

# 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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# Criminal records are used for different purposes.



## Law Enforcement (police & prosecutors)

- Outstanding warrants
- When to prosecute
- What to charge
- Plea agreements



## Courts

- Eligibility for first offender and deferral programs
- Sentencing enhancements



## Occupational Licensing

- Access to sensitive information
- Supervision and care of vulnerable populations



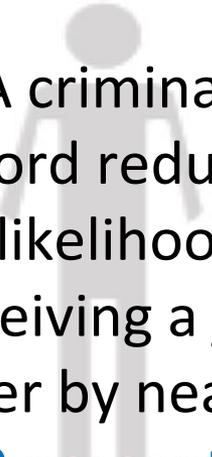
## Employers

- 87% of employers conduct criminal background checks <sup>5</sup>

5. Society for Human Resource Management. *Background Checking—The Use of Criminal Background Checks in Hiring Decisions*. (2012)

# A criminal record impacts the individual, their family, and the larger community.

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A criminal record reduces the likelihood of receiving a job offer by nearly **50 percent.** <sup>1</sup>



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



The U.S. economy loses about **\$87 billion** in annual GDP when people with records are underemployed.<sup>3</sup>

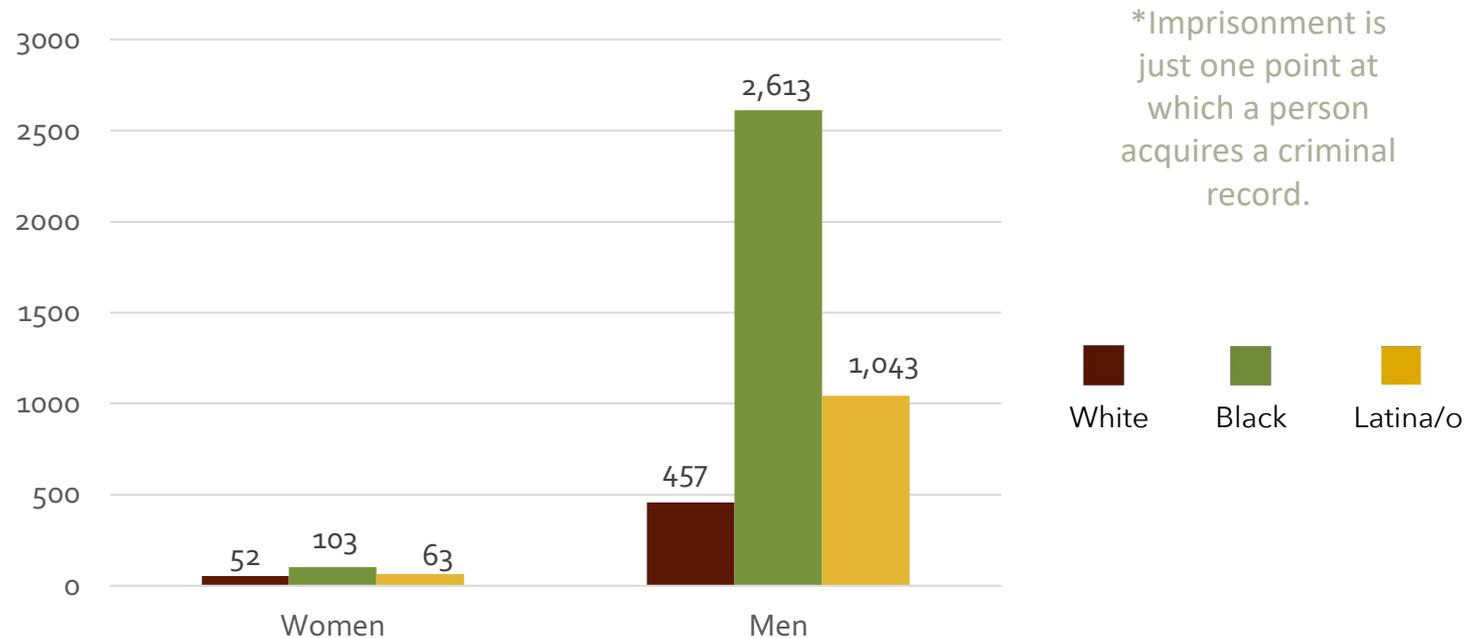
1. Pager, Devah, *Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men* (2009)

2. The Sentencing Project, *A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits* (2011)

3. Schmitt, John, *Ex-offenders and the Labor Market* (2010)

# 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



4. Carson, E.A., Bureau of Justice Statistics (2016).

# Criminal records trigger various “collateral consequences.”

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## NATIONAL INVENTORY OF THE COLLATERAL CONSEQUENCES OF CONVICTION

The collateral consequences of a criminal conviction—legal sanctions and restrictions imposed upon people because of their criminal record—are hard to find and harder to understand. Now it will be easier to do both. Congress directed the National Institute of Justice to collect and study collateral consequences in all U.S. jurisdictions, and NIJ selected the ABA Criminal Justice Section to perform the necessary research and analysis. The results are now being made available through this interactive tool.



[niccc.csgjusticecenter.org](http://niccc.csgjusticecenter.org)

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.

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Seal

Expunge

Vacate

Dismiss

Set aside

Shield

Annul



**Criminal record clearance**



# Expungement and sealing are the most commonly used terms.

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**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.

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## Non-conviction information

- Arrests dismissed or charges dropped
    - More likely to be automatic than other policies
    - Eligibility frequently immediate, up to 2 years
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## 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
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## 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
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# Record clearance policies differ by severity of the conviction offense.

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## 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

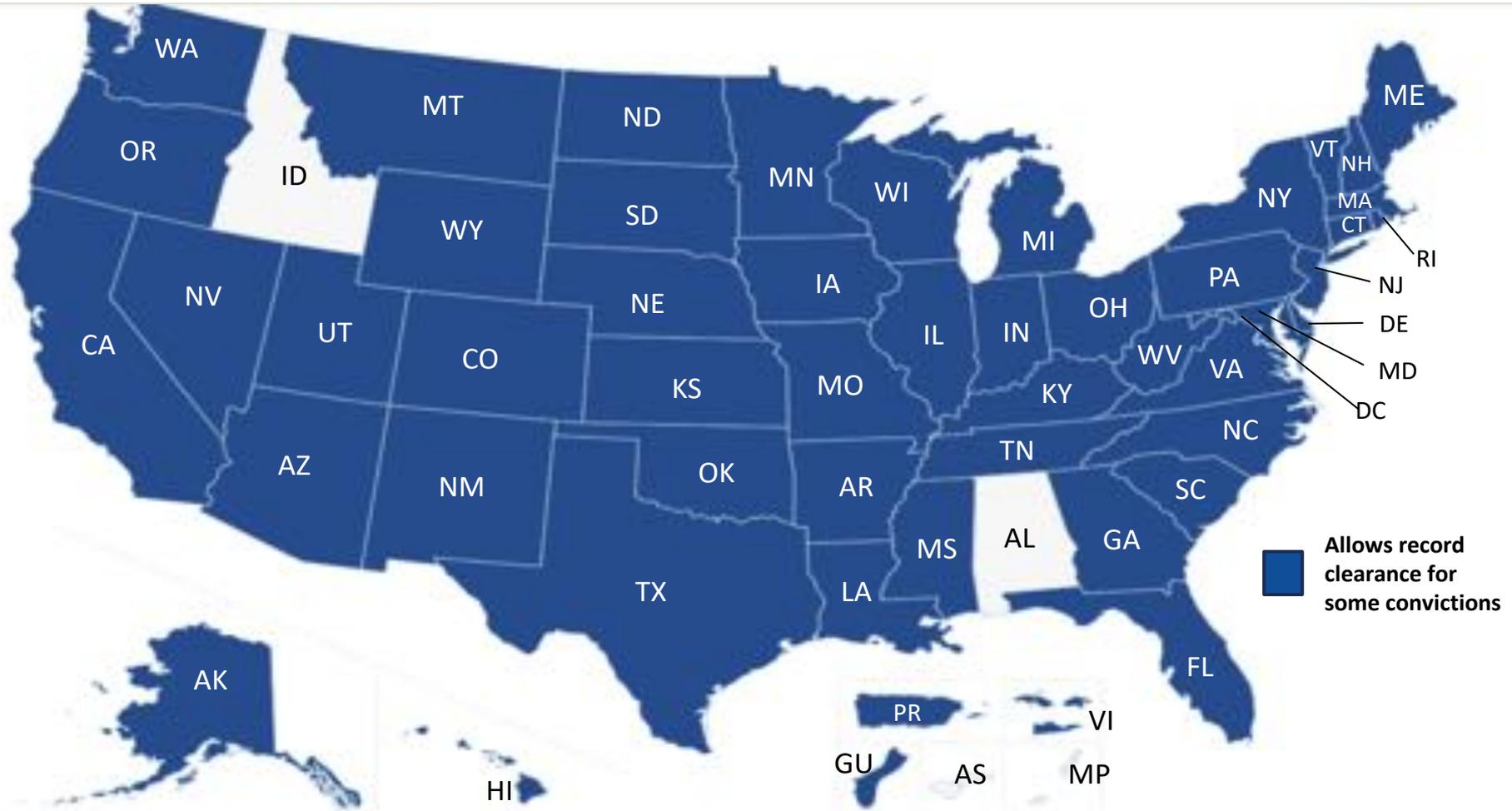
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## Felony convictions

- 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.



6. The Clean Slate Clearinghouse; <https://cleanslateclearinghouse.org/compare-states/>

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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.

## In the Media



### Vermonters To Expunge Old, Minor Marijuana Offenses From Records

At "Expungement Day" for misdemeanor marijuana offenses from Windsor and Chittenden County, Vermonters can have past convictions removed from their record— June 9 at Vermont Law School and June 12 at Costello Courthouse in Burlington Vermont

MAY 10 2018



### [Ninth BREES Expungement Event Coming in June](#)

For those with East Baton Rouge convictions, your next opportunity to expunge them from your record is coming next month.

MAY 8 2018



### Stadelman Announces Chance to Expunge or Seal Criminal Records

Rockford - Senator Steve Stadelman along with Prairie State Legal Services and United Way of Rock River Valley want to help those who have past transgressions to make a stride in employment and helping them support themselves and their families.

MAY 7 2018

# 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.

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## NEW YORK

**Bronx Defenders**

 1-718-838-7878

 [WEBSITE](#)

Service area: Bronx County

**Center for Community Alternatives**

 1-315-422-5638

 [WEBSITE](#)

Service area: Cities of New York, Syracuse, and Rochester

**Community Service Society of New York**

 1-212-254-8900

 [WEBSITE](#)

Service area: City of New York

**Judicial Process Commission**

 1-585-325-7727

 [WEBSITE](#)

Service area: Monroe County and surrounding counties

**Legal Action Center**

 1-800-223-4044

 [WEBSITE](#)

Service area: Statewide

**Legal Services of Central New York**

 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.

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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.

Adult Juvenile

Convictions Record Detail Clearance Process Waiting Period



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# Criminal records appear in many reporting beats.

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## THE WALL STREET JOURNAL.

### **Bakery Puts Public Good in Its Recipe for Success**

Yonkers business hires the hard-to-employ, especially people who have been in jail

### **Cuomo Pardons 101 New Yorkers Convicted as Minors**

New York's governor also commutes the sentences of seven, including the getaway driver in deadly 1981 robbery of a Brink's armored car



Colleges pledge to give applicants with criminal records a fair shot



**Expungement Law Changes Expand Opportunities for Missourians with Certain Convictions**



**Nebraska Human Trafficking Bill Seeks to Help Survivors**



# Examining state policies can help to inform reporting on criminal records.

| Proposed Legislation   | Recent Changes in the Law   | Outliers Across the Country  |
|--|---|--|
| <p><b>Pennsylvania SB 1160</b> – Introduced May 10, 2018; in committee<br/>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.</p> | <p><b>North Carolina</b> - 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.</p> | <p><b>Illinois</b>- 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.</p> |
| <p><b>Indiana SB 291</b> – Introduced January 4, 2018; in committee<br/>Seal a person's expunged conviction records for a misdemeanor or Class D and Level 6 felony conviction.</p>  | <p><b>Massachusetts</b> - 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.</p>                                | <p><b>Puerto Rico</b> – Expungement of any felony* 5 years after sentence completion (most states do not allow for violent crime clearance); misdemeanor expungement after 6 months.<br/>*does not include violent sexual crimes or abuse of minors.</p>   |
| <p><b>Alaska HB 316</b> – Passed House April 15, 2018; in committee in Senate<br/>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.</p>      | <p><b>Maryland</b> - Now allows felony expungement with a 15 year waiting period.</p>   | <p><b>Alabama</b> -Does not allow for sealing or expungement of any adult criminal convictions.</p>  |

# Questions?

Email: [cleanslate@csgjusticecenter.org](mailto:cleanslate@csgjusticecenter.org)

Sign up to receive newsletters and other announcements at [cleanslateclearinghouse.org](http://cleanslateclearinghouse.org).

*The presentation was developed by members of the Council of State Governments Justice Center staff. The statements made reflect the views of the authors, and should not be considered the official position of the Justice Center, the members of the Council of State Governments, or the funding agency supporting the work.*

