Approximately 75 million Americans, or about one-in-three adults, have a criminal record[1] and almost half of U.S. children have one parent with a criminal record.[2] Those with criminal records face significant barriers to employment, with an unemployment rate of approximately 27 percent.[3] Having a criminal record reduces the likelihood of a call-back for an interview by 50 percent for whites and 72 percent for African Americans (Pager, 2003). Based on laws in every state, at least some of these criminal records can be expunged or sealed, yet one study shows only 6.5 percent of people receive set-asides within five years of eligibility (Prescott & Starr, 2019). Legal aid can help with expungement, certain obstacles to securing occupational licenses and reinstating a revoked driver's license, and other common barriers people with a criminal record have to securing a job, housing, and a meaningful second chance.

Page 1 of this research brief provides research highlights; pages 2-3 a narrative overview; page 4 other helpful resources; and pages 5-11 summaries of the curated studies. All endnotes (page 4) are to sources not included in our summaries section.

RESEARCH HIGHLIGHTS:

- Results of an analysis of expungement update in Washington state found that 760,000 of 1.23 million individuals with criminal records are eligible for relief under state law, however less than 5 percent of individuals eligible for relief receive it (Chien, Huang, Kuykendall, & Rabago, 2020).

- Results of an empirical study by two University of Michigan law professors showed that, despite the benefits, only 6.5 percent of individuals received expungements within five years of eligibility. Only 7.1 percent of all expungement recipients were rearrested within five years of receiving their set-aside, just 6 percent were rearrested for violent offenses, and even fewer were reconvicted. These statistics suggest that set-aside recipients "have extremely low subsequent crime rates, comparing favorably to the general population — a finding that defuses a common public-safety objection to expungement laws." They also found that individuals' wages increased by 25 percent on average within two years of their convictions being expunged (Prescott & Starr, 2019).

- "Increased availability of inexpensive or free opportunities for expungement can contribute to more successful reintegration of persons with criminal convictions into the workforce, families, and communities. Not only would this improve quality of life for the ex-offenders, but it could also increase public safety and reduce spending" (Adams, Chen, & Chapman, 2017).

- "Using methods to control for selection bias and the effects of changes in the economy in our data, we find evidence that: (1) the record clearing intervention boosts participants' employment rates and average real earnings, and (2) people seek record clearing remedies after a period of suppressed earnings" (Selbin, McCrary, & Epstein, 2017).

- The Record Clearance Project's cost-benefit analysis of providing expungement services to clients in Santa Clara County, California found that an average of 52.7 clients are served each year, and that each client's expungement results in an individual net benefit of $5,760. By multiplying these two figures, RCP estimates the aggregate impact of expungement for clients to be a net benefit $303,552 in a single year. RCP also estimates a net benefit for the government of $651 per client across three years. They expect that the cumulative net benefits of providing expungement services would increase over time (Chapin et al., 2014).

- Clean Slate, which assists clients with expungements and issues related to and complicated by a criminal record, reports that "ninety percent of the motions Clean Slate staff pursue on their clients' behalf are granted in court." This leads to the removal of significant barriers to employment, housing, public benefits, civic participation, immigration, and attainment of other goals (LFA, 2009).

NARRATIVE OVERVIEW RE:

REDUCING BARRIERS TO EMPLOYMENT FOR PEOPLE WITH A CRIMINAL RECORD

Approximately 75 million American adults, or about one-in-three, have a criminal record.[4] According to the US Department of Justice, as of 2017, the US had an estimated 1.4 million prisoners under state and federal jurisdictions. Between 2016 and 2017, approximately 622,400 prisoners were released and reentered society.[5] Almost half of US children have one parent with a criminal record.[6] Parents with a criminal record tend to have lower earning potential, are more likely to be caught in a cycle of debt, be less educated, experiencing housing insecurity, and have less family relationships.[7]

Every state provides some sort of "unmarking" remedy—like sealing of records of arrests that do not lead to a conviction, judicial record clearing of minor offenses, expungement, set-asides, and pardons (Selbin, McCrary, & Epstein, 2017). Lawyers and paralegals help in several ways: some public defender offices provide post-conviction record clearing assistance; many civil legal aid programs provide services to help people with expungement; and a growing number of law schools and universities have created projects to clear records.

The US Department of Justice National Institute of Justice calls for "a holistic approach to offender reentry" essential for public safety.[8] Central is employment: "Employment can play a meaningful role in reducing recidivism." Individuals who maintain social ties and stable employment throughout the lifetime commit fewer crimes overall,[9] and individuals who have been incarcerated with steady work and family ties are less likely to recidivate.[10]

However, people with a criminal record can experience significant barriers to employment. In 2018, the Prison Policy Initiative reported that in 2008 (the most recent year for which data was available), the unemployment rate among individuals who have been incarcerated was 27.3 percent, compared to 5.8 percent in the general population. This rate also varies significantly by race: among black women who were formerly incarcerated the unemployment rate is 43.6 percent; black men have an unemployment rate of 35.2 percent; white women have an unemployment rate of 23.2 percent, and white men have an unemployment rate of 18.4 percent.[11]

DATA AND STUDIES SHOW LEGAL AID HELPS:

Legal aid programs and organizations can assist with civil collateral consequences of having a criminal record such as having to disclose prior convictions on job applications, secure an occupational license, or losing a drivers' license (Selbin, McCrary, & Epstein, 2017).

Researchers at UC Berkeley sampled those who had their California record cleared, or "set aside," by East Bay Community Law Center's Clean Slate Clinic (Selbin, McCrary, & Epstein, 2017). They found that: (1) the record clearing intervention boosts participants' employment rates and average real earnings, and (2) people seek record clearing remedies after a period of suppressed earnings.

A law professor from Santa Clara University found low uptake in conviction relief in both Washington state and nationally. In a 2018 study, Chien found that an estimated 30-40 percent of adults with criminal records (or 20-30 million people) in the U.S. were entitled to partially or fully clear their records but have not received expungement, set-aside, or clearance. Using data from the Administrative Office of the Courts of Washington, Chien et al. (2020) found that Washington's expungement laws allow for approximately 60 percent of those with criminal records (or about 760,000 of 1.23 million individuals) in the state to receive relief. However, less than 5 percent of those eligible for clearance receive relief, and less than 1 percent of the charges eligible for relief have received the remedy.

A 2019 study conducted by researchers at the University of Michigan examined expungement uptake, recidivism rates, and employment outcomes among people who obtained set-asides (which is similar to expungement) in Michigan. Analyzing set-aside records from Michigan State Police and wage and employment information from Michigan's unemployment insurance system led to three key findings:

1. Low Uptake: Despite the benefits, only 6.5 percent of individuals received expungements within five years of eligibility.
2. Reduced Recidivism: Only 7.1 percent of all expungement recipients were rearrested within five years of receiving their set-aside, just 2.6 percent were rearrested for violent offenses, and even fewer are reconvicted. These statistics suggest that set-aside recipients "have extremely low subsequent crime rates, comparing favorably to the general population — a finding that defuses a common public-safety objection to expungement laws" (p. 35).
3. Increased Employment and Wages: Individuals' set asides were associated with a significant "upward turn in the employment-rate trajectory" (p. 44). Wages increased on average by 25 percent within two years of their convictions being expunged, largely driven by "unemployed people finding jobs and very minimally employed people finding steadier or higher-paying work" (p. 45). (Prescott & Starr, 2019).

But more than employment outcomes are affected. Another group of researchers interviewed 40 individuals with past criminal convictions to see the extent so which having minor convictions removed from their records or expunged has helped them reintegrate into society and desist through the Record Clearance Project (Adams, Chen, & Chapman, 2017). They found that they had reduced barriers to employment, cognitive improvements, and a feeling of a new identity. In their cost-benefit analysis of the Record Clearance Project's expungement services in Santa Clara County, Chapin et al. (2014) found that expungement services also lead to monetary net benefits for both client ($5,760 per client each year) and the government ($651 per client across three years).

Barriers to employment, combined with other barriers to full reentry—such as the inability to vote or receive federal loans—leads some to conclude that "without assistance from civil legal aid attorneys and public defenders equipped to handle the legal hurdles of reentry, many ex-offenders end up on the docket of the same public defender who helped them on the very offense for which they were originally incarcerated."[12]

They have other legal needs as well: such as consumer debt, identity theft issues, and wage theft. Using data from the National Governor's Association and from the Serious and Violent Offender Initiative, another study found that "reentry programs do not adequately address the legal needs" of formerly incarcerated individuals (Henry, 2008).[13]

In addition to providing individual legal help with collateral consequences, legal aid programs and advocates are also working to reform and simplify record sealing and clearing and occupational licensing burdens. In 2017, the Center for American Progress, the National Employment Law Project (NELP), and Community Legal Services (CLS) launched a multi-state initiative to remove barriers to employment.[14] This initiative partners with state leaders to advance clean slate automatic record-sealing and occupational licensing reforms.

HELPFUL RESOURCES:

- [FBI updates](#) monthly the number of individuals who have criminal records.[15]
- The Council of State Government's Clean Slate Clearinghouse has an interactive [map](#) tracking adult criminal record clearance policies and state-specific court forms and resources.[16] In 2018 they hosted a [webinar](#) about clean slate, legal aid, and federal funding options with JGP.[17]
- The Restoration of Rights Project's (RRP) offers a [table](#) of judicial expungement, sealing, and set aside policies,[18] state-by-state profiles analyzing the law and practice in each U.S. jurisdiction relating to restoration of rights and status; and a 50-state comparison charts that make it possible to see national patterns in restoration laws and policies.
- The Collateral Consequences Resource Center (CCRC) released a [report](#) documenting the number of laws passed in 2018 to reduce barriers to successful reintegration for people with a criminal record.[19] The CCRC also drafts [annual reports](#)[20] on new legislative developments, participates in [court cases](#)[21] challenging specific collateral consequences, and provides recommendations and [research](#)[22] in connection with policy reform efforts.
- The New Jersey Reentry Services Commission published a [report](#) in 2019 detailing how to improve reentry services in the state, including improving health care and addiction treatment, creating more opportunities for training and employment, and ensuring access to legal services essential to reintegration.[23]
- The National Legal Aid and Defender Association and the Justice in Government Project's Just Research newsletter covered research and resources surrounding reentry and civil legal aid. Access the August 2019 newsletter [here](#).

Endnotes

[1] Federal Bureau of Investigation. *Next Generation Identification (NGI) System Fact Sheet* (Nov. 2018), available at https://www.fbi.gov/file-repository/ngi-monthly-fact-sheet

[2] Center for American Progress*, Removing Barriers to Opportunity for Parents with Criminal Records and Their Children: A Two-Generation Approach* (2015), available at https://cdn.americanprogress.org/wp-content/uploads/2015/12/09060720/CriminalRecords-report2.pdf

[3] Lucius Couloute & Daniel Kopf, *Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People, Prison Policy Initiative* (July 2018), available at https://www.prisonpolicy.org/reports/outofwork.html

[4] *Supra* note 1.

[5] Jennifer Bronson and E. Ann Carson, *Prisoners in 2017*, US Department of Justice, Bureau of Justice Statistics 2019, available at https://www.bjs.gov/content/pub/pdf/p17.pdf

[6] *Supra* note 2.

[7] https://www.americanprogress.org/issues/poverty/reports/2015/12/10/126902/removing-barriers-to-opportunity-for-parents-with-criminal-records-and-their-children/

[8] David B. Muhlhausen, *An Overview of Offender Reentry, National Institute of Justice*, US Department (2018), available at https://www.ncjrs.gov/pdffiles1/nij/251554.pdf

[9] Robert J. Sampson & John H. Laub, *A Life Course View of the Development of Crime*, 602 Ann. Am. Acad. Pol. Soc. Sci. 12 (2005), available at https://scholar.harvard.edu/files/sampson/files/2005_aapss_laub.pdf

[10] Mark T. Berg and Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and* Recidivism, Justice Quarterly 28(2) (April 2011), available at https://www.pacific-gateway.org/reentry,%20employment%20and%20recidivism.pdf

[11] Supra note 3.

[12] Cynthia Works, *Reentry: The Tie that Binds Civil Legal Aid Attorneys and Public Defenders*, 37 Clearinghouse Rev. 328 (2013) at 330.

[13] Jessica S. Henry, *Closing the Legal Services Gap in Prison Reentry Programs*, 21 Crim. Justice Studies 15 (2008) at 15, available at https://www.tandfonline.com/doi/full/10.1080/14786010801972654

[14] Center for American Progress, *RELEASE: Removing Barriers to Economic Opportunity for Americans with Criminal Records is Focus of New Multistate Initiative by CAP, NELP, and CLS* (2017), available at https://www.americanprogress.org/press/release/2017/09/12/437592/release-removing-barriers-economic-opportunity-americans-criminal-records-focus-new-multistate-initiative-cap-nelp-cls/

[15] Supra note 1.

[16] Clean Slate Clearinghouse, *States* (2019), available at https://cleanslateclearinghouse.org/states/

[17] Clean Slate Clearinghouse, *Reducing Barriers to Employment - Building Partnerships with Civil Legal Aid* (Apr. 11 2018), available at https://ion.workforcegps.org/resources/2017/03/09/13/20/Webinars_-_Adult_and_Dislocated_Worker_Programs

[18] Collateral Consequences Resource Center, *Restoration of Rights Project (*February 2019), available at http://ccresourcecenter.org/state-restoration-profiles/50-state-comparisonjudicial-expungement-sealing-and-set-aside/

[19] Collateral Consequences Resource Center (January 2019), *Reducing Barriers to Reintegration: Fair Chance and Expungement Reforms in 2018* (January 2019), available at http://ccresourcecenter.org/2019/01/10/press-release-new-report-on-2018-fair-chance-and-expungement-reforms/

[20] http://ccresourcecenter.org/wp-content/uploads/2019/01/Fair-chance-and-expungement-reforms-in-2018-CCRC-Jan-2019.pdf

[21] http://ccresourcecenter.org/resources-2/briefs-case-materials/

[22] https://ccresourcecenter.org/2019/03/11/ccrc-launches-major-study-of-non-conviction-records/

[23] New Jersey Reentry Services Commission (2019), Barriers, Best Practices, and Action Items for Improving Reentry Services, available at https://www.njreentry.org/application/files/8215/7175/4425/NJReentryServices_Final_Report.pdf

SUMMARIES OF KEY STUDIES

1. Colleen V. Chien, Zuyan Huang, Jacob Kuykendall, & Katie Rabago, *The Washington Second Chance Expungement Gap*, (January 2020), available at https://digitalcommons.law.scu.edu/facpubs/971/

The researchers studied the "second chance gap," or the gap between eligibility and receipt of relief from criminal convictions, in Washington state. Using data from the Administrative Office of the Courts of Washington, they found that Washington's expungement laws allow for approximately 60 percent of those with criminal records (or about 760,000 of 1.23 million individuals) in the state to receive relief. 40 percent of these individuals could clear their record entirely. However, less than 5 percent of those eligible for clearance receive relief, and less than 1 percent of the charges eligible for relief have received the remedy.

Methodology:
The researchers obtained a data sample from the Washington Administrative Office of the Courts of 4.2 percent of individuals charged between 1999 and 2019. They estimated how many individuals would be eligible for clearance by applying Washington state law to the cases, and then compared how many people were eligible for relief to how many sought out clearance.

Highlights:
- "On the basis of our analysis, we estimate, conservatively that:
    - Approximately 1.23M Washingtonians, if not more, have criminal conviction records (with records that contain approximately 12M convictions) that span the last two decades.
    - Of those, an estimated 60%, or 760K people (associated with 4.7M convicted charges) are eligible for vacation under current law (not taking into account ineligibility due to fines and fees). Approximately 40% of individuals eligible to clear a conviction, we estimate, could clear their records of all convictions.
    - Over the last 20 years, based on records obtained through a records request from the Administrative Office of the Courts, 36,499 charges associated with 35,392 people have received vacations. In 2019, 1,973 charges were vacated over a combined 300 district courts, or less than 7 vacations per court on average in all of 2019
    - Based on these numbers, we estimate that less than 5% of individuals eligible for vacation relief and less than 1% of charges eligible for vacating have taken advantage of this remedy" (p. 1).
- They identified several challenges of automating expungement, including inability to ascertain or scale eligibility conditions, inability to verify sentence completion for old records, individuals' ability to meet fines and fees, ambiguity in the application of relief statutes, lack of classification information (i.e., Class B and C felony, which determines waiting periods), limitations due to protection orders, and inconsistent versions of records post-conviction (p. 3-4).

2. Colleen V. Chien, *The Second Chance Gap*, Mich. Law. Rev. (forthcoming 2020), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3265335

Colleen Chien, a Law Professor at Santa Clara University, analyzed the second chance gap using administrative data of 60,269 individuals collected by the Sentencing Project between 2017 and 2018. She found that an estimated 30-40 percent of adults with criminal records (or 20-30 million people) in the U.S. were entitled to partially or fully clear their records but have not received expungement, set-aside, or clearance. She also identified wide variance in the size of the second chance gap between states.

Methodology:

The researcher obtained administrative data of 60,269 individuals from all 50 states collected between 2017 and 2018 by the Sentencing Project. She then determined eligibility for record clearance under state laws by applying eligibility criteria to case data.

Highlights:

- "Applying a subset of clearance laws in each of the 50 states to a sample of ~60,000 criminal histories obtained as part of background checks performed in 2017 and 2018 on individuals seeking gig-economy jobs, and balancing the results nationally, it finds that an estimated 30-40% of adults with records, or 20-30M individuals are currently entitled to clear their records, partially or fully, but not have done so" (p. 12-13).

- "The application of state rules to state records resulted in a wide range of current records clearance gaps by state. Though an estimated 40%-50% of people with criminal records, in states that allow for clearance of court records, could clear their record partially or fully, states varied widely in their share of individuals with criminal records who could clear them partially or fully. Vermont, for example, had a second chance records clearing gap, based on records available to employers, of less than 1% while the estimated second chance gap in Massachusetts is over 90%" (p. 31).

- "The model results suggest that more than three-quarters of the variance in the second chance gap can be explained based on policy factors not only including the presence of any "automatic" clearing criteria but also the convictions rate (what share of charges became convictions), and state clearability policy (strict, lenient, super-strict). Beyond state policy factors, geographic and demographic factors also appear to be correlated to some degree with the probability of clearance" (p. 34-35).

3. J.J. Prescott and Sonja B. Starr, *Expungement of Criminal Convictions: An Empirical Study*, Law and Economics Research Paper Series, Paper No. 19-001 (March 2019), available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3353620

J.J. Prescott and Sonja B. Starr of University of Michigan published a study on expungement uptake, recidivism rates, and employment outcomes among people who obtained set-asides (which is similar to expungement) in Michigan. Analyzing set-aside records from Michigan State Police and wage and employment information from Michigan's unemployment insurance system led to three key findings: (1) Low uptake: despite the benefits, only 6.5 percent of individuals received expungements within five years of eligibility; (2) Reduced recidivism: only 7.1 percent of all expungement recipients were rearrested within five years of receiving their set-aside, just 6 percent were rearrested for violent offenses, and even fewer are reconvicted; (3) Increased employment and wages: Wages increased on average by 25 percent within two years of their convictions being expunged. This study was funded by a grant from the National Science Foundation.

Methodology:

They obtained set-aside records from Michigan State Police and linked wage and employment information from Michigan's unemployment insurance system, which allowed them to track individuals who received set-asides and their employment status and wages. Michigan's expungement law is representative of expungement laws throughout the US.

Highlights:

- "We find that Michigan's set-aside uptake rate is discouragingly low; our best estimate is that only 6.5% of eligible individuals receive them within five years of the date at which they first qualify. Although our data do not identify unsuccessful applicants, it is clear from follow-up

inquiries with the Michigan State Police that the low uptake rate can be primarily attributed to individuals' failure to apply, rather than to denials of applications by judges" (p. 4).

- " … recidivism among set-aside recipients is low. Overall, 3.4% are re-arrested and 1.8% are reconvicted for crimes within two years; 7.1% are re-arrested and 4.2% are reconvicted within five years. The numbers are much lower yet when we focus on the types of crimes that worry people most. For example, within five years, only 2.6% are re-arrested and 0.6% are reconvicted for violent crimes; 2.7% are re-arrested and 1% are reconvicted for felonies." These statistics suggest that set-aside recipients "have extremely low subsequent crime rates, comparing favorably to the general population — a finding that defuses a common public-safety objection to expungement laws" (p. 35)
- "[W]e estimate a substantial and statistically significant (p<0.001) upward turn in the employment-rate trajectory of set-aside recipients after they receive their set-asides" (p. 44). Wages increased on average by 25 percent within two years of convictions being expunged, largely driven by "unemployed people finding jobs and very minimally employed people finding steadier or higher-paying work" (p. 45).
- "Within one year, on average, an individual's odds of being employed (earning any wages at all) increase by a factor of 1.13; her odds of earning at least $100/week (a slightly more demanding employment measure) increase by a factor of 1.23; and her reported quarterly wages increase a factor of 1.23 (increasing to 1.25 by the next year). These results suggest that those with expunged records gain access to more and better-paying jobs" (p. 5).
- "By the end of that first year, relative to the pre-receipt trend, recipients have gained an average of $1,111 in quarterly wages (i.e., $4,444 per year), which is a 23% improvement over the pre-set-aside average; the net gain increases to $1,234 in the two-year estimate, a 25% improvement" (p. 45).
- "We find, on the one hand, that being employed is a very strong positive predictor of set-aside receipt in a particular quarter, increasing the odds by a factor of 1.78. … On the other hand, a recent wage loss is an even stronger predictor, increasing the odds of set-aside receipt by a factor of 2.29" (p. 28).
- "Although set-aside applications can be filed pro se, the process is far less difficult to navigate for an experienced attorney. Unfortunately, often, none is available. Criminal defense lawyers are typically long since out of touch with their clients by the time that they become eligible, and in most cases they do not advise their clients about the possible prospect of a set-aside five years in advance, either. Paid attorneys are out of reach for most people with records. And legal aid or pro bono attorneys have often not been available" (p. 31).
- "Our recidivism analysis should, at the very least, dispel any notion that current set-aside recipients pose any particular crime risk. Employers and landlords in Michigan should rest assured that set-asides are unlikely to be keeping information from them that they need to protect themselves" (p. 37).
- "Another possibility is that expungement reduces recidivism by alleviating social exclusion associated with criminal records. Former offenders face significant social stigma, which is exacerbated by the existence of public records that many states make available on the Internet" (p. 39-40).

4. Ericka B. Adams, Elsa Y. Chen, and Rosella Chapman, *Erasing the Mark of a Criminal Past: Ex-offenders Expectations and Experiences with Record Clearance*, 19 Punishment & Society 23 (2017), available at https://scholarcommons.scu.edu/cgi/viewcontent.cgi?article=1001&context=poli_sci

The researchers, who work as political scientists and criminologists, interviewed 40 individuals with past criminal convictions to see the extent to which having minor convictions removed from their records or

expunged has helped them reintegrate into society and desist through the Record Clearance Project. They found that the interviewees had reduced barriers to employment, cognitive improvements, and a feeling of a new identity.

Methodology:
They interviewed 40 individuals with past criminal convictions. Half had gone through a record clearing process and the other half had not yet begun the process to have their records cleared. The participants were obtained through the Record Clearance Project.

Highlights:
- Within one year of release, half of returning citizens were unemployed. Having a conviction on record can disqualify individuals from professional licenses, benefits, and housing.
- Of the 40 respondents, 38 had been denied employment because of criminal convictions before their record had been cleared. Of those who had completed the record clearance, only 2 of them were unemployed.
- "This sense of potential failure was so strong that respondents waited months or years before applying for work. Other respondents refused to look for work believing they could not get jobs that would sustain their standard of living" (p. 33).
- Angela, one of those interviewed who had her record cleared, said, "This job, the one I'm at right now, had an opening, and they're subcontracted through the government. And I would have never thought to apply there. Because I think—I would hear government and we're gonna run an extensive background and ...I would've said, 'No. It's not for me. I'm too ashamed or they won't hire me because of my background.' And so because I have the expungement I was like, 'Oh I'm just gonna give it a try'" (p. 35).
- "Increased availability of inexpensive or free opportunities for expungement can contribute to more successful reintegration of persons with criminal convictions into the workforce, families, and communities. Not only would this improve quality of life for the ex-offenders, but it could also increase public safety and reduce spending" (p. 23).

5. Jeffrey Selbin, Justin McCrary, & Joshua Epstein, *Unmarked? Criminal Record Clearing and Employment Outcomes*, 108 J. Crim. L. & Criminology 1 (2017), available at: https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=3934&context=facpubs

Researchers at the University of California - Berkeley studied a random sample of people assisted by East Bay Community Law Center's Clean Slate Clinic. They compared their before and after earnings as reported to the Social Security Administration when they received their record clearance. Controlling for the effects of changes in the economy, they found average employment rates grew after the Clean Slate Intervention from 75 percent to 80-85 percent. They also found that earnings increased, growing about one-third within three years of receiving the intervention.

Methodology:
They used a timeframe research design to measure the impact of the Clean Slate Clinic's record clearing intervention on employment outcomes. More information on the methodology is found in their appendix.

Highlights:
- In California, those convicted of specific misdemeanors and felonies that did not result in a state prison sentence can petition to have the court set aside and dismiss their conviction. A set-aside allows the individual to answer "no" when asked about conviction history when seeking employment.

- They sampled East Bay Community Law Center's Clean Slate Clinic participants' average employment rates and earnings reported to Social Security before and after the record clearing. They conducted a random sample of 264 people.
- "Using methods to control for selection bias and the effects of changes in the economy in our data, we find evidence that: (1) the record clearing intervention boosts participants' employment rates and average real earnings, and (2) people seek record clearing remedies after a period of suppressed earnings" (p. 1).
- "In the years after Clean Slate treatment, the employment rate is generally above baseline. The effects are economically large, roughly five to ten percentage points. … [The estimates] suggest that Clean Slate intervention increases employment from the 75% baseline to 80% of 85%" (p. 48-49).
- "Given the apparent positive impact of the intervention on employment rates and earnings, state and local jurisdictions should increase the availability of record clearing services. The current patchwork of record clearing programs is the product of innovative lawyers and programs, but is not systematic, and many people with records have nowhere to get help" (p. 51).
- "The earnings dip experienced by people with criminal records prior to unmarking means that earlier intervention could increase wages and reduce harm" (p. 52).
- "People with criminal records seek the unmarking remedy after a period of declining earnings, in spite of active labor market participation. During or immediately after the intervention, average employment rates and earnings appear to rise, though the staying power of such increases is still unclear" (p. 58).

6. Meyli Chapin et al., *A Cost-Benefit Analysis of Criminal Record Expungement in Santa Clara County*, Stanford University (2014), available at

https://publicpolicy.stanford.edu/publications/cost-benefit-analysis-criminal-record-expungement-santa-clara-county

Undergraduate students at Stanford University for their policy practicum conducted a cost-benefit analysis of record expungement at the Record Clearance Project (RCP) of San Jose State University in Santa Clara County. They found that the benefits of expungements outweigh the costs both in the short-term and in the long-term.

Methodology:
They conducted a cost-benefit analysis, which included the processing costs for the probation office and the court system, legal assistance, and perceived costs to employers. The benefits included increased income, increased GDP, increased tax revenues, a reduction in government assistance, a reduction in recidivism, and an increase in additional societal benefits, such as access to housing.

Highlights:
- "Having one's record expunged greatly increases the chances of being hired because it prevents a potential employer from seeing the criminal record of a job applicant. The stigma of a criminal record is enough to discourage more than half of employers from hiring someone. Expunging records helps improve economic productivity and increases tax revenue" (p. 4).
- "Estimated benefits of expungement outweigh costs by $5,760 per RCP client in one year. This number is an underestimate of the net benefits, because it does not include identified benefits that could not be quantified. Since most benefits accrue across years but costs do not, cumulative net benefits would increase over time" (p. 4-5).
- "After the first year, government's expungement costs are zero but benefits of increased taxes and reduced public assistance continue to accumulate. Government's estimated cumulative net benefits are $651 per RCP client in year 3 and continue to grow over time" (p. 5).

- "Through expunging the records of RCP's average number of clients per year [52.7 clients], there is an estimated overall gain of $303,552 in net benefits in a year and an estimated gain for the government of $34,308 in net benefits across three years. These cumulative net benefits would increase across time" (p. 5).

7. LFA Group, *2007-2008 Evaluation Findings*, Clean Slate Program, San Francisco Office of the Public Defender (2009), available at http://sfpublicdefender.org/wp-content/uploads/sites/2/2009/05/clean-slate-evaluation-final-report.pdf

The LFA Group conducted a program evaluation of the Clean Slate program in San Francisco. Individuals who had an arrest or criminal conviction could contact the Clean Slate program for assistance and advice about their record. Services included expungement, early termination of probation, reduction of felony to misdemeanor, certificate of rehabilitation, seal and destroy arrest record, and record of arrest and release. This report was prepared for the San Francisco Office of the Public Defender. LFA Group performs evaluation, research, and strategy development for organizations.

Methodology:
LFA conducted a program evaluation.

Highlights:
- "As a direct result of the legal outcomes achieved by Clean Slate, clients experience increased employability, housing eligibility, improvements in immigration status, and improvement in their sense of self-worth" (p. 1).
- "Nearly half (49%) of Clean Slate's clients have dependents; of those, 55% have two or three dependents. Just over one-third (36%) are employed, and most (75%) of those who are employed earn an annual income of $3,000 or less" (p. 6).
- "Nearly one-third (30%) of those seeking Clean Slate's services were never convicted of any crime for which they were arrested" (p. 6).
- "When they first seek out the program, Clean Slate's clients often have limited information about their legal rights or what is involved in cleaning up their criminal record. … In order to strengthen community awareness about the Clean Slate legal remedies, the staff attorney and paralegal conduct approximately four outreach sessions at locations in the community per month" (p. 13).
- "Clean Slate has a very high success rate on cases that are heard in court, particularly for CaPC§1203.4 and 17b cases. Ninety percent of all cases heard are granted" (p. 21).
- "Clean Slate assists clients with many collateral and related issues, such as employment, housing, public benefits, civic participation, immigration and other issues complicated by the criminal record. Staff spend time filing miscellaneous motions to correct state and local RAP Sheets, getting conditions taken off RAP Sheets that should have already been removed, and ensuring that all Clean Slate petitions successfully granted are reflected on the RAP Sheet" (p. 29).

8. Devah Pager, *The Mark of a Criminal Record*, 108 Am. J. of Sociol. 937 (2003), available at: https://scholar.harvard.edu/pager/publications/mark-criminal-record

This experimental audit study matched pairs of individuals—those without a criminal record and those with a criminal record—who applied for entry-level jobs to test the degree to which having a criminal record affects employment outcomes. Pager employed two teams of individuals—one African American and one white—and half of each team had a criminal record and the other half did not. Those teams then applied to similar jobs in the top entry-level industries in Milwaukee, WI. Pager found significant effects of race and presence of a criminal record.

Methodology:
Pager used four male auditors—two black and two white—who were matched on presentation and physical appearance. Within each team, one was assigned a criminal record for a week and rotated every other week over several weeks. They applied to 15 entry level job openings each week, with the same-race testers applying to the same jobs. After applying, they filled out a response form about the job application. Pager is a sociologist at Harvard University.

Highlights:
- Pager found that for whites, 34 percent of those who did not have a record received a callback, compared to 17 percent who presented a criminal record. Thus, a criminal record reduces the likelihood of a callback by 50 percent for whites.
- For African Americans who did not have a criminal record, they received callbacks 14 percent of the time, compared to 5 percent who did have a criminal record. Thus, a criminal record reduces the likelihood of a callback by 72 percent.
- "No longer a peripheral institution, the criminal justice system has become a dominant presence in the lives of young disadvantaged men, playing a key role in the sorting and stratifying of labor market opportunities" (p. 962).