

A Clean Slate in the AGE OF CORONAVIRUS



Background: As lawmakers at every level of government take steps to respond to the coronavirus pandemic, leaders in states and cities across the U.S. are rightly focused on preventing the spread of the virus. As we begin to think longer-term, with economists forecasting up to a 30 percent national unemployment rate—and possibly even higher rates for already disadvantaged workers—it is critical that lawmakers enact policies to ensure that the tens of millions of justice-involved individuals and their families already facing significant economic vulnerability due to the stigma of a criminal record aren't shut out from rebuilding their lives as the nation begins to recover.

WIDESPREAD PROBLEM:

Following decades of mass incarceration and over-criminalization, between 70 and 100 million, or [1 in 3 Americans](#), have some type of criminal record.¹ Meanwhile, [nearly half of U.S. children](#) now have at least one parent with a record. Because so many Americans have a criminal record—and so many families are impacted—any economic recovery policies that lawmakers create must address the unique challenges that justice-involved individuals face when accessing employment, housing, and education.

STIGMA AND BARRIERS TO EMPLOYMENT:

While felonies carry the greatest stigma, any record, no matter how old or minor—including misdemeanors and even arrests that never led to a conviction—can serve as a significant barrier to employment.

- ✦ [Nearly 9 in 10 employers](#) use criminal background checks in hiring.
- ✦ People with criminal records are [less than half as likely](#) to get a callback or job offer from an employer.

ECONOMIC VULNERABILITY:

The stigma that comes with a record can be a life sentence to poverty. As a result, people with criminal records and their families were already significantly economically disadvantaged heading into the coronavirus pandemic.

- ✦ A [2018 analysis by the Prison Policy Initiative](#) (pre-COVID-19) estimates that formerly incarcerated people were already facing an unemployment rate of over 27 percent—"higher than the overall U.S. unemployment rate during any historical period, including the Great Depression."
- ✦ Formerly incarcerated individuals are [10 times more likely](#) than the general public to experience homelessness.
- ✦ Even people with records who are lucky enough to find jobs face a [significant earnings reduction](#). Formerly incarcerated men take home 40 percent less pay annually, resulting in an average earnings loss of nearly \$179,000 by age 48.
- ✦ People with criminal records are also especially likely to lack health insurance, due to joblessness/lack of formal attachment to the traditional labor market, lack of identification, and other barriers.

DISPROPORTIONATE IMPACT:

Workers with criminal records will not only be among the hardest hit by the coronavirus downturn—but they will also be among those who fare worst in the recovery, as the economy begins to turn back on

- ✦ Even when the economy is strong, workers with criminal records face significantly higher unemployment rates relative to workers without records. During a recession and recovery, when employers have their pick of available workers, people with records are often the "first fired, last hired" as businesses reopen their doors.
- ✦ Facing barriers in the traditional labor market, many workers with records turn to gig work or work off the books in odd jobs to make ends meet, making them especially vulnerable to job loss amid the pandemic—and simultaneously, less likely to have access to protections like paid sick leave and health insurance during the crisis.
- ✦ Economists are currently forecasting that the coronavirus pandemic could push the overall U.S. unemployment rate as high as 30 percent; there's no telling how high the unemployment rate for workers with records will soar.
- ✦ Many workers with records who have turned their lives around and managed to find decent-paying jobs will find that they're right back where they started, having their resumes thrown in the trash all over again as they begin looking for work anew.

¹Where facts and figures are not otherwise cited, this fact sheet relies on the following reports summarizing the relevant research: bit.ly/cleanslateresearch; bit.ly/cleanslatetoolkit; and bit.ly/2genrecords.

NEED TO ACT

If we fail to enact policies to enable workers with criminal records and their families to get back on their feet during the eventual recovery, we'll be leaving behind nearly one-third of the U.S. workforce and tens of millions of vulnerable families.

- ✦ Considering the many tens of millions of American lives that have been negatively impacted by our broken criminal justice policies, the consequences of inaction cannot be overstated.
- ✦ Huge numbers of American families will be impacted, as [nearly half of U.S. kids](#) now have at least one parent with a criminal record. Employment barriers associated with a parent's record can have long-lasting consequences for children, hampering cognitive development, school performance, and even earnings and employment in adulthood.
- ✦ Entire communities will be impacted, as they see large numbers of their residents shut out of jobs as the economy begins to turn back on.
- ✦ If not for mass incarceration and the barriers associated with having a record, the nation's poverty rate would have dropped by [20 percent between 1980 and 2004](#). Ensuring people with records and their families are included in the COVID recovery will dramatically reduce poverty and hardship on a large scale.

UNDERMINING FULL RECOVERY

Failure to address employment barriers for workers with records will also hamstring the eventual economic recovery by allowing tens of millions of workers to be shut out of jobs.

- ✦ The Center for Economic Policy Research estimates that, in a good economy, shutting workers with felony convictions out of the labor market costs [as much as \\$87 billion](#) in lost GDP annually.
- ✦ Allowing tens of millions of workers with records to be shut out of jobs as the economy begins to turn back on will hamstring the overall economic recovery by slowing their return to the labor force, extending their need for emergency aid, and increasing the likelihood that their families face significant disruptions with long-term consequences such as homelessness stemming from eviction/foreclosure.
- ✦ On the flip side, removing employment barriers for workers with records will benefit entire communities and promote the overall national recovery by allowing individuals with records and their families to have greater purchasing power and to put the money they earn back into their local economies during the recovery.
- ✦ Businesses will need access to a ready, skilled workforce as they recover. Many businesses have recently made public statements about second chance hiring as a win-win for workers with records and for employers and businesses, and as a boon to the economy more broadly.

EXACERBATING RACIAL DISPARITIES:

The U.S. criminal justice system has a disproportionate impact on communities of color. Failure to address labor market barriers for workers with records as part of the policy agenda to rebuild our economy post-COVID will replicate and exacerbate a slew of existing harmful inequities—such as racial income inequality, the black-white unemployment gap, and the racial wealth gap.

- ✦ Black men are [more than six times](#) more likely to be incarcerated than white men, and [one-third](#) of black men in the U.S. have a felony conviction due to the justice system's disproportionate racial impacts.
- ✦ Due to a long history of systemic inequities and discrimination, the black unemployment rate has consistently been [twice the white unemployment rate](#) since the federal government began collecting data in 1972. In majority-black metro areas, the gap is even starker; in Washington D.C. for example, the black unemployment rate is six times that of whites.
- ✦ Even in the pre-COVID19 economy—which brought the black unemployment rate to its lowest level on record, 6.8 percent—the black unemployment rate was still twice that of whites.
- ✦ African-Americans households own [less than one-tenth](#) the wealth of similarly situated white households—a gap that was significantly exacerbated by the Great Recession, prior to which the median wealth of African-American households was nearly 14 percent.

***Removing barriers to economic opportunity for workers with criminal records
WILL THUS BE AN IMPORTANT PART OF THE COVID19 POLICY RESPONSE.***

POWER OF RECORD-CLEARING

Clearing a criminal record—through remedies such as expungement or sealing—is one of the most powerful available tools to enable people with records to move on with their lives, provide for their families, and build a stable economic foundation, by [removing barriers](#) to employment, housing, education, health insurance, and more. [One study](#) on the economic effects of record-clearing found that a year after getting a record cleared, a worker’s wages go up by an average of 25 percent.

NEED TO EXPAND ACCESS

Expanding and streamlining access to criminal record-clearing tools such as expungement and sealing will be essential to ensure that justice-involved people and families can have a fair shot at participating in the eventual coronavirus recovery, and to ensuring a full economic recovery.

- ✦ A [study from the University of Michigan](#) finds that just 6.5 percent of people with records eligible for clearing successfully get their records cleared within 5 years of becoming eligible.

PROMOTES HEALTH AND PUBLIC SAFETY

Criminal record-clearing will also promote health and public safety, by removing barriers to health insurance and health care access and [lowering recidivism](#) by improving justice-involved workers’ and families’ economic stability. The same [University of Michigan](#) study finds that people who have their records cleared “have extremely low subsequent crime rates” and are less likely to commit a new crime than a member of the general population.

AUTOMATION

Automating the clearance of certain criminal records via [“clean slate” laws](#), which Pennsylvania and Utah have led the way in enacting, and which many red, blue, and purple state legislatures are now considering provides the opportunity to clear records at scale and bring relief to everyone who is eligible, without the need for petitions to be filed and processed. Automation also presents significant advantages in the current moment, when people seeking to have their records cleared are not only facing even greater financial challenges, but are unable to hand-deliver petitions to the court. Moreover, moving to an automated model promises to yield significant state savings by reducing a burdensome agency workloads.

- ✦ [Pennsylvania](#) has already sealed more than 32 million cases—qualifying 10-year-old misdemeanors and all cases not resulting in conviction—in the first year of implementing its Clean Slate Act.
- ✦ Meanwhile, Pennsylvania’s clean slate program is enabling records to be sealed via automation even during the pandemic, while other states’ petition-based expungement and sealing systems are on hold.

OTHER POLICIES

Other second chance policies to ensure people with records and their families aren’t left behind in the recovery include occupational licensing reforms to enable qualified jobseekers to have a fair shot at working in the field they’re trained to work in; fair chance hiring to ensure jobseekers get a chance to demonstrate their qualifications before having their resume thrown in the trash; and subsidized jobs to help workers with records get into jobs right away.

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