurately explain and contextualize their decisions. I argue that the act of scripting convictions is thus a political process in motion, a negotiation of power, with real life consequences. While at present, conviction scripting tends to reproduce the inequalities that underlie the criminal punishment system, the article concludes by exploring how criminalized people could craft scripts that contribute to their liberation. [*stigma, criminalization, race, criminal records, employment*]

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RESUMEN Las personas con registros de antecedentes penales que buscan empleo enfrentan un dilema: cómo discutir sus condena(s) en una entrevista de trabajo. Las personas que buscan empleo habiendo sido condenadas son animadas a redactar borradores, revisar, y practicar sus "textos de condena" y abordar su presentación oral como una presentación teatral Goffmaniana. Basado en observación participativa dentro de un programa de empleo de una organización sin fines de lucro en el sur de California, este artículo analiza los intentos de las personas que buscan empleo para elaborar narrativas que satisfarán las curiosidades y preocupaciones de los empleadores, con la asistencia de entrenadores profesionales. Hallo que en lugar de retar las prácticas que criminalizan o el estigma en sí mismo, las personas que buscan empleo son animadas a disociarse del estigma criminal y desarrollar narrativas que refuerzan los marcos dominantes de responsabilidad personal, arrepentimiento y rehabilitación. Ellos regularmente se desvían, sin embargo, de estas convenciones, en busca de narrativas que con mayor exactitud explican y contextualizan sus decisiones. Argumento que el acto de escribir el texto de las condenas es, por lo tanto, un proceso político en movimiento, una negociación de poder, con consecuencias en la vida real. Aunque en el momento, el escribir los textos de las condenas tiende a reproducir las desigualdades que subyacen en el sistema de castigo penal, el artículo concluye explorando cómo las personas criminalizadas podrían escribir los textos que contribuyen a su liberación. [*estigma, criminalización, raza, antecedentes penales, empleo*]

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It is a typical day at the Hub,[i] and I take a seat next to Andrew, a quiet and somewhat awkward man in his mid-thirties who is tackling an online job application at one of five desktop computers in the small lab. Like the one hundred or so other job seekers I will meet this year, Andrew has a recent felony conviction that presents a significant barrier to his employment. The Hub, as I name this local branch of a national nonprofit organization, is dedicated to assisting him in finding and securing a job.[ii] Located in the Inland Empire region of Southern California, the Hub provides one-on-one mentoring to a steady stream of criminalized job seekers referred by parole and probation officers and neighboring organizations.

Andrew and I will spend more than two hours working on the application. Some of that time will be dedicated to the tedious work of creating an online account and tweaking his resume for upload, but a significant chunk will be dedicated to drafting what we hope are compelling responses to the following questions about the applicants' criminal records:

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Have you ever been convicted of a felony? If yes, please list:

2013: 2nd degree robbery.

If yes, please explain the context and circumstances of your crime:

At the time of my conviction, I was under the influence of drugs. I also had some circumstances in my personal life that caused me to lose focus and responsibility for myself. My judgement was impaired and I made an impulsive decision.

If yes, please explain how you have been rehabilitated:

My perspectives and behaviors have changed significantly since the time of my arrest. I have learned to take responsibility for my actions and to understand that my actions affect not only myself, but also my loved ones. I am currently participating in drug treatment counseling and am employed part-time in a transitional job training program.

If yes, please explain why you think you are a good candidate, despite your convictions:

I am fully committed to building a healthier and more productive future for myself and my children. I am a loyal, punctual and reliable worker.

Andrew feels pleased with the results. "That was *great*," he says, with more enthusiasm than I've heard him express in the weeks I've known him. While in my view the questions are unnecessarily thorough and condescendingly prescribed to elicit particular responses, for Andrew they produce a noticeable satisfaction. In particular, he seems to appreciate the couple of lines that speak to the circumstance and context of his conviction: He was going through a hard time, using drugs that altered his judgment, and made a rash decision.

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It was not easy to arrive at these nuggets. Through a delicate back-and-forth in which I tried to probe for key information without prying,[iii] we circled around the painful details of Andrew's recent history. The interaction left me with the impression that since the robbery, Andrew had not had an opportunity to frame what had happened, even for himself, and that developing this narrative about it—one that doesn't imply he's a bad person, or eternally flawed—is worthwhile. Here at the Hub, this narrative framing is most often undertaken through coaching sessions in which mastering how to orally respond to questions about the past is evaluated as one key indicator of employment "readiness."[iv]

This article examines job coaching among people with criminal records and explores the potential to manage criminal stigma in ways that challenge gendered and racialized processes of criminalization and punishment. This research is part of a larger study that seeks to understand how criminal records are used in the hiring process. Over a period of twelve months in 2014 and 2015, I spent three to four days per week at the Hub, assisting job-seeking clients and closely following their job-search activities and outcomes. At the same time, I shadowed Hub staff as they built relationships with local employers and developed my own independent relationships with business owners and hiring managers. Simultaneously, I conducted limited observations at other Inland Empire–based nonprofit- and government-run programs that assist job seekers with criminal convictions.

CRIMINAL STIGMA IN THE AGE OF MASS CONVICTION

People who have been convicted of a crime, who bear the label of criminal, have long been stigmatized as dishonest, untrustworthy and otherwise disreputable (Braman 2004; Young 1999). The stigma attached to criminality was first rooted in overtly biological and racialized notions of deviance as pathology (Lombroso [1876] 2006) and later—with the shift in social science from biological to cultural explanations of crime—taken as evidence of something *almost* essential (Boas 1911; Du Bois 1899; Kellor [1901] 2010; Thrasher 1932). More recent decades of scholarship have deconstructed the politics of what gets called "crime" and which behaviors will be the focus of criminal prosecution (Davis 2002; Kappeler and Potter 2006). Historians have deconstructed the racialized, gendered, and classed legacy of criminalizing practices (Haley 2016; Muhammad 2010) and demonstrated the rise of the US carceral state as part of a long project of racialized repression and containment (Browne 2015; Camp 2016; Lytle Hernández 2017; Murakawa 2014). Anthropologists and others have analyzed the role of broader political, economic, and social forces in shaping human behavior (Bourgois 1995; Richie 1996) and illuminated how different bodies enacting these behaviors will be treated differently (Arnett Ferguson 2000; Blair, Judd, and Chapleau 2004; Cacho 2012). But despite these critical reframings, law-breaking continues to be broadly understood as a matter of value-neutral individual choice and criminal Otherness rather than also a problem of racial power (Nixon et al. 2008). In this context, criminal stigma is viewed as a condition controllable by the individual and thereby less deserving of social empathy or legal protection than those stigmas that are the result of accident or birth (Baur et al. 2018; Weiner 1995).

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Approximately seventy million US adults—one in four—have a record detailing prior convictions, arrests, dismissed charges, or charges pending that would appear on a routine criminal background check (Natividad and Emsellem 2011). Nearly twenty million of the seventy, including almost one-third of African American men, has a conviction classified as a felony (Shannon et al. 2017). These staggering numbers—and disparities—are the result of an unprecedented boom in the use of surveillance, policing, and aggressive criminal prosecution that began in the late 1960s (Gilmore 2007; Parenti 2000), and nearly five decades later, has produced what legal scholar Gabriel Chin (2012) has aptly termed an era of "mass conviction."

But the modern problem of criminal-records stigma is not simply that more people have convictions than ever before; it is also that criminal records have become significantly more accessible.[v] Whereas prior to the 1970s, criminal records were "practically" obscure—technically a matter of public record but difficult and time consuming to unearth—these days, they are easy and relatively inexpensive to obtain. Further, because the records themselves are never deleted from police and court databases, a criminalized person can never be certain that a record will be private. The stigma of a criminal record is effectively permanent.

Criminal stigma has become especially significant in employment contexts. In recent decades, federal and state government agencies have added steadily to the number of professions requiring a criminal background check by law,[vi] and a business climate increasingly characterized by competition, litigation, and regulation has led most major employers to begin conducting background checks as a matter of routine (SHRM 2012).[vii] The combination of legal requirements (Harris and Keller 2005) and an employer's biases (Holzer, Raphael, and Stoll 2003) leads to significant discrimination, which—combined with the erosion of skills, social networks, and work history produced by imprisonment—significantly reduces long-term wages and access to career tracks offering long-term, stable employment (Holzer 2009; Western, Kling, and Weiman 2001). A focus on employment also illuminates how, despite the "mass" proportions of conviction, the stigma of criminality is unmistakably structured along lines of race, class, and gender. This structuring is evident not only in the disparity of who bears the stigma but also in terms of how criminalization interacts with and compounds other axes of difference and power (Muhammad 2010; Richie 2012). For example, while the literature suggests that employers opt not to hire people with criminal records out of a worry about legal liability (Agan 2017), it also reveals that concerns about criminal records are significantly amplified when the race of the applicant is Black (Pager 2003, 2007). Stigmatization, as health scholar Graham Scambler (2009, 450) aptly notes, "is rarely the sole ingredient of disadvantage."

With increasing success, former prisoners, legal advocates, and grassroots organizers have pressured government bodies to take steps to curb discrimination. For example, in 2012, the Equal Employment Opportunity Commission revised its Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions, making it illegal to exclude job applicants on the simple basis of a conviction. Additionally, thirty-five states, the District of Columbia, and 150 cities and counties have "banned the box" from applications for employment, thereby delaying access to conviction information until later in the hiring process.[viii] Further, through increased enforcement of the Fair Credit Reporting Act, criminal records older than seven years have been effectively excluded from most private employers' view.[ix] But despite these gains, employers and background-screening firms regularly misunderstand and violate these parameters, and ultimately, nothing in the law forbids employers from rejecting someone on the basis of a criminal record.

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Because of these legal ambiguities, criminal stigma has come to straddle the distinction Erving Goffman made between stigmatized conditions that are visible versus those that can be concealed, producing complicated "disclosure dilemmas" for job seekers who may be unaware of or misinformed about the laws that protect them—and intuitively aware that informal disclosure requirements often outweigh those proscribed by law (Jones and King 2014; Turney 2016; Winnick and Bodkin 2008). To assist, the Hub and hundreds of similar organizations[x] nationwide encourage job seekers to draft, revise, and rehearse conviction scripts and to approach their delivery, in the Goffmanian (1959) sense, as a performance, a carefully choreographed presentation of the self, meant to influence the audience's impression of the performer. Given employers' considerable interpretive and discretionary power, advocates engage in a process of "anticipatory interpellation" (Carr 2010, 16) that predicts what the employer expects to hear and help job seekers craft presentations that actively confront negative stereotypes casting them as untrustworthy and unreliable (Young and Powell 2015).

CRITICAL THEORIES OF STIGMA

According to Erving Goffman's (1963) canonical theorization of stigma, society establishes what it believes to be normal/natural and then solidifies those norms into expectations. Those who fail to meet the expectations are marked with a "spoiled identity." This marking as not fully human then serves as the basis for "varieties of discrimination, through which we effectively, if often unthinkingly, reduce his life chances" (5). In Goffman's view, the moments of conversational encounter between "normal" and "stigmatized" individuals constitute "one of the primal scenes of sociology; for in many cases these moments will be the ones when the causes and effects of stigma must be directly confronted by both sides" (13). Goffman's analysis of the basic problems that infuse these encounters—the pressures that inform decisions to conceal or disclose stigma, perceived social obligation to provide information about the stigmatized condition, and the politics of group representation—initiated a rich and ongoing debate in the social sciences about how stigma develops and is managed.

Recent scholarship has pushed beyond Goffman's conceptualization of stigma as personal tragedy. Rather than view stigma as a labeling condition affecting individual victims, scholars have theorized stigma as more of a social relation embedded in broader cultural norms, and one that gets determined interactively between perpetrators and targets (Barreto and Ellemers 2010; Scambler 2009). Such reconceptualizations emphasize how the development and expression of stigma is influenced by macrocontextual factors, such as economic conditions (King, Knight, and Hebl 2010), and immediate contextual factors, such as the presence of community organizations working to resist the stigma (Paul and Becker 2017, 138), and attend to the broader social consequences of

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stigma-management strategies (Paul and Becker 2017). Collectively, recent analyses pay close attention to how social structuring along lines of race, class, gender, sexuality, age, and ability shape when and how stigmatized people experience and respond to discrimination and insist that the study of stigma centers on how unequal relationships of power influence stigma's development and management (Link and Phelan 2001; Riessman 2000).

In this analysis, I foreground a conceptualization of stigma not as a condition, state, or quality, as Goffman saw it, but rather as a continually changing process of differentiation. Drawing from observations of the exchanges between job seekers, coaches, and job developers at the Hub, I investigate stigma as a *process*, emergent as job seekers and the nonprofit workers dedicated to their successful attempt to "script" conviction histories in ways they imagine will satisfy employers.

Through the lens of criminalization, this case adds to a critical understanding of stigma as an effect of the interactions between differently positioned subjects located within a broader set of circumstances and relationships. At the same time, I aim to ward off the potential reification of stigma as a necessary or prefigured product of inequalities. When criminalized people attempt to present themselves in the most strategic and self-advancing ways possible, stigma is brought to life as a dynamic—one not given but rather articulated in real-life, historically specific encounters (Hall 1996). This emphasis on stigma as emergent also demands that we work from an understanding of power as "not a thing," as Ruth Wilson Gilmore (2007, 114) explains, "but rather a relationship based on actually existing activities." While the editorial decisions that get made in the process of conviction-scripting expose how preexisting power relations inform and shape stigmatizing processes, they also reveal how power is made through stigmatization.

For as we will see, job coaching is one process through which liberal discourses are reproduced, maintained, and internalized. In this nonprofit setting, coaches—who, like the general population, have internalized hegemonic understandings of "crime" as a matter of individual deviance, or "poor choice"—tend to steer job seekers toward conventional narratives that align with an assumed demand for remorse, responsibility, and rehabilitation. Ethnographers in other settings have observed similar dynamics (Carr 2010; Haney 2010; Leverentz 2014). For example, in her exploration of mandatory drug-rehabilitation programs, E. Summerson Carr (2010, 3) shows how therapeutic language is used to produce a version of personhood that broadly reflects the values of US society. Person-making, argues Carr, is bound up with the politics of language, and scripts thus function as an attempt to set the terms of representation. Similarly, anthropologist Isar Godreau (2015) reveals how narrative representations tend to get leveraged to reinforce existing power relationships. She finds that while narratives about Blackness in Puerto Rico may heighten the visibility of and appreciation for Black culture, they ultimately "sustain racial hierarchies and the taken-for-granted value placed on whitening" (20). Conviction scripts succumb to a similar dynamic. Despite the

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apparent "opportunity" to frame and narrate experience in a way that favors the protagonist, the terms are set so as to reiterate the very norms that disenfranchise the racially criminalized. In the process of scripting, criminalized people are encouraged to portray themselves as different from other criminalized people—that is, to dissociate from, rather than challenge, criminal stigma, and thereby leave it intact.

In what follows, I analyze the interactions between job seekers and coaches as they rehearse in preparation for actual encounters with employers. I discuss three observations that inform my central argument. First, I show how the empowerment contained in the exercise of self-narration is constrained by the politics of personal responsibility that permeate the criminal rehabilitative system.[xi] Second, I show how rather than challenge the stigma itself, coaches encourage job seekers to distance themselves from criminal identities and, instead, identify and take up affordances based in whichever widely held values may be available for their strategic benefit (Scott 1987, 33). Finally, I expose the limits of liberal scripting in cases where it is either impossible or the subject refuses to lay claim to redemptive identities.

But the goal here is not only to illuminate the ways that conviction scripts may reinforce existing patterns of inequality or to critique the negotiation of power that unfolds between job seekers and their advocates. Rather, by way of engagement with Cathy Cohen's (2004) observation that ethnography tends to detail and explain what exists rather than focusing on what could be, my purpose is to think—alongside former prisoners, reentry practitioners, and scholars—about the possibilities (and limits) of a more liberatory approach. If left unexamined, criminalized peoples' stigma-management strategies tend to reinforce the race, class, gender, and sexuality inequalities that underlie the criminal punishment/rehabilitative system. I ask, what kinds of approaches might inch toward the reverse? It is the central proposition of this article that while conviction scripts tend to reinforce social hierarchies, they need not necessarily do so.

OWNING IT

Patrick sits across the desk from his coach, Jorge, a thirty-something Mexican American[xii] workforce-development professional whose last job was teaching career development at a local community college. Jorge is intimately familiar with the needs and perspectives of employers. For many years, he recruited employers for college-placement offices, Goodwill, and a major staffing agency. He remembers the pressure to make placements and the disappointment when job seekers would "flake" after he had worked hard to find an employer who would hire them. His role at the Hub—to learn everyone's names, make them feel comfortable, and conduct preliminary assessments of job-seeker capacities—is much less stressful. This is Jorge's third meeting with Patrick. His goal is to determine whether Patrick can graduate to "job-ready" status or will need a few more weeks of one-on-one coaching. To pass, Patrick must display the physical and mental capacity to work, have access to transportation (public or private), and demonstrate the ability to engage in a hypothetical interview-like conversation with an employer, including satisfactory response to "the conviction question."

Patrick is struggling on several of these fronts. Most notably, he is extremely soft-spoken, so much

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so that his voice is barely audible, and he seems unable to raise it when asked. He paces, fidgets, jumbles information, and rarely makes eye contact, but he expresses enthusiasm about the prospect of work. So, while Hub staff speculate about learning and mental-health-related disabilities and substance abuse, they focus on helping him perform well, regardless of the underlying issues, which, in any case, are beyond their capacity to address.[xiii]

Jorge begins by repeating the advice he has provided each time he and Patrick have met. "The main thing is you need to project your voice. This will be important in an interview." Then, barely masking his own frustration, adds, "If an employer can't hear you, they might get frustrated, annoyed, or upset."

Patrick nods quietly.

"Another thing we need to talk about is the conviction question," Jorge continues. "Let's go over that now."

Specifics vary, but most practitioners agree that a satisfactory script should acknowledge the conviction, take responsibility for what happened, express remorse, and provide evidence of personal transformation. This overview should be handled swiftly, so as not to draw undue focus to a fundamentally negative credential. Coaches advise job seekers to "get in and get out," to look the employer in the eye, answer only what is being asked, and smoothly redirect to their own greatness. Within the "one-minute-me," as the performance is sometimes nicknamed, job seekers must satisfy employers' curiosity, assuage any concerns, and redirect the employer's attention to positive attributes and credentials.

While this advice may sound relatively straightforward, discussing criminality—a topic loaded with cultural meaning and stereotypes—can easily go awry under the stress of a job interview. Discussing convictions *effectively* hinges on applicants' ability to speak in nuanced ways. Given wide variations in communication skills, it is critical that job seekers practice in mock interviews.

Patrick launches in, a bit like a bull in a china shop.

> Patrick: I was convicted of a felony about a year ago and I don't think it should affect me anymore. I made some bad choices. . . . Do I let them know why I was in jail?
>
> Jorge: Well, I wouldn't say it shouldn't affect me and never say the word jail. . . . What was your conviction again? I forgot . . . robbery?
>
> Patrick: Burglary.

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Jorge: Okay, I took something that didn't belong to me. And don't mention that it was only a year ago. Let's do it again.

Patrick: Yes, I have been convicted of a felony. I made a bad choice. I'm trying to move by it. . . . Can I say it's in the past?

Jorge [with mild exasperation]: Well, you have to be careful with that because again, it can sound like you're telling them what to think.

Patrick: Can I say I made a mistake and everybody makes mistakes?

Jorge [growing exasperation]: No. That's true, everybody does make mistakes, but you don't want to sound like you're trying to minimize it.

In this interaction, we see what linguistic anthropologist Elinor Ochs meant when she described self-narration as a social activity, one that is dialogic, co-told, or even coauthored by those engaged in the interaction (Ochs 2004, 269; drawing from Goodwin 1984). Patrick's brazen delivery may be partly explained by his claim that he did not commit the crime for which he was convicted. Privately, he explained to me that he was in the wrong place at the wrong time, mistakenly identified as the "Latino male with spiky hair," and that he pleaded guilty simply to get out of the system. Patrick hasn't shared this analysis with Jorge, and although he seems to be aware that articulating such an explanation is out of the question, it clearly informs his tone.

Jorge's guidance is also somewhat contradictory. On the one hand, he encourages Patrick to minimize the conviction through a number of linguistic maneuvers, including eliminating "jail" and "burglary" from his narrative. This technique is consistent with agreement across the field that a criminal record should be acknowledged but in a way that makes the conviction sound as benign as possible. "Theft" or "robbery" should be rephrased as, "I took something that wasn't mine," just as "assault" should be translated as, "I got into a fight with someone." Similarly, qualifiers like "intent to cause great bodily harm" or "intent to sell" that make the conviction sound graver should be dropped. On the other hand, Jorge's guidance actively forecloses deeper rejections of criminalization. As Patrick attempts to portray his conviction as a simple past mistake that should be forgotten, he is repeatedly corrected. Taking responsibility for a transgression, or "owning it," as practitioners summarize, marks the cornerstone of rehabilitation.[xiv] As required by the edict of personal responsibility, though a problem may be structural, the solution is always individual. The convicted must not diminish the significance of a wrongful action nor imply a lack of blame. Neither should the criminalized suggest undue punishment. In asserting the felony should no longer affect him, Patrick calls into question the overall practice of continued scrutiny, surveillance, and containment beyond the prison sentence, asserting that past convictions should not continue to haunt those who have been convicted.

As a job-market expert, Jorge's advice is presented as entirely practical and objective—the employer does not want to be "told what to think." And yet, Jorge's corrective, slightly condescending tone belies deeper investments. For despite their shared ethnic and racial position, Jorge's middle-class

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conservativism, noncriminal status, and professional role position him as a gatekeeper to the world of the employer. From this positionality, he provides advice from the "employer perspective," which seamlessly affirms and reinforces his own belief in the legitimacy of the criminal-rehabilitative apparatus and the ethos of personal responsibility.

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EXHONERATION THROUGH DISSOCIATION

Cristen begins her weekly thirty-minute job-development session with Linda, one of only a handful of clients at the Hub who identifies as female. A long work history, polished resume, and confident self-presentation earned Linda a spot on the "job-ready" list several weeks prior, and she has already applied for multiple jobs. Cristen is thrilled to have Linda on her caseload, in part because of her preparedness but also because Cristen is still struggling to make sense of what it means to have taken this job. While she has enjoyed—and excelled at—her career in job development for more than a decade (demonstrating particular adeptness at cultivating relationships with employers), never before has she worked in a setting in which a significant number of the predominantly male clients have been convicted of offenses designated as violent, including violence against women and children.[xv] Linda thus provides a refreshing alternative, a case she can easily feel good about.

Hopeful that an interview is imminent for Linda, Cristen's goal for this session is to ensure she is prepared to excel. This includes a polished, confident response in the event that a potential employer should ask about her criminal record. Cristen is feeling resolved in her approach, having recently attended a professional development seminar titled "Are You Talking like Businesses Think?"[xvi] where the presenter emphasized that persuading employers to hire your clients is not about getting them to see the world from the criminalized person's perspective, but rather convincing them that doing so will increase their profit margin. This means persuading them not that the candidate has had a tough time and therefore warrants empathy but that they are honest, reliable, and productive. Initiating rehearsal, Cristen offers the standard prompt: "I see here on your application you indicated you have a criminal conviction?"

Linda replies, simply and directly, "Yes, back in 2009 I was charged with assault on a person with a firearm."

Cristen is taken aback by Linda's bluntness. Not only has Linda committed the faux pas of naming the conviction too directly, but she has also failed to strike the appropriate balance between too much and too little information. Although, as previously explained, job seekers must not dwell on the conviction, thereby amplifying its significance in the mind of the employer, they also must offer *enough* information to satisfy the employer's curiosity and assuage any concerns. A simple "yes, that happened" runs the risk of producing a stream of specific questions that could cause her to lose control of the dialogue. A slight revision to "yes, that unfortunately happened six years ago" will likely better satisfy and thus avoid what Goffman (1959, 205) described as "performance disruptions." The key, for Linda and others, is to read the interaction in the moment and make quick decisions about how much and what kind of information to offer.

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To determine this delicate balance for Linda, Cristen asks her to say a little more about the events that led to her conviction. Linda had fired several rounds toward the ceiling of her apartment in the heat of a domestic dispute. Although no one was hurt and the ex-boyfriend preferred not to press charges, the judge had convicted her of "assault on a person with a firearm" and sentenced her to five years in prison, citing a need to use the case to set an example, particularly given its occurrence in an apartment complex where others might have been hurt. Linda felt the sentence was unduly harsh, particularly given she had no prior criminal justice involvement. She also rejected the judge's classification of her behavior as "assault." Not only would her behavior have been characterized differently prior to the punitive turn in sentencing in recent decades, but as sociologists and criminologists explain, "crimes are multifaceted events that are not adequately explained with basic descriptors, yet a considerable amount of significance is afforded to relatively few simplistic labels that make up the contemporary 'scarlet letter'" (Murphy et al. 2011).

Intrigued, Cristen asks, "Was the gun registered to your name?"

"Yes, it was," Linda replies, going on to explain that her ex-boyfriend had been a linebacker, more than six feet tall and two hundred eighty pounds, and had physically attacked her one week prior to the incident that led to her conviction.

At this point, Cristen leans out of the tiny office to summon her coworker, Sasha, one of the Hub's other job developers. Sasha is new to the profession but was hired with confidence that her local knowledge from having grown up in the area, her mixed race, and her warm-but-no-nonsense persona would be well suited to the task of connecting job seekers to local employers. Sasha joins Linda and me on the opposite side of Cristen's desk. Asking Linda to repeat the details, Cristen then directs herself towards us and proposes: "You know, the more she talks, the more sympathetic I am to her story. In this case, saying more might *help* her job prospects."

Sasha hesitates, uncomfortable within the intimacy of the small room and with being suddenly privy to the painful details of Linda's experience. In any case, Cristen doesn't really seem to be asking our opinions so much as looking for affirmation of her gut feeling that the uniqueness of this case warrants deviation from the usual script.

Cristen offers some direction about which details to include and then asks Linda to try the script again, this time in a way that reframes the events so as to portray her more sympathetically. Sharp and analytical, Linda easily grasps the needed adjustments. "Back in 2009," she says, "my boyfriend at the time had attacked me. I was afraid, I brandished a firearm, which was registered to me, and was sentenced to four-and-a-half years in prison."

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As with Jorge and Patrick, Cristen supports Linda's effort to diminish the significance of her conviction. Linda is encouraged to do this in three ways. First, by reframing the criminalized behavior as an act of gendered—and thereby also racialized—self-defense. Historically, racialized notions of femininity have influenced how women's criminality is interpreted. Whereas white women have generally been viewed as pure, submissive, domestic, and therefore incapable of serious criminality, Black women have in contrast been viewed as defiant, undomestic, immoral, and unfeminine (Gross 2006; Hicks 2010). As feminist scholars have documented, these racialized understandings of how gender and criminality intersect have rendered women of color unrecognizable as true "victims," leaving them particularly vulnerable to both interpersonal and state-based male violence (Allard 2005; Bograd 2005; Richie 1996; 2012). Linda is not white, but her white female coach coaxes her (albeit unconsciously) to leverage the appearance of her small frame and light skin to invoke stereotypes of white women as less threatening. Second, Linda is encouraged to substitute the inflammatory word "assault" with "brandishing a firearm"—a label that she finds more accurate, fair, and, she hopes, less alarming. More than linguistic manipulation, such reframing resists one of the most damning techniques of criminalization: assigning conviction titles that misrepresent or sound more dramatic than what actually happened. By renaming the conviction, Linda calls into question the labeling of her behavior as "assault." Third, Linda directly counters her interpellation as criminal by including the gun's registration in her script. By emphasizing legal gun ownership, Linda portrays herself as law-abiding and strategically invokes the widely held belief in the (white) right to bear arms and defend oneself.

In sum, Linda is steered to reconfigure her position in relationship to the stigma without necessarily challenging the legitimacy of the stigma itself or collective stigmatization. But if the ability of criminalized people to craft compelling narratives of redemption depends in part on their access to social categories that can be interpreted as docile, normative, and deserving, what of the many convicted people for whom access to such categories is simply unavailable? As prison abolitionists and critical scholars have long argued, even though the deployment of "relative innocence" (Gilmore 2015) may help some criminalized people gain access to privileges and resources, this approach necessarily reinforces fear and condemnation and devalues those who cannot make or choose not to make such claims (Cacho 2012; Gottschalk 2015).

REMORSE REQUIRED

Brian appeared relaxed in the upholstered office chair across from his newly assigned job developer, Sasha. The two had a nice rapport. She, not yet thirty years old, and he, in his mid-twenties, serious, confident and respectful. Both had grown up in the working-class/poor, predominantly Black and Mexican neighborhoods surrounding the Hub. Today was their first meeting, which meant that Sasha would perform an initial assessment of his job readiness through a mock interview in which she

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would pose common interview questions, such as, "Tell me about yourself," "Describe your strengths and weaknesses," and "I see here you have a conviction?"

The attempted-murder conviction that sent Brian to prison had resulted from an altercation between his family and another family in the neighborhood with whom there was a long-standing beef. Under threat, Brian had used violence to defend his family. This decision did not seamlessly lend itself to sympathetic appeal, and as a young, urban, Latino man, Brian lacked access to a race, class, or gender category that could signal docility. Thus, it would be important for him to persuasively communicate remorse. This could be accomplished both through careful word choice and proper management of facial expression and tone, the crucial test, as Goffman argued (1963, 217), of one's ability as a performer.

But as Brian attempted to script the conviction, he confronted the fact that a decision can sometimes be both "bad" and "right."

> Sasha: I see here you have a conviction?
>
> Brian: A few years back I was arrested and served time for a crime that I did. But like I said, I did my time and all of that is in the past now."
>
> Sasha: Ok . . . let's try it again, but this time, try to express a little more remorse.
>
> Brian: But I'm not remorseful and I don't regret it. I regret them coming down my street, and threatening my family, but I don't regret doing what I needed to do to protect my family and I'm not sorry about that. . . . We were having a family thing. We weren't bothering them . . .
>
> Sasha: How about handling it a different way though, so that no one got hurt?
>
> Brian [thinks on it]: I mean, in this situation, there was really no other way, at the time. If I were faced with the same situation, I would do it again and that's just the way it is.

Ochs (2004, 278) observes how, "in recounting narratives of personal experience, tellers are often pulled between their desire to arrive at a coherent account of life events and their desire to construct an account that is authentic, that is, that resonates with their understandings and sensibilities of what it was like to participate in the events being narrated." This desire for coherence in life experience is so strong, explains Ochs, that authenticity often "plays second fiddle to these culturally canonical grids for interpreting events" (278).

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Sasha hopes to guide Brian toward the canonical grid for explaining criminal behavior: mistake, regret, redemption. But Brian is more invested in authenticity than coherence. He stands by his decision to break the law and face negative consequences in pursuit of safety, honor, and respect. He rejects the assumption embedded within the structure that criminal acts are simple, noncontextual decisions between right and wrong, and, in turn, the idea that a criminal record is evidence of immorality or poor judgment. But as Brian attempts to debate the meaning and logic of the events in ways that "reconfigure sedimented visions of self and the world" (Ochs 2004, 285), he and his job developer find that the script, as currently conceived, cannot accommodate his disavowal.

A few days later, I ran into Brian in the computer lab. Eager to better understand how he had experienced and processed the coaching session.

> MB: How'd it go with Sasha the other day? . . . I heard there was some disagreement about how to talk about your conviction in an interview.
>
> Brian: It went well, but she's sending me back to coaching. She wants me to work on the question about how I would describe my weaknesses and also the conviction question—I need to express more remorse.
>
> MB: Hmm. . . . What do you think of that?
>
> Brian [shrugs]: I'm open to feedback. I need help, that's why I'm here.

People's responses to stigma are complex, contradictory, and in flux (Corrigan and Watson 2002; Riessman 2000). And yet I was perplexed and, admittedly, a little disappointed by Brian's quick shift from disavowal to conformity. I wondered whether his perspective had actually shifted or whether, as Carr's (2010, 3) research subjects described it, Brian had "flipped the script"—that is, decided to formally replicate the proscribed way of speaking about his conviction without investing in its *content*. Rather than insist on an authentic retelling of events, Brian may well have made a strategic decision to recite a trope that would satisfy the agency and prospective employer, without giving up his own internal interpretation of the events. When a few weeks later he was hired by a nonprofit organization as a landscaper, I began to consider how a narrow framing

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between refusal and accommodation may not encompass the full range of possibilities. As Carr suggests, people can "act politically" without necessarily resisting; as sometimes saying what people want to hear is the best way to garner resources (19). And yet I could not shake a worry that the repeated telling of stories along hegemonic lines—even as a means to an end—may unknowingly cause criminalized people and their advocates, and in turn, employers and other power-holders, to internalize decontextualized explanations of "crime," thereby fueling the already strong tendency in the United States to blame the marginal for their condition (Bourgois 1995, 54) and reinforcing the idea that prisons are an inevitable response to the "ostensibly deviant actions, behaviors, or choices" of individuals (Story 2019, 11).

DISCUSSION AND CONCLUSION: ACCOMMODATION AND RESISTANCE IN THE MANAGEMENT OF CRIMINAL STIGMA

Ethnographers have elucidated a range of strategies through which former prisoners challenge stigmatized identity and reframe past, present, and future identities. Whether by rejecting criminalizing labels (Opsal 2011), finding ways to use convicted status for meaningful purposes (Murphy et al. 2011), or refashioning the rules of parole (Werth 2017), these strategies tend to reflect criminalized people's dual desires to be seen as worthy of inclusion and to be understood on their own terms (Werth 2012). Such forms of resistance to the constant surveillance and assessment that characterizes the post-prison experience are "contextual"—that is, they operate within the context of structural oppression and create space for a wider field of action "without transforming the oppressive structures or generally even challenging the hegemonic ideologies that underpin them" (Gordon 1997, 44). And yet, as Lucia Trimbur (2009) has shown, even small rejections of penal power—simply having a critique of the punishment system—can protect returning prisoners from failure.

I have argued that, as a process in motion, one negotiated and contested in everyday settings with real-life consequences, stigma is politics. As job seekers and their coaches search for the language, tone, and phrasing that will ring true with the beliefs of the listener, they are not simply responding to a hypothetical employer's biases but also actively constructing their perceptions: Is a criminal record a "just" label—an indication of low morality, poor judgment, or weak character, or rather/also a product of uneven distributions of power? I hope to have persuaded the reader that while crafting a satisfactory narrative may appear to be a primarily functionalist undertaking, words—as Ross Chambers (1991) so persuasively demonstrated—have the power to foster change by causing shifts in people's ideas, attitudes, values, and feelings. How criminalized people analyze, frame, and rehearse narratives of their convictions affects how they—and their criminal acts—are perceived and understood and thus contributes to deeper debates about what gets called "crime," whose actions are the focus of prosecution, who bears responsibility for social and interpersonal harm, and the function of imprisonment.

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Job seeking is a normative enterprise. It is thus not surprising that conviction scripts as currently conceived and taught tend to reinforce existing paradigms, reproducing the criminal record at face value as a reliable, value-neutral inventory of who has done what. But as we witnessed, criminalized people are regularly attempting to break the rules that govern these scripts, seeking narrative forms that explain and contextualize their choices and validate their lived experiences. As my first encounter with Andrew suggested, conviction narratives are not only important for managing the perceptions of others; they are also a matter of self-making (Maruna 2001). The stories we tell matter for how we see ourselves, what we think we deserve, and how we imagine the possibilities for our futures.

By conceptualizing stigma less as a logic that gets written onto the lives of those who are stigmatized and more as a negotiation of power with broader social consequences, we increase the capacity to grapple with stigma's harms and, perhaps, harness its potential. Toward that end, I return to the promise to not only examine, caution, and criticize but to think about how conviction scripts could be leveraged toward liberation of the criminally stigmatized. Is it possible for job seekers to satisfy normative expectations—enough to get hired—while subtly pushing against them? I offer three practical ideas to support resistant scripting, which, as we have seen, criminalized job seekers are already undertaking.

First, there is potentially transformative value in allowing more room for, and even actively cultivating, "resistant thinking" (Riessman 2000). In the focus on preparing for the job market, rarely is the care taken to distinguish between the story one constructs to land the job—what James Scott (1990, 5) calls the "public transcript"[xvii]—versus the hidden transcript, the stories we construct for self-understanding that take place beyond the direct observation of power-holders. Explicitly acknowledging the discord between the ways we narrate our lives to ourselves and those we are close to versus to those we don't know would leave more room for agency. For example, a coach might say, "This framing of the conviction may or may not ring true for you, but telling your story this way is what we've found to be most effective for getting hired."

Second, could the personal-responsibility content of the script be sidestepped? When faced with an open question, "I see here you were convicted of a felony," job seekers might respond, "Yes, I was convicted in 2008, but I assure you it has no bearing on my ability to be a great employee for you today." This gentle redirection would undermine the presumption that criminal records are an important business concern. Whether or not a person bears or accepts responsibility for a past act, the *relevant* question is whether they are willing and able to perform the job functions today.

Finally, could the role of contrition be diminished? If pressed to elaborate, what might shift if rather than "I deeply regret the decision I made," Brian was encouraged to more honestly say, "I found myself in a complicated situation. I navigated it as best I could at the time and I wish no one had gotten hurt." Such a refusal to engage in the performance of apology could serve to complicate

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simplistic notions of "crime" as prima facie evidence of poor choices and build understanding of criminalized behaviors as complex, contextual events.

Identifying and encouraging such nuances will require a reconception of job development as a primarily *political* role, exceeding its current configuration as social service provision or sales. Hired, trained, and conceptualized less as business brokers and more as "coaches of strategic self-making and stigma resistance," these refashioned professionals could collaborate with criminalized people to repurpose conviction scripts beyond their utilitarian functions.

To be clear, these ideas do not suggest that the fate of criminal stigma or the burden of its management can rest only with the stigmatized and their immediate allies. Challenging stigma entails much more than tackling deeply held beliefs (Link and Phelan 2001), and struggles for power cannot be relegated to the realm of interpersonal communication (Paul and Becker 2017). In the long run, the leeway a person has in a job interview to tell their story in a way that rings true, feels fair, and shifts common sense about what kind of narrative "satisfies" will depend on the strength and visibility of collective forms of organized resistance and on individuals' ability to draw from that resistance in day-to-day situations.

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[i] All research subjects have been anonymized. The Hub's identity as an organization has also been protected and its location generalized.

[ii] The Hub's social service model begins with a week-long orientation process, followed by a seventy-five-day period in which job seekers are hired on an in-house work crew (which allows them to refresh or develop work skills and habits while earning money) and simultaneously paired with a coach, who assesses and supports their preparedness for the private job market. Once they graduate from "coaching," they are assigned to a professional "job developer," whose role is to cultivate and maintain relationships with local employers and further train job seekers to interface effectively. Through this process, a high percentage of the Hub clients get hired within ninety days and remain employed for at least one year.

[iii] Although it was often necessary to help job seekers navigate hiring processes and sometimes for the analysis, I found knowing the details of people's conviction records problematic for the development of ethical, professional relationships. "Knowing" added to an already dramatic imbalance of power between me and my research subjects, who, in contrast, did not know about the worst things that I have done. There is also a way that once revealed, the knowledge of a "criminal" act becomes impossible to forget, set aside, or leave unjudged. In this article, it was not possible to describe these narrative encounters without including direct references to specific convictions, and in two of cases presented, the nature of the conviction is essential to the analysis. Still, I struggle with both the ethics and the politics of this knowing and representing.

[iv] The concept of work "readiness" refers simultaneously to the possession of the basic skills needed to fulfill a job, such as reading, writing, and following directions, as well as "soft skills," such as showing up on time, communicating effectively, and working well with others. Readiness also implies having access to basic job-market tools, such as proper identification, a résumé, cover letter, and access to transportation.

[v] For more information, see SEARCH Group (2005).

[vi] For example, SEARCH Group (2005) estimates that after September 11, 2001, the US government increased demand for background checks through new congressional mandates for airport workers and airline personnel, port workers, truck drivers, and others that resulted in more than one million new employment-related background checks.

[vii] Most studies cite the Society for Human Resource Management's (SHRM) estimate that as many as 69 percent of employers conducted background checks for all positions in 2012, up from 56 percent in 1996. However, a more careful look at SHRM's data reveals these percentages are drawn from surveys of their own members, who are disproportionately mid- to large-sized business and who are undoubtedly influenced by SHRM's clear bias toward background screening as a best business practice for all positions. While I cannot provide counter statistical data, my research suggests that while background screening is increasing among employers of all kinds, a broader survey including small and mid-sized businesses would produce a lower estimate of the number of employers conducting background checks, as well as a more nuanced picture of when and how they use them.

[viii] See reports by the Collateral Consequences Resource Center (http://ccresourcecenter.org/wp-content/uploads/2017/12/Second-Chance-Reforms-in-2017-CCRC-Dec-2017.pdf) and National Employment Law Project (http://www.nelp.org/content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf)

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[ix] Under the Fair Credit Reporting Act—which governs how consumer reporting agencies, including background screening firms, collect and distribute information (California's version of the federal law under the Federal Trade Commission)—a credit reporting agency may not report convictions older than "seven years" from the date of final disposition, arrests that did not lead to conviction, nor convictions dismissed by the courts. However, there is some confusion in legal and advocacy communities about whether the seven years are counted from date of arrest, conviction, or final disposition, which would include release from prison. While typical third-party background checks, which rely only on court data, tend to reveal only date of conviction, some screening firms take extra steps to search prison release and parole dates. Further complicating matters, employers who choose not to use third-party screeners may conduct their own internet-based searches of publicly available court data, which often reveals the very kinds of events (arrests, dismissed and older convictions) third-party screeners are legally barred from reporting. Finally, both the particulars of legal protections and their enforcement vary widely across cities, counties, and states and employers are often unaware of the legal nuances. All of these variations make it difficult to determine what job candidates should disclose in the application process.

[x] While I limit the analysis here to the process of job seeking, versions of conviction "scripting" and testimonial also take place in a range of other settings, including courtrooms, parole board hearings, occupational licensing hearings, drug recovery and reentry programs, and in written appeals for expungement and certificates of relief or rehabilitation.

[xi] The pattern identified here—mandatory admission of guilt, expression of remorse and demonstration of rehabilitation—also bears similarity to those required by other forms of state sanction. For example, in *Catching a Case: Inequality and Fear in New York City's Child Welfare System*, Tina Lee (2016) shows that to regain custody of their children defendants in family courts must approach their abuse or neglect allegations similarly.

[xii] In my writing, I defer to the language people use to describe themselves.

[xiii] While some nonprofit organizations may offer "wrap-around" services, most accomplish only one or a few things well and are funded to focus primarily on one need or problem, structurally precluding holistic approaches. As an organization focused on employment, the Hub addressed this challenge by partnering with neighboring organizations that assist returning prisoners with a range of services but could not, on their own, adequately address the overlapping issues of poverty, trauma, health, and mental health that affected many clients.

[xiv] Unequivocal personal responsibility is central to a range of criminal justice contexts, including parole board hearings and applications for expungement, certificate of rehabilitation, or pardon. While circumstantial factors that explain the reasons for an unlawful act are encouraged, they must be introduced in a way that does not detract from the assumption of individual choice.

[xv] Not only do conviction scripts tend to reinforce insufficiently complex analyses of "crime," they also prevent more meaningful explanations of interpersonal harm. In reducing all transgressions to "bad decisions," the script leaves little room for more robust, complex explanations of the interrelated factors that lead to harm (Bourgois 1995; Richie 1996).

[xvi] Seminar offered by Robbin and Associates, December 17, 2014. San Bernardino, CA.

[xvii] Scott defined the public transcript as the open interactions between the subordinate and dominant that conform to rules of performance.

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