Reporting and Criminal Records

Considerations for Writing about People Who Have Criminal Histories

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Presenters

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Overview

1. The National Criminal Record Landscape
2. The Clean Slate Clearinghouse
3. Reporting and Criminal Records
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1. The National Criminal Record Landscape
2. The Clean Slate Clearinghouse
3. Reporting and Criminal Records
Criminal records are used for different purposes.

<table>
<thead>
<tr>
<th>Law Enforcement (police &amp; prosecutors)</th>
<th>Courts</th>
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<tr>
<td>• Outstanding warrants</td>
<td>• Eligibility for first offender and deferral programs</td>
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<td>• When to prosecute</td>
<td>• Sentencing enhancements</td>
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<td>• What to charge</td>
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<td>• Plea agreements</td>
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<thead>
<tr>
<th>Occupational Licensing</th>
<th>Employers</th>
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<tr>
<td>• Access to sensitive information</td>
<td>• 87% of employers conduct criminal background checks 5</td>
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<td>• Supervision and care of vulnerable populations</td>
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A criminal record impacts the individual, their family, and the larger community.

A criminal record reduces the likelihood of receiving a job offer by nearly 50 percent. ¹

180,000 women are subject to a lifetime ban on Temporary Assistance for Needy Families because of a criminal record. ²

The U.S. economy loses about $87 billion in annual GDP when people with records are underemployed. ³

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² The Sentencing Project, A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits (2011)
Criminal records have greater impacts on people of color and communities of color.

*Rate of Imprisonment per 100,000, by Gender, Race, and Ethnicity, 2015

*Imprisonment is just one point at which a person acquires a criminal record.

Criminal records trigger various “collateral consequences.”

There are more than 40,000 collateral consequences in state and federal law, which affect employment, housing, civic participation, and other areas.
“Criminal record clearance” is a blanket term for several related concepts.

Seal
Expunge
Vacate
Dismiss
Set aside
Shield
Annul

Criminal record clearance
Expungement and sealing are the most commonly used terms.

**Expungement** generally means that records...

- Are destroyed.

**Sealing** generally means that records...

- Are not publicly available.

But depending on the state, expunged or sealed records:

- May be disclosed for licensing or other purposes;
- May be used for criminal justice purposes; or
- May be inspected with a court order.
Record clearance policies differ by record type.

**Non-conviction information**
- Arrests dismissed or charges dropped
  - More likely to be automatic than other policies
  - Eligibility frequently immediate, up to 2 years

**Deferral, diversion, conditional discharge programs**
- Charges dismissed after successful completion of probation or treatment
  - Often automatic, occasional petition process to clear
  - Eligibility frequently immediate upon successful completion

**Juvenile records**
- Frequently confidential (with exceptions for certain offenses/ages)
  - All states permit clearance of some or all juvenile adjudication records
  - Eligibility frequently at 18 or immediately upon completion of sentence
Record clearance policies differ by severity of the conviction offense.

### Misdemeanor convictions
- Most states permit clearance of at least some; may be extremely limited by age, status (first offender, trafficking victim), or offense
- Eligibility most commonly 1, 3, or 5 years after completion of sentence; range is immediate to 15 years after completion

### Felony convictions
- Frequently exclude violent and sexual offenses
- Eligibility most commonly 5 or 10 years after completion of sentence; range is immediate to 20 years after completion
Most states have some type of record clearance policy for felony and misdemeanor convictions.

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The Clean Slate Clearinghouse provides resources for record clearance and legal services.

Learn About Your State
Learn about policies for clearing records in your state.

Find A Lawyer
Find a lawyer who specializes in record clearance.

Compare States
Compare record clearance policies across all states and territories.

Clean Slate CLEARINGHOUSE
A project funded by, and developed in partnership with, the U.S. Department of Labor and the U.S. Department of Justice. The Clean Slate Clearinghouse is a collaboration of the Council of State Governments Justice Center, Community of Legal Services of Philadelphia, the National Juvenile Defender Center, the National Association of Counties, and the National League of Cities.

The News page features record clearance stories across the country.
The **Learn About Your State** page gives information on record clearance policies in each state.

**MARYLAND**

**Record Clearance Overview**

- Find a Lawyer
- Court Forms & Resources
- For Attorneys
- Legal Policies & Statutes

**Adult Criminal Records**

**Juvenile Records**

Below is a general overview of when criminal records can be expunged, shielded, or vacated in Maryland. Please note that the Clean Slate Clearinghouse does not provide legal advice.

Read the [legal policies and statutes](#) for detailed statutory information.

**Adult Criminal Record Clearance Policies Overview**

Adult criminal records for cases in which you were **convicted** are eligible for expungement, sealing, or shielding in some situations. You have to file a petition in court to start the process.

- If you were convicted of a **nonviolent offense as a first-time offender** and later received a full and unconditional **pardon**, the record can be expunged 10 years after you receive the pardon. If you meet the criteria, the judge has to grant your petition.

- If you were convicted of certain **low-level offenses**, the record can be expunged three years after you complete your sentence. If you meet the criteria, the judge has to grant your petition.

- If you were convicted of certain **misdemeanors**, the record can be expunged 10 years after you complete your sentence. It is up to the judge whether or not to grant your petition.
The *Find a Lawyer* page helps users find legal services in each state.

**NEW YORK**

- **Bronx Defenders**
  - Phone: 1-718-839-7878
  - Website
  - Service area: Bronx County

- **Center for Community Alternatives**
  - Phone: 1-315-422-5638
  - Website
  - Service area: Cities of New York, Syracuse, and Rochester

- **Community Service Society of New York**
  - Phone: 1-212-254-8900
  - Website
  - Service area: City of New York

- **Judicial Process Commission**
  - Phone: 1-585-325-7727
  - Website
  - Service area: Monroe County and surrounding counties

- **Legal Action Center**
  - Phone: 1-800-223-4044
  - Website
  - Service area: Statewide

- **Legal Services of Central New York**
  - Phone: 1-877-777-6152
  - Website
  - Service area: Jefferson, Lewis, Herkimer, Oneida, Oswego, Onondaga, Madison, Cayuga, Cortland, Chenango, Otsego, Broome and Delaware counties
The Compare States map allows the user to filter and compare state policies.

Select juvenile or adult below to compare policies related to juvenile or adult criminal record clearance across all U.S. states and territories. Using the filters in the dropdown menus, you can find out which states permit clearance of various types of records, what the associated waiting periods are, and whether the record is cleared automatically or requires a petition to be filed.
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Criminal records appear in many reporting beats.
Examining state policies can help to inform reporting on criminal records.

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<th>Proposed Legislation</th>
<th>Recent Changes in the Law</th>
<th>Outliers Across the Country</th>
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<td><strong>Pennsylvania SB 1160</strong> – Introduced May 10, 2018; in committee</td>
<td>Expungement of criminal history information for persons convicted of possession of marijuana who had been diagnosed with a serious medical condition and possessed it for the sole purpose of treating their condition.</td>
<td><strong>North Carolina</strong> - Reduced the waiting period to expunge a nonviolent felony conviction record from 15 years to 10 years; for a nonviolent misdemeanor record, the law reduces the period from 15 years to 5 years. <strong>Illinois</strong> - Sealing available for most misdemeanors, felonies, and deferred adjudication after three-year waiting period. Exceptions for a handful of listed serious offenses; judges may consider specific collateral consequences the individual is facing, the person's age and employment history.</td>
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<td><strong>Indiana SB 291</strong> – Introduced January 4, 2018; in committee</td>
<td>Seal a person's expunged conviction records for a misdemeanor or Class D and Level 6 felony conviction.</td>
<td><strong>Massachusetts</strong> - Creates a process for records to be expunged for juveniles and young adults and for convictions for offenses that are no longer crimes, like marijuana possession. <strong>Puerto Rico</strong> – Expungement of any felony* 5 years after sentence completion (most states do not allow for violent crime clearance); misdemeanor expungement after 6 months. *does not include violent sexual crimes or abuse of minors.</td>
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<td><strong>Alaska HB 316</strong> – Passed House April 15, 2018; in committee in Senate</td>
<td>Prohibits the release or publication of conviction records for possession of less than one ounce of marijuana if the person was 21 or over and was not convicted of any other criminal charges in the case.</td>
<td><strong>Maryland</strong> - Now allows felony expungement with a 15 year waiting period. <strong>Alabama</strong> - Does not allow for sealing or expungement of any adult criminal convictions.</td>
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Questions?

Email: cleanslate@csgjusticecenter.org

Sign up to receive newsletters and other announcements at cleanslateclearinghouse.org.

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