

Eligibility Criteria and Record Sealing Access in Pennsylvania

Introduction

People with criminal records are impacted by their records long after their case is officially closed, facing barriers to employment, housing, social services, education, and civic participationⁱ.

Record clearing offers a legal remedy by sealing records that meet eligibility criteria, such as having qualifying convictions and then remaining conviction free for a specified period. The benefits of record clearing include improved employment trajectories, increased earningsⁱⁱ, decreased social stigmaⁱⁱⁱ, and greater family and community involvement^{iv}. Currently, twelve states have enacted Clean Slate legislation. Pennsylvania is one such state, in which record-clearing legislation has resulted in the sealing of approximately 40 million criminal records for over 1.2 million individuals^v.

Pennsylvania revised their record clearing policies in 2023 with ‘[Clean Slate 3.0](#)’ that expanded the convictions eligible for automated and petition-based sealing, including some felony convictions. Eligibility waiting periods were reduced for misdemeanor and summary convictions and the law ensures that sealed charges can’t be used for employment, housing, or educational purposes.

Record clearing eligibility criteria are based on the goal of maintaining public safety. Yet, little is known about how eligibility criteria impact record clearing access, and if less restrictive criteria may expand this legal remedy to more people while maintaining public safety (see sidebar on next page).

This study aims to address these gaps by examining the role of [Pennsylvania’s Clean Slate 3.0](#) eligibility criteria on a sample of individuals with convictions from 2008 to 2010.

Sample Description

Data are from the [Pennsylvania Commission on Sentencing](#) and include deidentified data on convictions in Pennsylvania between January 2008 and May 2021 (1,653,322 convictions for 589,861 individuals). The analyses focus on the subset of qualifying drug convictions (361,628) and convicted individuals (170,293) between 2008 and 2010 and assess the impact of the various eligibility criteria, including the requirement of no subsequent conviction within 7 years for misdemeanor sealing and 10 years for felony record sealing.

Role of Record Clearing

- ❖ Record-clearing policies hold the potential to remedy the impacts of criminal justice policies—removing barriers to jobs, housing, education, social services, and civic participation.

PA Clean Slate

Link: <https://clsphila.org/my-clean-slate/>

Starting in 2025, Pennsylvania residents will benefit from expanded clean-slate legislation. This new policy, referred to as PA Clean Slate 3.0, now offers record clearing for an expanded array of records:

- ❖ Some low-level drug and property-related felony convictions, following 10 years without any subsequent convictions.
- ❖ Many misdemeanor convictions, following 7 years without any subsequent convictions.
- ❖ Summary convictions will be sealed automatically after five years.
- ❖ Non-convictions will be automatically sealed after 30 days.

Key Findings

How many people meet the eligibility criteria and how many do not?

The 2010 US Census found 80.6% of Pennsylvanians were White, 12.3% were Black, and 7.2% were of other races^{vii}. Figure 1 shows the racial distribution of the individuals with convictions between 2008 and 2010 and the subsequent impact of Clean Slate conviction-level criteria on eligibility for record sealing except the requirement of no further convictions. Of the 170,293 people with convictions, 63% were White, 26% were Black, and 11% were of other races. About 28% of these people (48,065) had convictions for a qualifying drug offense—with Black people (39%) and people of other races (33%) more likely to have qualifying convictions than White people (23%).

Of those with convictions for a qualifying drug offense, about half (51%) were White, about one-third (36%) with Black, and about a tenth (13%) were people of other races. These percentages roughly hold as we apply the sentence limits and within offense tracking number (OTN) criteria which necessarily reduces the number of people with eligible convictions. Of the group meeting both the sentence length and OTN criteria, 53% are White, 34% are Black, and 13% are people of other races.

The criminal history criteria disqualifies a greater proportion of Black people and somewhat more people of other races than White people. Of the group with convictions meeting all but the subsequent conviction qualifying criteria, 60% are White, 27% are Black, and 13% are people of other races. Comparing this racial distribution with the distribution of people with qualifying convictions (51% were White, 36% were Black, and 13% were people of other races) suggests that Black people are more likely than White people and people of color to be ineligible for the record sealing remedy because of these eligibility criteria.

Differences in Eligibility

- ❖ One study found that the benefits of record-clearing vary, with Black residents are less likely to be eligible than White residents with similar criminal records, given current eligibility criteria^{vi}.

Pennsylvania Residents with Criminal Records, Data from CSI Data Dashboard

Pennsylvania Data Snapshot: 2.8M Adults Had a Record in 2019.

By type of record:

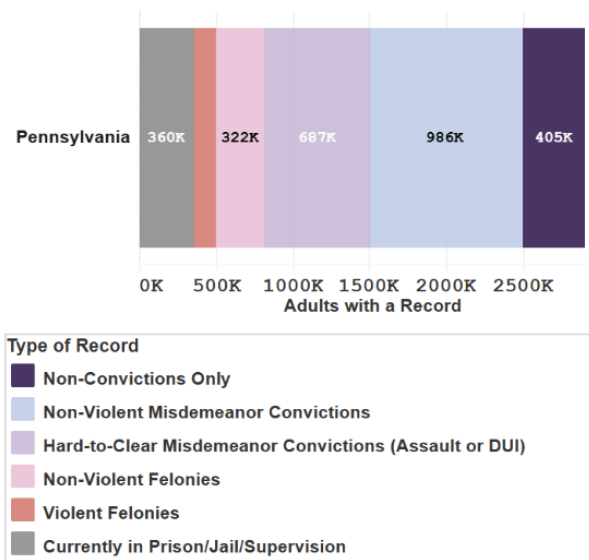
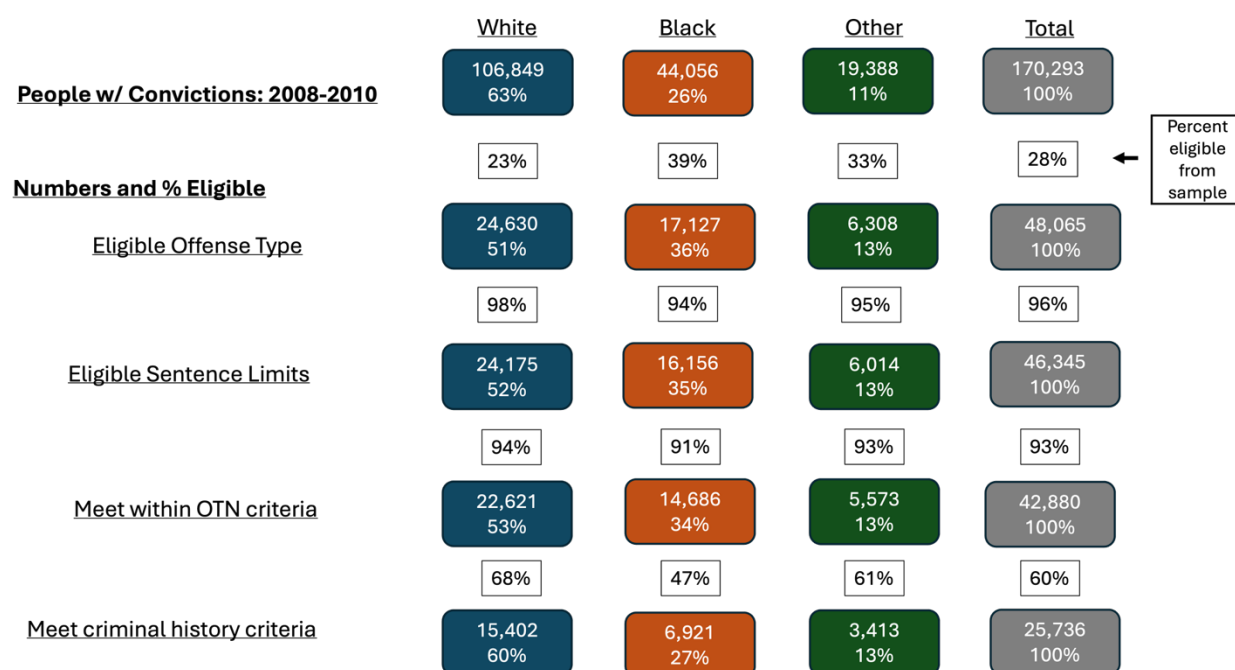


Figure 1. People with Potentially Eligible Convictions by Conviction-Level Qualifying Criteria and Race



The requirements for no further convictions differ depending on whether the conviction was for a misdemeanor (7 years with no conviction) or a felony (10 years with no conviction). Figure 2 shows the impact of the application of these criteria in further reducing the number of individuals who are eligible. From Figure 1, 15,402 White, 6,921 Black, and 3,413 people of other races met all the conviction-level criteria. These included 16,717 people with misdemeanor convictions and 9,019 people with felony convictions. First, most people have eligible misdemeanor convictions—of which about two-thirds (66%) are White, 22% are Black, and 12% are people of other races. **About half of White (51%) and Black (50%) people but only 41% of people of other races meet the criteria for staying conviction free for 7 years post-conviction.**

People with a potentially qualifying felony conviction are somewhat more likely to stay conviction free for 10 years than people with qualifying misdemeanors are to stay free for 7 years—possibly because those with felony convictions likely spent more time incarcerated during the period. White people are a proportionally smaller percentage (49%) of those with felony convictions than those with misdemeanor convictions (66%), while Black people are 35% of those with felony convictions compared to 22% of those with misdemeanor convictions. Proportions are more similar for misdemeanor (12%) and felony (16%) convictions for people of other races.

Figure 2. People with Potentially Qualifying Convictions That Meet the Reconviction Criteria by Race

Subsequent re-conviction criteria	White	Black	Other	Total
Misdemeanors				
Individuals with qualifying offenses	11,008 66%	3,748 22%	1,961 12%	16,717 100%
	51%	50%	41%	50%
Individuals with qualifying offenses without convictions 7 years since sentence	5,637 68%	1,874 23%	797 10%	8,308 100%
Felonies				
Individuals with qualifying felonies	4,394 49%	3,173 35%	1,452 16%	9,019 100%
	58%	58%	55%	57%
Individuals with qualifying felonies without convictions 10 years since sentence	2,530 49%	1,826 35%	794 15%	5,150 100%

For the next set of questions, we focus on the group (N=19,957 individuals) that received probation sentences to examine the odds of a future conviction while in the community. This analysis only focuses on individuals who had qualifying misdemeanor or felony drug convictions that met all the conviction-level and criminal history requirements for Clean Slate 3.0.

How many years must pass before future conviction rates decrease?

Future conviction rates steadily decrease after one year, with rates of 5% and below after 5 years for both eligible misdemeanor and felony convictions. See technical appendix Table A-5.

Do the odds of a future conviction differ by group?

Looking at those with eligible misdemeanor convictions, when compared to White people, the odds of a future conviction significantly increases for people of other races (technical appendix Table A-1). Compared with White individuals, people of other races were 1.29 times more likely at one year to have a subsequent conviction, and this steadily increases to 1.57 times at 7 years. Similarly, we observed minor but statistically significant differences in the odds of a reconviction at years 3 through 6 when comparing Black people to White people. Black people with eligible misdemeanor convictions were about 1.10 times more likely to have a subsequent reconviction. **There were no significant differences between the racial groups when examining the odds of a reconviction for eligible felony drug convictions** (technical appendix Table A-2).

Does charge severity influence the odds of a future conviction?

Those with a misdemeanor conviction were 1.89 times more likely to have a subsequent conviction within 10 years of their original sentence date compared to those with a qualifying felony drug conviction (technical appendix Table A-3).

Does missing the eligibility criteria by one year, one conviction, or one severity level matter?

For those who were convicted of a qualifying drug felony, being off by one of the “OTN-specific” criteria rarely predicted reconviction within ten years of the sentence date. In addition, those whose prior felony criminal history just exceeded the threshold *were not more likely to be reconvicted within ten years* of the sentence date (technical appendix Table A-6). However, for those with qualifying drug

misdemeanors, exceeding the criminal history thresholds was associated with higher odds of being reconvicted within 7 years of the sentence date (technical appendix Table A-7).

Research Team

[RTI International](#) is an independent nonprofit research institute dedicated to improving the human condition. Authors: Dr. Pamela K. Lattimore, Dr. Christopher Inkpen, Dr. Kristin Bechtel, Ms. Lori Ko, and Ms. Sarah McGill Brown.

Acknowledgements

Funding for this research was provided by the [Clean Slate Initiative](#). We would like to express our appreciation to Dr. Laura Chavez, Ms. Katie Svoboda-Kindle, Ms. Alexandra Williams, and Ms. ST Mayer for their ongoing support to this research.

Technical Appendix

Table A-1. Odds of a Future Conviction for Original Eligible Misdemeanor Conviction by Race

Year	Black	Other
	Odds of Future Conviction	
1	1.00	1.29***
2	1.08	1.45***
3	1.11*	1.55***
4	1.10*	1.56***
5	1.09*	1.57***
6	1.09*	1.56***
7 – eligible year	1.07	1.57***

Odds ratios are in comparison to White individuals

*p<0.05, **p<0.01, *** p<0.001

Table A-2. Odds of a Future Conviction for Original Eligible Felony Conviction by Race

Year	Black	Other
	Odds of Future Conviction	
1	0.99	0.87
2	1.08	1.04
3	1.04	1.08
4	0.98	1.09
5	0.99	1.08
6	0.97	1.12
7	0.93	1.09
8	0.93	1.09
9	0.93	1.10
10 – eligible year	0.93	1.10

Odds ratios are in comparison to White individuals

*p<0.05, **p<0.01, *** p<0.001

Table A-3. Odds of a Future Conviction Comparing Charge Severity Overall and by Race

Charge severity	Total
Eligible Misdemeanor	1.89***
Black	1.03
Other	1.40***

Odds ratios for racial groups are in comparison to White individuals. Odds ratio for misdemeanors is in comparison to an eligible felony conviction

*p<0.05, **p<0.01, *** p<0.001

Table A-4: Change in Individuals Eligible for Relief Based on Charge Severity-Specific Reconviction Limits

	Full Sample					
	Misdemeanor "No Subsequent Conviction" Threshold			Felony "No Subsequent Conviction" Threshold		
	6 years	7 years	% Reduction	9 years	10 years	% Reduction
Black	1971	1874	5%	1875	1826	3%
Other	857	797	7%	821	794	3%
White	5958	5637	5%	2612	2530	3%
Total	8786	8308	5%	5308	5150	3%
	Non-Incarceration Sample					
	Misdemeanor "No Subsequent Conviction" Threshold			Felony "No Subsequent Conviction" Threshold		
	6 years	7 years	% Reduction	9 years	10 years	% Reduction
Black	1726	1645	5%	1008	982	3%
Other	761	709	7%	482	467	3%
White	5467	5185	5%	1516	1470	3%
Total	7954	7539	5%	3006	2919	3%

Table A-5. Reconviction Rate by Year for Full and Non-Incarceration Sample

	Full Sample							
	Individuals With Eligible Misdemeanors				Individuals With Eligible Felonies			
Reconviction within year	Black	Other	White	Total	Black	Other	White	Total
1	21%	29%	22%	22%	12%	11%	11%	12%
2	13%	16%	10%	12%	7%	8%	6%	6%
3	8%	11%	8%	8%	5%	6%	5%	5%
4	6%	8%	7%	7%	5%	6%	5%	5%
5	5%	5%	5%	5%	5%	6%	5%	5%
6	4%	4%	4%	4%	4%	4%	4%	4%
7	3%	4%	4%	4%	3%	3%	4%	4%
8	-	-	-	-	3%	2%	2%	2%
9	-	-	-	-	2%	3%	2%	2%
10	-	-	-	-	2%	2%	2%	2%
	Non-Incarceration Sample							
	Individuals With Eligible Misdemeanors				Individuals With Eligible Felonies			
Reconviction within year	Black	Other	White	Total	Black	Other	White	Total
1	22%	28%	22%	22%	11%	10%	11%	11%
2	12%	16%	10%	11%	6%	7%	5%	6%
3	9%	11%	8%	8%	5%	6%	5%	5%
4	7%	8%	7%	7%	4%	5%	5%	4%
5	5%	5%	5%	5%	5%	5%	5%	5%
6	4%	4%	4%	4%	3%	5%	4%	4%
7	3%	4%	3%	3%	3%	3%	4%	3%
8	-	-	-	-	2%	2%	2%	2%
9	-	-	-	-	2%	2%	2%	2%
10	-	-	-	-	2%	2%	2%	2%

Table A-6. Reconviction from sentence date (0-10 years) for those with felony convictions (2008-2010) and non-incarceration sentences

			Confidence Intervals	
Measure	Odds Ratio	p.value	Low	High
(Intercept)	2.48	0.0000	2.11	2.91
Race (reference category: White)				
Black	0.95	0.3145	0.85	1.05
Other	1.02	0.7541	0.89	1.18
Within OTN criteria				
non-qualifying felony +1	1.13	0.3460	0.88	1.46
non-qualifying felony 2+	1.07	0.8027	0.62	1.85
qualifying felony +1	1.36	0.0266	1.04	1.79
qualifying felony 2+	1.18	0.2876	0.87	1.60
M1 misdemeanor +1	1.24	0.6434	0.49	3.15
M1 misdemeanor 2+	1.44	0.6996	0.21	9.82
misdemeanor +1	0.65	0.3227	0.27	1.49
misdemeanor 2+	1.39	0.5412	0.48	4.17
Prior Criminal History criteria				
misdemeanors +1	1.46	0.0285	1.04	2.04
misdemeanors 2+	1.77	0.0003	1.30	2.42
felonies & misdemeanors +1	1.16	0.0561	1.00	1.36
felonies & misdemeanors 2+	1.75	0.0000	1.52	2.00
Age	0.96	0.0000	0.95	0.96

Sample: Individuals with qualifying felony convictions based on offense type (2008-2010) with non-incarceration sentences. N = 7,501

Table A-7. Reconviction from sentence date (0-7 years) for those with misdemeanor convictions (2008-2010) and non-incarceration sentences

			Confidence Intervals	
Measure	Odds Ratio	p.value	Low	High
(Intercept)	3.11	0.0000	2.86	3.39
Race (reference category: White)				
Black	1.02	0.4427	0.96	1.09
Other	1.60	0.0000	1.48	1.74
Within OTN criteria				
non-qualifying felony +1	0.90	0.1239	0.78	1.03
non-qualifying felony 2+	0.65	0.0008	0.51	0.84
qualifying felony +1	0.73	0.2905	0.40	1.31
qualifying felony 2+	0.42	0.0045	0.23	0.76
M1 misdemeanor +1	1.00	0.9855	0.71	1.39
M1 misdemeanor 2+	1.08	0.8334	0.54	2.13
misdemeanor +1	1.07	0.5304	0.87	1.32
misdemeanor 2+	0.85	0.2444	0.64	1.12
Prior Criminal History criteria				
misdemeanors +1	1.39	0.0000	1.20	1.60
misdemeanors 2+	1.79	0.0000	1.57	2.05
felonies & misdemeanors +1	1.31	0.0000	1.20	1.43
felonies & misdemeanors 2+	1.59	0.0000	1.48	1.70
Age	0.96	0.0000	0.96	0.96

Sample: Individuals with misdemeanor convictions based on offense type (2008-2010) with non-incarceration sentences (N = 24,323)

ⁱ Collateral Consequences Inventory | National Inventory of Collateral Consequences of Criminal Conviction. (n.d.). <https://niccc.nationalreentryresourcecenter.org/consequences>; Couloute, L., & Kopf, D. (2018). Out of prison & out of work. Prison Policy Initiative.

<https://www.prisonpolicy.org/reports/outofwork.html>; Chin, G. (2012). The new civil death: rethinking punishment in the era of mass conviction. *University of Pennsylvania Law Review*, 160(6), 1789. https://scholarship.law.upenn.edu/penn_law_review/vol160/iss6/6

ⁱⁱ Selbin, J., McCrary, J., & Epstein, J. (2018). Unmarked? Criminal record clearing and employment outcomes. *Journal of Criminal Law and Criminology*, 108(1). <https://www.jstor.org/stable/48572470>; Prescott, J. J., & Starr, S. B. (2020). Expungement of Criminal Convictions: An Empirical Study. *Harvard Law Review*, 133(8), 2460–2555. <https://dx.doi.org/10.2139/ssrn.3353620>

ⁱⁱⁱ Adams, E. B., Chen, E. Y., & Chapman, R. (2017). Erasing the mark of a criminal past: Ex-offenders' expectations and experiences with record clearance. *Punishment & Society*, 19(1), 23–52. <https://doi.org/10.1177/1462474516645688>

^{iv} Chavez, L. (2024). Automatic record clearance removes barriers and delivers improvements for people with records. Clean Slate Initiative. <https://www.cleanslateinitiative.org/research-data-publications/yougov-survey-research-brief-improvements>

^v The Clean Slate Initiative. (n.d.). The Clean Slate Initiative. Available at <https://www.cleanslateinitiative.org/states>; Amanda Y. Agan, Andrew Garin, Dmitri K. Koustas, Alexandre Mas, and Crystal Yang. Can you erase the mark of a criminal record? Labor market impacts of criminal record remediation. NBER Working Paper No. 32394 May 2024. [w32394.pdf \(nber.org\)](https://www.nber.org/papers/w32394).

^{vi} Skog, A., Castellanos, K. P., Laco, J., & Pickard, M. (2024). Who Benefits from Automatic Record Relief in California? California Policy Lab. <https://capolicylab.org/who-benefits-from-automatic-record-relief-in-california/>; Mooney, A. C., Skog, A., & Lerman, A. E. (2022). Racial Equity in Eligibility for a Clean Slate Under Automatic Criminal Record Relief Laws. *Law & Society Review*, 56(3), 398–417. <https://doi.org/10.1111/lasr.12625>

^{vii} <https://www.census.gov/quickfacts/fact/table/PA/POP010210>