

AUTOMATED CRIMINAL RECORD EXPUNGEMENT: BENEFITS, CHALLENGES, & OPPORTUNITIES

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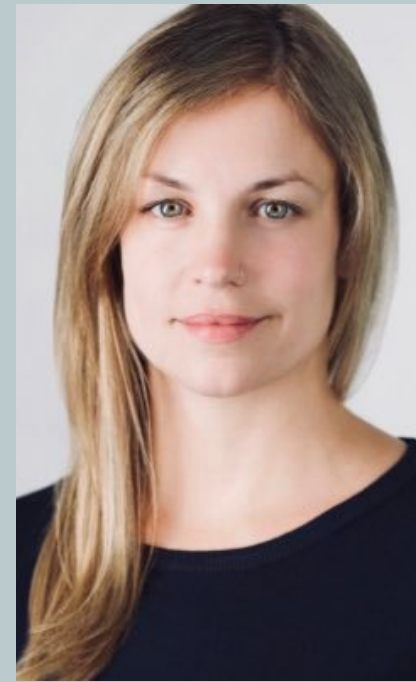
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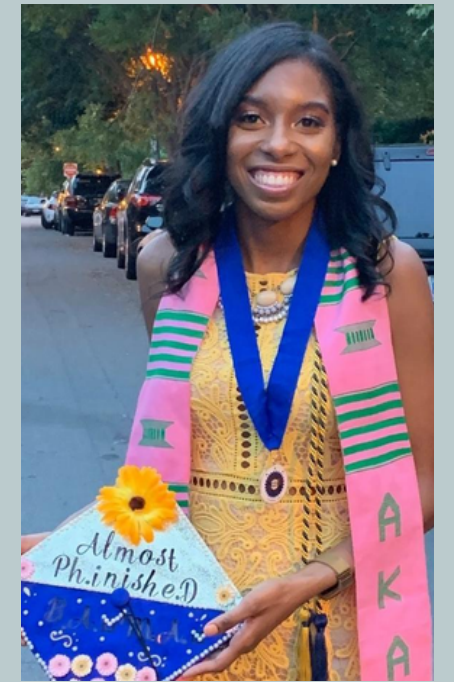
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RESEARCH QUESTIONS

What impacts do low-level arrests and convictions have on individuals, families, and communities?

What are the benefits of automated record clearance?

What are some limitations of the process?

What are the main challenges for passage and implementation?

What are recommended practices to maximize positive impacts and mitigate unintended consequences?



DATA & METHODS



STUDY DESIGN

- 4 states with automated expungement: PA, UT, CA, NJ
- Study Period: 2021–2023
- Interviews with Clean Slate–eligible participants
 - Follow–up interviews 1 year later
- Stakeholder/Community Representative Interviews



Seeking Paid Participants For Study on Criminal Records



Study Title: The Impact of Automated Record Clearance on Individuals, Families, and Communities




ABOUT

The study will address the effects of criminal records on individuals' lives. We will also investigate the impact of automated/petition-based record clearance on people's experiences and the experiences of their families and communities.

ELIGIBILITY

- People 21 years of age or older convicted of a cannabis offense in California before July 1, 2019
- OR
- People who have been arrested, but not convicted or incarcerated, for ANY misdemeanor after January 1, 2021

FOR QUESTIONS:

-  Email the study team at cacannabisstudy@gmail.com
-  Text us at (669)-696-3967
-  Follow us on Twitter @cleanslatestudy

INFORMATION

- Your responses are confidential. Only our research team will have access to any of the information you tell us, and only the researchers will know you participated in this study.
- Interviews will last approximately 45-60 minutes and be conducted via zoom.

COMPENSATION WILL BE PROVIDED

\$40 gift card for an initial interview
\$40 gift card if selected for a follow-up interview



SCAN FOR,
SIGNUP,
WEBSITE, SURVEY
ACCESS

INTERVIEWS COMPLETED AS OF OCTOBER 2023

State	Expungement-eligible individuals	Community/govt. representatives	Total
California	23	28	51
New Jersey	20	10	30
Pennsylvania	22	15	37
Utah	43	10	53
Other states	0	5	5
Total	108	68	176

RECRUITMENT

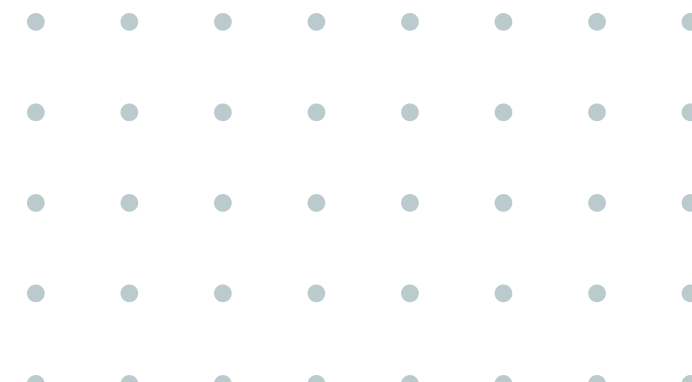
	MTurk	Prolific	Flyers, Email, Listservs, Social Media	Total
Intake surveys	875	409	1422	2706
Eligible and contacted	155	75	262	492
Invalid contact	52	0	66	118
Duplicate	13	0	24	37
Unresponsive	84	47	86	217
Ineligible/Declines	1	3	8	12
Interviewed	5	25	78	108



INTERVIEW THEME 1

IMPACT OF CRIMINAL RECORD

- Employment
- Housing
- Custody of dependents
- Intergenerational effects

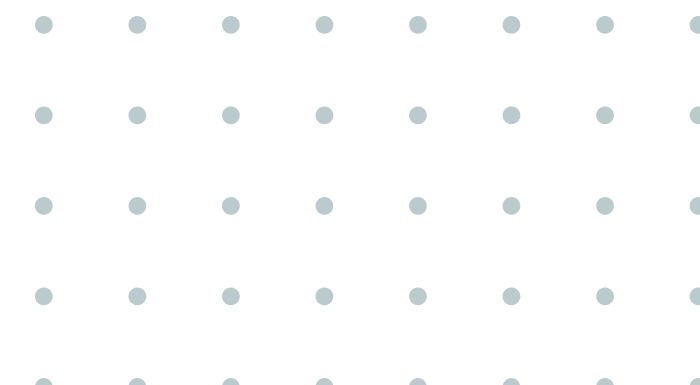




INTERVIEW THEME 2

BENEFITS OF RECORD CLEARANCE

- Cost/ease/efficiency
- Improved background checks - access to licenses, (better) jobs, housing
- Stigma mitigation
- Identity transformation

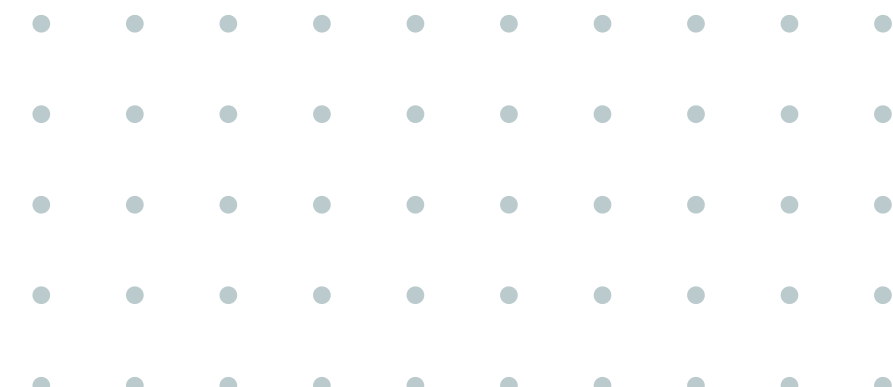




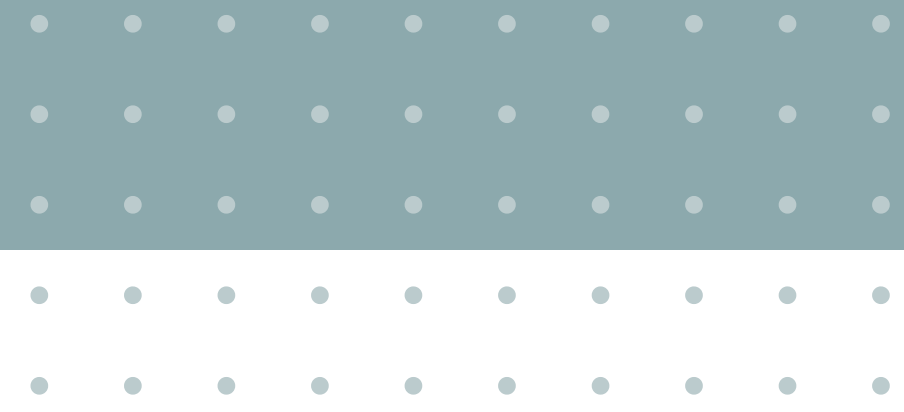
INTERVIEW THEME 3

LIMITATIONS AND CHALLENGES OF AUTOMATED RECORD CLEARANCE

- Lack of notification regarding expunged records
- Partial expungements with remaining uncleared convictions
- Long waiting period
- Narrow list of eligible offenses
- Disqualifying criteria
- Complex eligibility criteria



FINDINGS



INTERVIEW THEME 1

IMPACT OF CRIMINAL RECORD



IMPACT ON EMPLOYMENT & HOUSING

I had got a job working with mentally [disabled] adults in 2005 before I got the heart transplant 2008. So I'm working there and they ... did the live scan and it came back in like two months and they had to take off the job.

✧
– “Marlon,” 59, African American, California, possession of marijuana, assault, assault with a deadly weapon.

A few years ago, I remember I was working at Walmart and I was trying to kind of get out of that dead [end] kind of job, and I went to Orkin to you know pest control. And my record had popped up and kind of held me back. ... I didn't get the job. I had the job but then I didn't get the job because my background.

– “Alonzo,” 40, African American, California, multiple convictions for marijuana and cocaine possession and sales.

I was making \$45,000 a year, I was rebuilding my life from homelessness. [I] was able to have enough money to move into my first apartment, and I couldn't get an apartment. Everywhere I applied, wouldn't allow me to, to move in. So my adult son at the time, decided to cosign with me because I couldn't get an apartment.

✧
– “Crystal,” 46, Utah, Latina/White, drug paraphernalia, retail theft, criminal trespass, DUI.

IMPACT ON CUSTODY

I really assumed the state would let me have my grandson since he didn't have anywhere else to go. But instead they throw him in foster care because of my past that once again, get a very expensive lawyer fight for two years to get my grandson to live with me. And they chose to put him in foster care and group homes for two years and make severe damage to him emotionally, where we're struggling with it. And it had everything to do with my past

– “Rosemary,” 51, White, Utah, drug possession, forgery, theft.



Even in my custody battle for my son with my ex partner, that was brought up. You know what I mean? So yeah, when you're fighting for somebody you love, and that's brought up, absolutely. I mean, just all the self doubt, and everything comes along with it.

– “Anakin,” 42, Mixed Race, Utah, possession with intent to distribute, possession of paraphernalia.

INTERGENERATIONAL EFFECTS

I think the stigma of a criminal record and just the emotional mental health effects of having that record can certainly harm a person's life, and can have intergenerational impacts on not just their earning capacity but their kids earning capacity. There's a lot of research about that. And so I think what I've seen in my work is, you know, people get stuck in these cycles of the justice system, cycles of poverty. And unfortunately, those cycles are transferred to the next generation of children. Whereas if we can get rid of that record, and break the cycle, we can open up a lot of opportunities for those families and kids.

- "Nickole," Utah, Community Representative

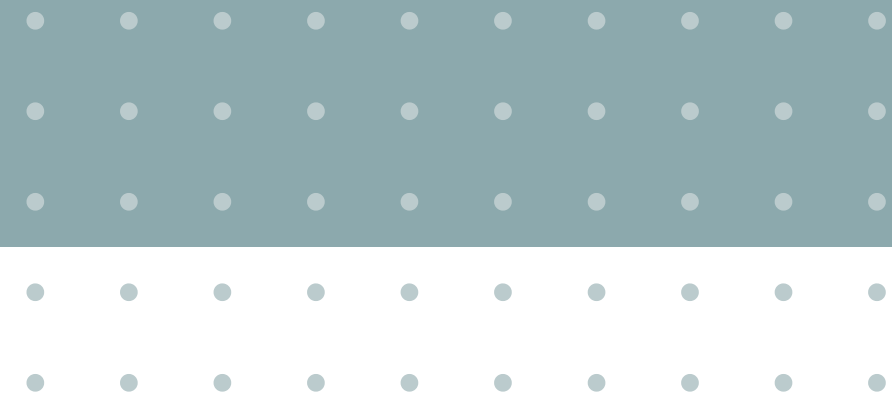
Yeah so my daughter was taken from me about seven years ago. So I ended up doing a year. I did a year in prison. ... So my daddy, when my mom got my daughter, he had to move out.

I see it all the time, mom has a record, grandma has a record, and grandpa has a record, you know we try auntie, but auntie has a record too.

- "Avery," California, Community Representative

INTERVIEW THEME 2

IMPACT OF RECORD CLEARANCE



BENEFITS: COST/EASE/EFFICIENCY

*“So my first expungement cost me \$3,600 ... And when you apply for expungement, they tell you ... This is how many cases you qualify for. Do you want to expunge them all? I said yes. So what I learned was, **how many can you afford to expunge?** Because each case had a \$150 filing fee. Each case had a \$65 certificate fee on top of the mailing fees, and I had 13 cases. So I had a choice to make it was either like I just barely got into my apartment. **It was either pay my monthly bills, or get my expungement. So I chose my monthly bills. I couldn't afford my expungement.**”*

– “Crystal,” 46, Latina/White, Utah, got petition-based expungement for drugs, retail theft, and other convictions

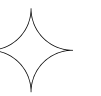
*“Well, I am planning on putting in a petition ... [but] I haven't yet. Well, I ain't gonna front, **I've been too broke, too busy** to try to work, man. So I haven't like -- and then I've been going to school, like it ain't easy to go to school. Commit to a full time job, do internship. And then ... had to watch my daughter. **I really don't have any time.**”*

– “Kevin,” 49, Black, New Jersey, convicted for cannabis, cocaine, conspiracy; not yet expunged

BENEFITS: IMPROVED BACKGROUND CHECKS – ACCESS TO LICENSES, (BETTER) JOBS, HOUSING

“Once I got the first expungement, I was able to get a huge promotion... I got a new position and a new promotion. I was able to save money. Because I was making more money. I was able to save money. And I'm now a homeowner. I own the car, I drive. I don't have a car payment. I'm financially stable. I have a great job. And all these things wouldn't never happened if I wasn't able to get my expungement.”

– “Crystal,” 46, Latina/White, Utah



BENEFITS: STIGMA MITIGATION & IDENTITY TRANSFORMATION

"Yeah, my mom was really, really relieved. Ever since this, ever since we were going through this whole process I says, she was like, Yeah, I'm not gonna rest well until it's like fully expunged. And yeah, once it was, she was like, really relieved. And she just like, keeps reminding me like, never get into trouble again."

– "Anil," 24, Asian, PA, got automatic expungement for cannabis, DUI

"In my family, my criminal record is like a cloud over my head. Nobody else in my family has this huge record, nobody else in my family has gone to stores and shoplift or been homeless or, or was stealing food. So I am like the only one in my family that has that. And I feel like it's a huge stigma around. I think I've been breaking those... And I think that my criminal record now has just shown my kids that you can overcome your mistakes."

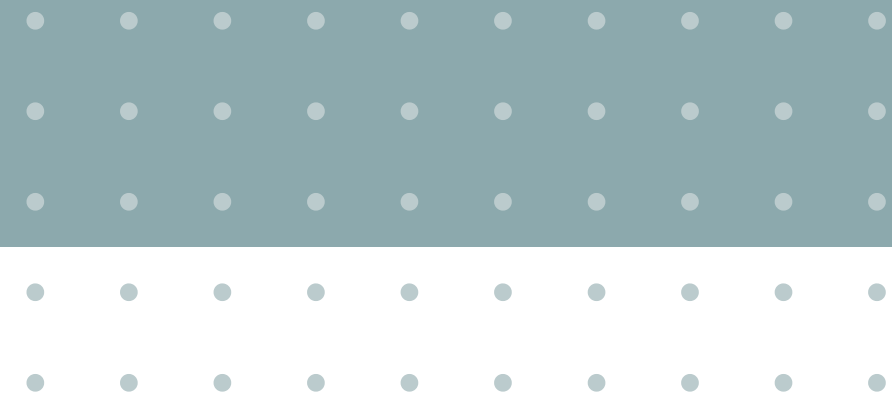
– "Crystal"

*"I felt that I could put it behind me, it was springtime, and you know how the wind blows, kind of blows all the dust away? I felt that this was something that was behind me. **And of course, you know, it was something that I worried about for too long.**"*

– "Daphne", 70, White, PA, got a non-conviction arrest expunged, got a non-conviction arrest expunged

INTERVIEW THEME 3

LIMITATIONS AND CHALLENGES OF AUTOMATED RECORD CLEARANCE



LIMITATIONS: LACK OF KNOWLEDGE ABOUT ELIGIBILITY & LACK OF NOTICE

"There were also questions around how we would get sort of notification out to people...because if people don't understand that this law is going to go into effect, and that their record will be expunged ... they may still be deterred from taking on a variety of actions if they think that somehow they're going to be held back by a record that actually doesn't exist any longer."

– Community advocate, Utah

"[N]obody knows whether their record's expunged unless they check. I mean, if they're going to do it, they should make the attempt to notify people."

– "Darren," White, 44, Utah, convicted for alcohol as a minor and marijuana 20+ years ago

"There's no communication of where we are in the process, you know, what letter of the alphabet are we on? Or what date range are we in?"

– "Jeff," White, 36, Utah, waiting for automated expungement of one misdemeanor ✨

"So now people don't know that their record's expunged. You know, so, I mean, a lot of people aren't going to know how much it's impacted their life."

– "April," 44, White, Utah, 14 convictions including criminal trespass and drug paraphernalia possession

NOTIFICATION CHALLENGES

Q: "Was there any process of notification for people?"

"No, not individualized notification ... [W]e did public statements and public service announcements, it was in the media, it was fairly widely reported. We reached out to nonprofits and CBOs ... We've [of] course told the public defender and defense attorneys but we couldn't think of any way of individualized notifying people. ... Like there was no way of protecting people's privacy."

– Assistant District Attorney, Santa Clara County, CA

LIMITATIONS: PARTIAL EXPUNGEMENTS & UNCLEARED CONVICTIONS

"So with the other things being removed, it's kind of good, I guess, because I don't have to disclose any of that stuff. But at the same time, if the felony pops up I'll probably have to talk about that."

– "Javier," Latino/other race, 39, with numerous misdemeanors and one felony conviction

"I figured I would address [my Pennsylvania drug misdemeanors] if the felony got erased. Because if I don't get the felony erased, I'm like, it's wasted energy."

– "Melinda," white, 39, with two sealed PA misdemeanors and one felony conviction in Vermont

"Benefits? Obviously, your record is clean. The drawback is we don't know if it's clean enough."

– "Saul," 49, Male, Latino, with one marijuana possession conviction (1998) and a marijuana dismissal (2002)

EVIDENCE OF CONVICTIONS PERSISTS AFTER CLEARANCE

"These things never go away. They still exist. It came up when I applied for government jobs. ... I felt like I wasn't allowed to make mistakes as a kid."

– "Mariana," Hispanic, 41, California, with convictions for trespassing and false information to an officer

"I also have like news articles written about me. So I feel like I need to get those removed before I even get the expungements removed."

– "Shane," White, 24, Pennsylvania, with convictions for misdemeanor drug sales and DUI

"[I]f I Google my maiden name ... there's a section of the school newspaper that comes up with the arrest. So it's not completely gone."

– "Jaqueline," White, 29, Pennsylvania, convicted of possession of paraphernalia, underage drinking, disorderly conduct in 2011

CHALLENGES: WAITING PERIODS

"...In order to achieve an expungement for a DUI, [it's] 10 years and a nonviolent felony is 7 years. ... Why are we making someone with a misdemeanor wait that long?"

– Reentry and reintegration policy coordinator, Salt Lake County, Utah

"... somebody who is in recovery, and has completed their sentence, why would they have to wait another five years to get that removed? Because, frankly, you want them to have all the ability to continue their trajectory now, rather than having this, this really strong possibility that they're gonna go back because they can't do anything else, right? ... So if we could reduce the waiting period, or eliminate it."

– Drug treatment program executive, Salt Lake City, Utah

LIMITED LIST OF ELIGIBLE OFFENSES

But honestly, the one that's hit me more than anything, even though I have a felony on my record, is the retail theft.

– “Pamela,” White, 55, Utah, convicted of DUIs, retail theft, leaving the scene of an accident, expired registration

Q: “Can you talk a little bit about whether there were times in your life when your record came up?”

“They don't want people that have a retail theft, working in retail dealing with people's money. You know handling credit cards or checks or bank accounts or anything like that, I was denied really good jobs, because mostly because of the retail theft, I think.

– “Jane,” White, 37, Utah, convicted of retail theft, unlicensed dogs, fishing without license

“I think Clean Slate has been great. And I think it'll do a lot of good, but it is limited ... it is minor offenses, it is a very long timeframe. And so just kind of off that, right there, I mean, there's a lot of people who are going to be missed by that eligibility, who may still need that benefit ... I mean, it's not that the system is not benefiting people, it's that we already kind of took everyone out who would benefit the most.”

– Performance and Data Analyst, Mayor's Office of Criminal Justice Initiatives, Salt Lake City, Utah

LIMITING EXPUNGEMENT TO DRUG POSSESSION IS INSUFFICIENT

“Is it really beneficial to expunge cannabis possession in a world where basically, no employer cares about cannabis possession? I mean, I don't know maybe that's not really all that useful. ... [T]he one offense that people brought up over and over was retail theft, you know, just misdemeanor shoplifting is not a particularly serious offense. But it's the exact kind of offense that a lot of these jobs will look for.

*... And I think that if you're going to write a Clean Slate law right now in this country, that that's one of those offenses that you really kind of have to be willing to fight for. That if **your Clean Slate law is not affecting retail theft, then it's probably not doing much, frankly.**”*

– Performance and Data Analyst, Mayor's Office of Criminal Justice Initiatives, Salt Lake City, Utah

DISQUALIFYING CRITERIA PRESENT OBSTACLES

*"...sometimes there are specific things that have not been met, for example, ... **you did everything else you were supposed to do, but you haven't paid your fines and fees.** And some judges stick very strictly to that, they don't take into account that well as a convicted person I could make a living wage, so I couldn't pay."*

*- Superior Court Judge,
Santa Clara County, CA*

Q: "from your understanding of the law, are you eligible for automated? You're not?"

"No. Because I have, I'm over the number thing. You know, I mean, I have way too many felonies. I have too many things that have been dismissed. I have too many class A's, too many class B's, everything to do with them. And so I've started the process of doing the expungement of all of my dismissals with and without prejudice, because even though they're supposed to automatically come off, they don't. I feel like I don't want to wait for it ... And I'm gonna go for a pardon."

- "Rosemary," White, 51, Utah, convicted of drug possession, forgery, theft

OVERLY COMPLEX ELIGIBILITY CRITERIA

"I feel like they need to – I hate to say this – dumb down the law. People don't read it that high. No, nobody knows the legal terminology. So if you're going to provide a link to somebody about how to get the record expunged ... Let's put it in simple terms, so that they can read it, and understand it, and follow the instructions. ... Like, let's just widen it open and change the law to where ... the criteria is still the same, but the numerical doesn't matter. Yeah, how many charges doesn't matter. If you have remained crime free for seven years, you should be able to expunge everything that there isn't a victim to."

– "Crystal"

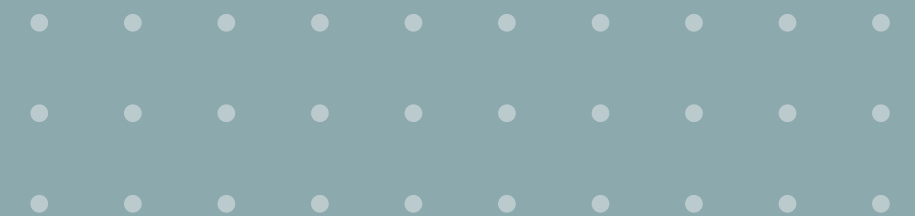
Q: "are there any areas of improvement that you would make to either the petition process or the automated process?"

*"I would largely expand the number of cases that are eligible for automatic expungement so essentially include everything that does not have a live human victim after a certain period of crime-free time. For felonies that might be 10 years. But **I think as long as someone can demonstrate that they're crime-free, and we know that law enforcement can use that record if the person engages in criminal activity in the future, the housing justifications, the employment justifications, the education justifications, all of those lean towards expanding more, faster, and easier.** And the only thing pulling against that is if they commit a new crime, and we can address that if we just let law enforcement use the records."*

– Policy advisor, Salt Lake County DA's Office, Utah

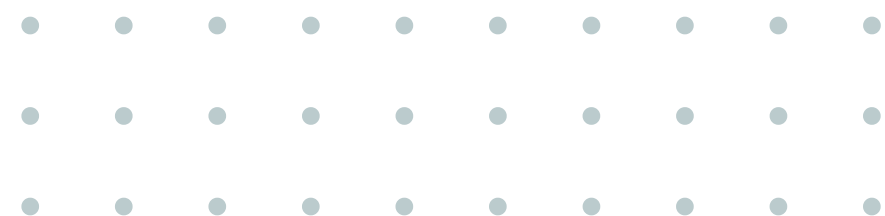


POLICY IMPLICATIONS & RECOMMENDATIONS



BILL DRAFTING & PASSAGE

- Engage implementers during drafting stage
- Get bipartisan support + sponsorship
 - Engage likely opponents early
- Use powerful personal testimonies
- Frame as a jobs bill
- Start small (or don't)



*We had a hearing on this bill last session. [A woman] testified ... she had a drug conviction from when she was 19 years old. This woman was in her 50s ... she works in human resources. Every time she went for a new job, this felony came up. And she had to explain that she was an addict, and that she got caught. And that she has cleaned up her life. She has a family, grandchildren, she has two master's degrees, she is a professional person. But this felony keeps haunting her... If she tries to go into a senior home when she's in her 80s, some senior homes don't allow anyone who has a felony record. So look at the people it impacts ... **Some of the hardest workers that we know, when we talk to business owners, are people with records who are given a second chance, because they appreciate the opportunity, and they work their butts off to get it done. But in some cases with zero tolerance, with a felony ... it could be for a low level drug carry. But the bottom line is that, do you think they're gonna go do that tomorrow? No. Right? And what does that have to do with HR? So ... that is honestly what changed my mind.***

- Republican State Legislator and Clean Slate Sponsor, PA

[F]or legislators who are of a very conservative mindset, who would say, “Well, why would we ever try and, you know, facilitate a benefit to somebody who's posed a risk to public safety and was a law breaker?” I think they see the benefits in terms of an employable group of people who contribute productively to the tax base in the cities that they live in, who can provide for their families without having to lean on public services and other publicly available benefits because we can lift themselves out of those situations by improving both their their employment and in their housing. And that sort of upward mobility and, and kind of get yourself up by your bootstraps and making available opportunities along those lines really appeals to that political mindset. And on the same token, for those who are very liberally minded and think, Well, we want to provide every opportunity for the individual to self-actualize and be self determinative, it appeals to them, so I think there are things about this that make it attractive in both instances. I will tell you, my confidence level about this sort of thing passing if it didn't have housing and employment related issues go down dramatically. My confidence level would be like rock bottom, because I think it's the housing and employment part of it that really appeals to the Republican legislators in Utah.

– Administrator, Administrative Office of the Courts, UT

IMPLEMENTATION TIPS

- Allocate sufficient budget and resources
- Update antiquated systems
- Data integration is crucial
 - Court, police data
 - Federal agencies
 - Incident-level and person-level
- Manual processes may be necessary
- Expect delays

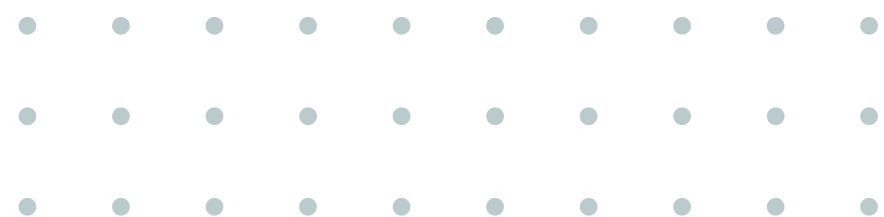


When the expungement legislation passed in 2019, we told them that we would need about a million dollars one time to do all the lifting in order to get this thing off the ground. And they couldn't find that. The primary legislator on it ... could get us \$200,000 one time and \$200,000 ongoing. And I told him at that point, hey, listen, understand that if these are the resources that are available, it's going to take us multiple years to get this off the ground ... And that's why they put into the statute that the Administrative Office of the Courts are required to ... identify eligible cases and expunge cases within kind of reasonably available funding, because that's all they made available to us. That language is specifically acknowledging the fact that they didn't fully fund it right out of the gate. And so I told him, it's going to be three or four years before we can get all this done, given this level of funding. And he said, I understand. I just want to get us started. So just get going on it. And we did.

– Administrator, Administrative Office of the Courts, UT

NOTIFICATION

- Media and advertising
- Community outreach and partnerships
- Easier, free access to one's own records
- Websites + mobile apps (e.g. MyCase in Utah)



Q: "can you think of ... anything that policymakers should do to make things easier?"

"I guess to make it easier to be able to see if your record has been expunged, not necessarily charge a fee like BCI. Because, I mean, I guess I'm kind of considered low income, but other people could be even lower income and can't afford to do that."

– "Mindy," White, 44, Utah, convicted for bad checks, criminal mischief, theft



"... we all kind of agreed that some form of direct notice had its problems. And so we didn't see a way to do it that would be effective. And so we didn't, and I think that is a real limitation of the model, unfortunately. But ... we're enhancing our technology that allows people to check on the status of their record... being able to get a copy of your sealed record was one of the things we also dealt with in implementation. So even though the employers and the landlords wouldn't get it anymore, you could find out, you know, what your record really looks like, to see what was sealed and what is not sealed."

- Clean Slate creator and advocate, Pennsylvania



WHAT REMAINS ON THE RECORD?

- Destroying records can have unintended consequences – sealing is preferable
 - Immigration issues
 - Research & evaluation
- Who has access to sealed/expunged records?
 - Law enforcement – sometimes
 - “Stackable” offenses
 - Referrals to drug treatment
 - Different states and federal authorities – need consistency
 - Licensing agencies – no access
 - Commercial purposes – no access, and there should be penalties for their disclosure

EXPANSION OF ELIGIBILITY

- Non-drug offenses
 - Retail theft – especially important for job-seekers
 - Lower-level felonies including drug offenses
 - Other felonies?
- Removal of disqualifying criteria (e.g. payment of fines + fees, numerical limits)
- Shorter waiting periods
 - Or waiting periods that begin earlier
- Simplified criteria

NEXT STEPS AND FUTURE RESEARCH

- Second-round interviews
- Additional coding and analysis
- Works in progress:
 - Effects of automated record clearance on
 - Family relationships*
 - Housing and jobs
 - Immigration consequences of criminal record expungement*
 - Politics of Clean Slate passage and implementation in the states*
 - Online recruitment and interviewing: methodological innovations and challenges**

* ASC 2023, **WSC & LSA 2024

THANK YOU!

<https://www.scu.edu/record-clearance-research/>

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