

## TESTIMONY OF LAHNY R. SILVA

By way of introduction, my name is Lahny Rose Silva and I am currently the senior Hastie Fellow at the University of Wisconsin School of Law. I arrived in Madison in September of 2009 from Hartford, Connecticut where I was practicing as a Legal Services Attorney. From my research at Wisconsin, as well as from practice, I can tell the Wisconsin Legislature that consequences of a criminal history, of any sort, costs the individual in socio-economic opportunity and may work to deprive him or her of life's basic essentials (food and shelter). There are also costs to the community namely the loss of the skill and labor of that particular individual from the employment pool. This problem is serious, costly, and requires immediate normative attention to the issue. Wisconsin appears to be on the right track.

The employment consequences of a criminal history are quite severe. A study conducted in Wisconsin showed that a conviction decreases the employment opportunity of an individual by at least 50 percent.<sup>1</sup> When the race of an individual is added to the analysis, the opportunity of the individual decreases significantly.<sup>2</sup> Moreover, employers are less likely to hire an individual with a criminal history. Studies consistently show that 60 percent of employers refuse to hire an individual with a criminal conviction.<sup>3</sup>

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<sup>1</sup> Devah Pager, *The Mark of a Criminal Record*, 108 Wis. L. REV 617 (2005). The callback rate was 34percent for whites with no criminal record, 17percent for whites with a criminal record, 14percent for blacks without a criminal record, and 5percent for blacks with a criminal record.

<sup>2</sup> *Id.*

<sup>3</sup> Harry J. Holzer, Steven Raphael, & Michael A. Stoll, *Will Employers Hire Ex-Offenders? Employer Preferences, Background Checks and Their Determinates* (October 2001)(The study was an employer survey conducted in 1993-1994 in four cities: Boston, Atlanta, Detroit, and Los Angeles finding exclusion rates of 60percent).

Acquiring housing is yet another issue to be tackled. Individuals with criminal histories will more than likely be denied housing. This exclusion occurs in the context of both public housing authorities and private property landlords contributing to the problem of homelessness.

The fact of a criminal history may contribute to other disqualifications and exclusions including problems obtaining food stamps and cash assistance as well as the disenfranchisement of formerly convicted individuals.

I recommend expungement or expunction as one legal mechanism used to short-circuit these issues for well-deserved individuals. The legislature is the proper forum to resolve this issue as the judiciary's jurisdiction to grant expungement is controversial and the pardoning power is subject to abuse and/or neglect. In the case of acquittals and dismissals it is even more important to remove the record from public as there is no adjudication of guilt in such cases. It is my hope that once Wisconsin appropriately resolves the issues associated with acquittals and dismissals, that this state will properly address the statutory disqualifications that prevent non-violent individuals from acquiring adequate employment and housing. Thank you.