

The Connecticut Second Chance Pardon Gap

By: Colleen Chien, Hithesh Bathala, Prajakta Pingale, Evan Hastings, Adam Osmond¹

Key Findings

Population with convictions: ~407K people²

Population with felony convictions: ~157K people³

Share of adult Black men with a conviction: ~48% | ~27% with felonies

Share of people with convictions eligible to apply for pardons: ~89%

Share of people with convictions eligible for erasure under Clean Slate: ~68%

Population with convictions eligible to apply for pardons: ~360K

Uptake rate of relief : ~3%

Pardons awarded per year: 626 (based on 2016-2019 actuals)

Years to clear the backlog based on current rates: 577 years

Summary Statistics	Eligible to Apply for Pardons	Eligible for Erasure under “Clean Slate” ⁴
People Eligible / (Share of People with convictions)	360K/(89%)	277K/(68%)
People Eligible to clear <i>all</i> convictions / (Share of People with convictions)	295K (73%)	190K (47%)
Uptake rate based on eligibility	~3%	~4%
Years it would take to clear the backlog at the current rate	577	443

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² Based on actuals from the state database described in Appendix B, removing people with out of state addresses in the database and taking into account mortality.

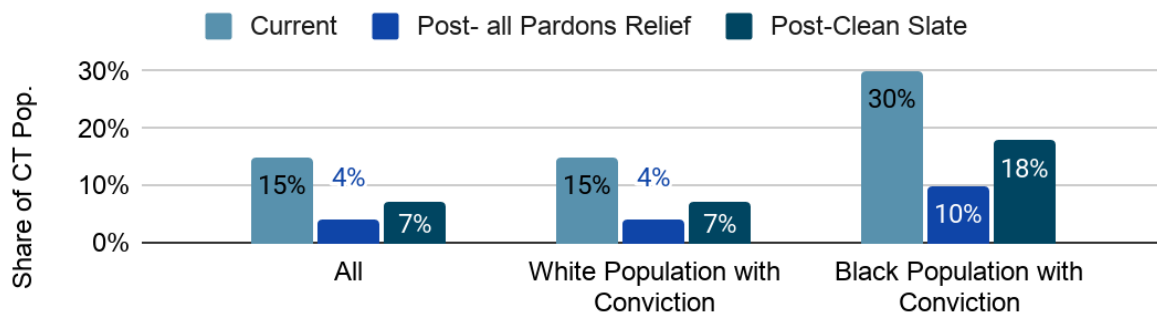
³ Id. Cf. with Shannon et al, which reports a 2010 estimated felony population in Connecticut of 213K available at http://users.soc.umn.edu/~uggen/Shannon_Uggen_DEM_2017.pdf. If the 2010 estimate is projected forward linearly using the CAGR growth rate from 2000-2010, the 2020 estimated felony population would be 268K.

⁴ See summary of rules in Appendix A.

Table 1: Share of Connecticut Population with Convictions - Pre and Post- Relief⁵ - Trends by Race

Race	Baseline Conviction Rate	Projected Conviction Rate Assuming Automation of All Pardons Eligibility	Projected Conviction Rate Assuming Automation under SB 403 “Clean Slate”
All	~15%	~4%	~7%
White	~15%	~4%	7%
Black	~30%	10%	18%
- Black men ⁶	~48% 27% with a felony conviction	17% 8% with a felony conviction	30% 22% with a felony conviction

CT's Criminal Population by Race



(For Felony and other trends by Race, Gender, see Appendix F)

I. Abstract

An estimated 15% of people in Connecticut have a criminal conviction record, and 6% have a felony convictions; close to 50% of adult Black men have a conviction, 27% have a felony conviction (Table 1). Connecticut Laws Chapter 961a Section 54-142a and Chapter 960a Sections 54-76o and 54-130a allow individuals whose criminal records meet certain conditions to apply for pardons of their past criminal convictions. Proposed Bill SB 1019,⁷ Connecticut’s “Clean Slate” Act, likewise would provide for automatic erasure of the records of a subset of individuals who can apply for pardons. Ascertaining, then applying existing pardons law and

⁵ To generate the population-based statistics in this report, we relied upon data from the Census, reported at <https://www.census.gov/quickfacts/CT> for the populations data and for our convictions data relief upon the database described in Appendix to which we applied a 90% multiplier to take into account the share of people convicted in Connecticut that live within the state, as described by a report by the Boston Federal Reserve (<https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/neppcpr1701.pdf>, p.13).

⁶ We approximated the male population share based on the following methodology: Black male population = 12.2%, Male = 48.8%, Over 18 years = 79.6%. $12 \times .488 \times .796 = 4.7\%$

⁷ Link available in the RULES section

proposed “Clean Slate” law to a random sample of criminal histories of individuals with Connecticut convictions records, and then extrapolating to the estimated population of 407K individuals in the state with convictions,⁸ we estimate the share and number of people who are eligible to apply for pardons, under existing pardons and “Clean Slate” eligibility rules but have not received relief and therefore fall into the “second chance gap,” the difference between applications eligibility for and receipt of records relief.⁹ (We did not model legal financial obligations or other out of record criteria).

Based on the methods described above, we find that “Clean Slate automation” would approximately halve the population of people with a conviction, automatically pardoning all who are eligible to apply for pardons would shrink the conviction population by about two-thirds. Of people with convictions, approximately 89% of individuals (360K) are eligible to apply for pardons of any convictions, 73% (295K) for pardons relief from all convictions. Based on reported records, the State pardoned 626 cases, on average per year, in the last few years of available data (2016-2019). At this rate, it would take 577 years for everyone currently eligible to apply for pardons to get them, 443 years to clear the backlog of those eligible for relief under Clean Slate. The felony population would decline from 6% to 4% under Clean Slate, to 1% if all eligible to apply for pardons were automatically granted them.

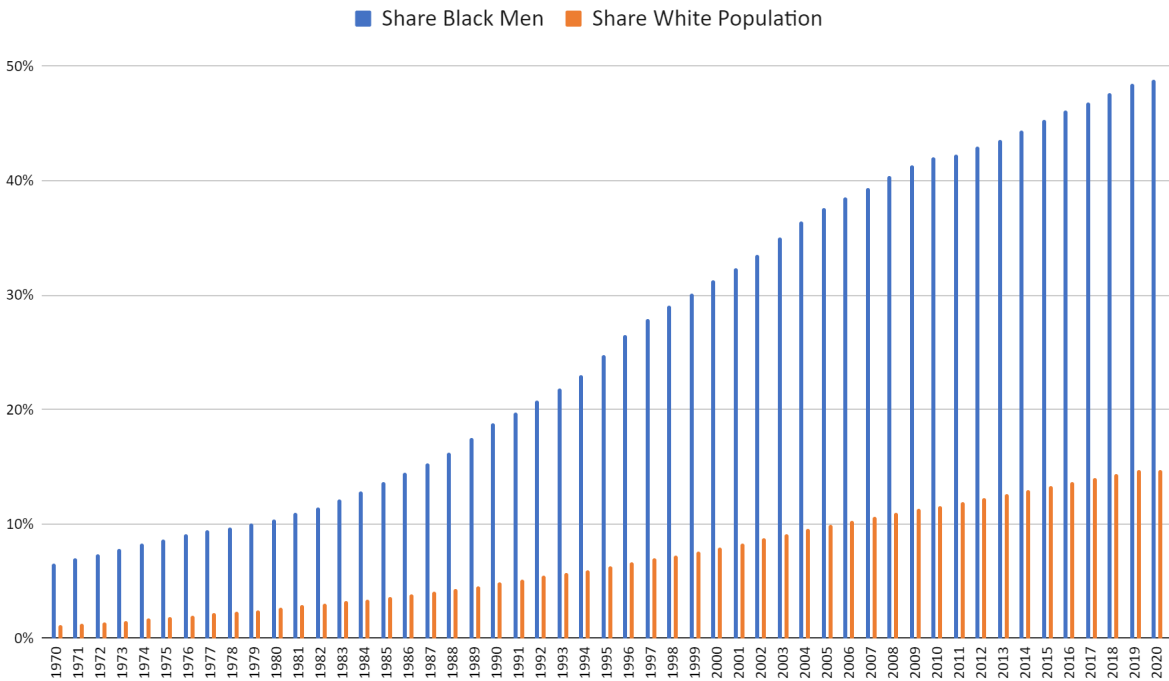
The racial disparities in Connecticut’s penal system are significant. The Black male conviction rate is 48% and Black male felony conviction rate is 27%. Black women and men are more than three times their white counterparts to have a felony conviction, the most serious record. Among people with a conviction, the racial disparity between Black women and white women is even higher than between Black and white men. Black men are four times more likely to be incarcerated than white men,¹⁰ and Black adult men are incarcerated at a rate that is 14-15 times their prevalence in the general population. (Appendix F) Automation of pardons relief and Clean Slate would both decrease racial disparities, but automation of pardons relief would do so to a much more considerable degree.

⁸ Based on the database described in Appendix B. Cf. 683K estimated population of people with any form of record in Dec 2018 reported on Becki Goggins et al; *Survey of State Criminal History Information Systems, 2020: A Criminal Justice Information Policy Report*, SEARCH (2020) available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/255651.pdf>, Table 1. A report by the Boston Federal Reserve estimated that in 2013 1.8 /100 people in CT, or 466K (based on a population of 3.6M) people have a conviction. <https://www.bostonfed.org/-/media/Documents/Workingpapers/PDF/neppcpr1701.pdf>

⁹ As defined in Chien (2020), *supra* note 1.

¹⁰ Accord, Jordan Fenster, *Racial Disparities Persist in CT Prisons, even as the Population Dropped* <https://www.ctinsider.com/local/ctpost/article/Racial-disparities-persist-in-CT-prisons-even-as-15651213.php>

Connecticut Share of Population with a Conviction



These facts make automated relief an attractive for improving the administration of the pardons law as well as narrowing the significant racial disparities in Connecticut’s penal system. However, due to deficiencies and discontinuities in the data and ambiguities in the law uncovered during our analysis, including regarding disposition, chargetype, and sentence completion criteria, to provide relief through “Clean Slate” automated approaches would require data normalization and cleaning efforts. We include, in Appendix E, statute drafting alternatives to address problems, based on previous Clean Slate efforts. Included in our report are our Methodology (Appendix A); Disposition Data Report (Appendix B); Appendix C (Common Charges); Detailed Absolute Pardon Statistics (Appendix D); Clearance Criteria Challenges and Legislative Drafting Alternatives (Appendix E). Appendix F contains further analyses by race.

II. Summary

Every time a person is convicted of a crime, this event is memorialized in the person’s criminal record in perpetuity, setting off thousands of potential collateral consequences, including being penalized in searches for employment, housing and volunteer opportunities.

To remove these harmful consequences, Connecticut law allows people whose criminal records meet certain conditions to pardon their records.¹¹ However, the “second chance gap” in Connecticut “absolute pardons” - the share of people eligible for relief who haven’t expunged records because of hurdles in the petition process - we suspect is large. To estimate it, we used

¹¹ Described in “Rules” Section of Appendix A.

research, official guides to the law, and practice expertise to model the eligibility criteria for expungement set forth in the law and applied it to a random sample of criminal histories chosen at random from a 40-year database of conviction records from 1980-2020 sourced from the Connecticut Department of Corrections described in Appendix B containing ~450K people (407K with a Connecticut address and under 78 years of age). To carry out our analysis, we ascertained charge eligibility based on reading the code and matching it to the data provided. Importantly, we did not account for outstanding fines or out of state charges which could potentially disqualify some individuals for relief, nor did we model criteria from whom eligibility was unascertainable from the available record (e.g. pending charges).

III. Key Findings:

Using the approach described briefly above and in detail in Appendix A we find that:

- An estimated ~407K people, or 15% of the population, have felony or misdemeanor conviction records.
- Of the ~407K people with convictions, an estimated 89%, or about 360K people are eligible to apply for pardon of their convictions under the current law (not taking into account fines and fees and pending charges). Approximately **73% of individuals with conviction records, or 295K people, we estimate, could apply to clear their records entirely.**
- Of the ~407K people with a conviction, an estimated 68%, or about 277K people would get relief under Clean Slate (not taking into account fines and fees or out of state and pending charges). Approximately **47% of individuals with conviction records, or 190K people, we estimate, would clear their records entirely.**
- Based on records obtained from the sources disclosed in Appendix D, and methods disclosed in Appendix A, we estimate, conservatively, that the state issued approximately 10K absolute pardons over the last 20 years. Based on these numbers and the calculations above, we estimate that ~3% of people eligible to clear their convictions have taken advantage of this remedy, leaving 97% in the absolute pardon uptake gap.
- At current rates of pardon, it would take 577 years for everyone currently eligible to apply for Pardons to get them and 443 years to clear the existing backlog of criminal histories eligible for relief under Clean Slate.

IV. Conclusion

Based on our analysis, Connecticut's absolute pardon laws allow for approximately 89% of those who live burdened with convictions to apply for pardons relief, 73% for all convictions. But to date we estimate that 3% of those eligible to apply for relief have actually received the remedy, leaving 97% in the pardon uptake gap. Under "Clean Slate," as many as 68% of people with convictions, or 277K people could get relief, 190K could have their records entirely cleared.

Awarding pardons to all who are eligible to apply for them could reduce the felony population from 6% to 2% (and from 27% to 8% among Black adult men), while Clean Slate automation could reduce the felony population, from 6% to 4% (and from 27% to 22% among Black men).

Appendix A: Methodology

To estimate the number and share of people eligible for but not receiving relief in each state, we proceeded as follows, implementing the approach developed in Colleen V. Chien, *America's Paper Prisons: The Second Chance Gap* (2020) ((Chien (2020))).

First, we ascertained the relevant records relief laws and developed rules logic, using legal research to develop lists of ineligible and eligible charges. Next, we obtained and cleaned the data sample and collected information on the state's criminal population. Where possible, we also obtained administrative data on the number of expungements granted historically. Next, we developed flow logic to model the laws. Next we applied the flow logic to the data sample to estimate eligibility shares in the sample. Finally we extrapolated from the population in the sample to the total criminal population in the state overall to calculate number and share of individuals in the "current gap" (people with currently records eligible for relief) as well as the "uptake gap" (share of people eligible for expungement over time that have not received them). The descriptions below disclose several shortcomings in our approach, including our inability to account for outstanding fines or out of state charges which could potentially disqualify some individuals for relief, failure to model criteria from whom eligibility was unascertainable from the available record, the existence of missing data for which we assumed a lack of eligibility, and our inability to be sure that our sample was representative of all with criminal records in the state.

Ascertaining the Law and Developing Rules Logic

Based on the court guidelines, statutes, and guides from non-profits listed above we discerned the law and determined its internal logic, with respect to the charge grade (e.g. misdemeanor or felony), offense type (e.g non-violent or domestic violence charge), time (e.g 3-year waiting period), disposition type (e.g. nolo contendere) and person conditions (e.g. a lifetime limit of 2 convictions) that define eligibility. These are disclosed in every report in the RULES section.

From these rules, we created lists of eligible and ineligible offenses. To do so, we reviewed the relief rules for disqualified classes of charges and then searched the criminal code for the corresponding statute name or number corresponding with each class of charges. We then used these statutes to identify the characteristics of each potentially eligible offense: their charge type (e.g. felony, misdemeanor), degree, and the maximum possible duration of incarceration/amount

to be fine for each offense. Once we had assembled the characteristics of each potentially ineligible offense, we cross referenced each offense and its characteristics against the eligibility statute. If a specific statute section was outside the prescribed characteristics of any category of eligibility (e.g., class of offense, degree, maximum duration of incarceration/amount to be fined, etc.), the offense was deemed ineligible for expungement. The offenses that were within each of the eligibility requirements after this process were deemed eligible for expungement. We did not consider the eligibility of offenses that fulfilled the unmodeled criteria referenced above, making our estimate under-inclusive and over-inclusive.

Obtaining the Data Sample and Collecting Data on the State Population of Individuals with Criminal Records and the Number of Expungements Granted

From a data vendor, we obtained court records from the data source indicated below. Where not already available, we used Name+DOB to create unique person IDs and created state-specific criminal histories for each person. Profile information on the analyzed population is provided below in every report in Appendix B.

We approximated the number of people with criminal charges using a few methods. If state criminal population information was available directly from the state, we relied on it. When it wasn't available, we considered two sources. First, we consulted public records provided by SEARCH (2018), a listing of criminal subject counts provided by the repositories of each state. We then adjusted for growth in the number of people with records using a 3% CAGR average based on 10 years of historical data. As a sanity check, we compared this number with the estimated number of people with criminal records derived based on taking the population of people in the state from the Census and then multiplying the "national average" share of ~25% of Americans having a criminal record (derived from 331M individuals and 80M people with criminal records). When the difference was large (i.e. more than ~25%), we used the population-derived number. The raw numbers derived from SEARCH records and from the state include multi-state offenders, people who did not live in the state at the time of the crime, and also, people that may have since their disposition left the state. Regardless of the source, the raw numbers do not account for deported or deceased people. As described in the report, where possible we made adjustments to take into account these factors, but it should be reiterated that from these reasons, the population number provided are estimates.

We further accounted for people with uncharged arrests as described in Chien (2020) based on an analysis prepared by Professor Robert Apel of Rutgers University based on the NLSY97, an ongoing U.S. Bureau of Labor Statistics survey tracking 7,335 randomly selected people starting in their 20's by removing them from our eligibility analysis, which is based on court records.

In addition to researching the number of individuals with criminal histories, we sought from state sources administrative data on the number of expungements granted historically. When public reports were not available, we filed records requests or consulted other sources of information. We used this data to calculate the “uptake rate” and number of years it would take to clear the backlog.

Applying the Law to the Sample Data to Obtain an Eligibility Share

To apply the law to data, we used the methods described in Chien (2020) to first prepare the data by cleaning and labeling dispositions and charges data. We report the share of charges missing dispositions or charge types in Appendix B of each report. We then applied the logic to the sample to obtain a share of people eligible for records relief in the sample. When relevant data was missing, we assumed, conservatively, that the charge or incident was ineligible for relief.

To approximate “sentence completion” we used recorded sentences where available, assuming that the sentence had been carried out, and where not available, an assumption that the sentence was completed 2.5 years after the disposition date for misdemeanor charges, and 3.5 years after the disposition date for felony charges where sentence completion was not readily available. Importantly, we did not account for outstanding fines or out of state charges which could potentially disqualify some individuals for relief per the summary of the rules.

When the eligibility of frequently occurring charges wasn’t addressed directly by the “top down” methodology described above, of researching eligibility or ineligibility based on the rules, we used a “bottom up” approach of researching these charges and ascertaining their eligibility one by one.

Applying the Eligibility Share to the Criminal Population and State History of Relief to Estimate the Number of People in the Second Chance Gap

To develop a total state eligibility estimate based on the shares derived in the steps above we assumed that the sample was representative enough of the criminal population that we could use its eligibility shares as the basis for a state estimate. We then applied these shares to the estimated number of people with court criminal records in the state, developed using the approach described above. This yielded our estimation of the number and share of individuals in the “current gap” (people with currently records eligible for relief) as well as, in combination with the expungement actuals mentioned above, the “uptake gap” (share of people eligible for expungement over time that have not received them).

Appendix A: RULES

A. Connecticut Absolute Pardon Rules

Primary Sources: [Chapter 961a Section 54-142a](#) (2019) | [Chapter 960a Section 54-76o](#) (2019) | [Section 54-130a](#) (2019)

Secondary Sources: [Connecticut CCRC](#) (6/4/2020) | [State Official Guide](#) (2019) | [Board of Pardons Guide](#) (2018). We also consulted with a local attorney.

CONVICTIONS:

1. Misdemeanors:
 - a. Erasure/Destruction of records for any misdemeanor conviction granted absolute pardon, upon 3-year waiting-period from date of last misdemeanor conviction. [Section 54-142a\(d\)\(1\):\(d\)\(2\)](#); [Section 54-130a](#).
 - b. Erasure for any convictions where the conduct was subsequently decriminalized (unauthorized possession of less than ½ ounce of marijuana - C.G.S. 21a-279a), with no waiting-period. [Section 54-142\(d\)](#).
2. Felonies: Erasure/Destruction of records for any felony conviction granted absolute pardon, upon 5 year wait-period from date of last felony conviction. [Section 54-142a\(d\)\(1\):\(d\)\(2\)](#); [Section 54-130a](#).
3. Not Eligible: None expressly stated, but Pardon Board takes into account severity of crime. ([State Official Guide](#) / [Board of Pardons Guide](#))
4. Lifetime or Other Limits: None Found
5. LFO Payment Required for Sentence Completion: None Found
6. Other Unmodeled Criteria or Details:
 - a. Deferments/Diversions
 - b. Youthful Offender ([Section 54-76o](#))
 - c. Charges where proceedings continued for over 13 months. [Section 54-142a\(c\)\(2\)](#)

NON-CONVICTIONS:

1. Erasure of any **charges dismissed or found not guilty** if time to appeal has run out (can assume [20 day](#) limit), or if holding affirmed, then automatically with no wait time ([Sec. 54-142a\(a\)](#)).
2. Erasure of any **charges nolleed**, automatically, after a 13-month waiting-period from the date of disposition. ([Sec. 54-142a\(c\)\(1\)](#)).

B. Connecticut “Clean Slate” Rules

Primary Source: [SB403 \(2020\)](#) | [SB1019 \(2021\)](#)

CONVICTIONS:

1. Misdemeanors: Automatic erasure of
 - a. Any misdemeanor conviction (classified or unclassified), upon 7-year waiting-period from date of last conviction. [Section \(e\)\(1\)](#).
2. Felonies: Automatic /provisional erasure of
 - a. Any class C/D/E felony conviction, upon 12 year wait-period from date of last conviction. (*Note SB1019 specifies a shorter waiting period of 10-years for class C and D felonies, making our estimate conservative)
 - b. An unclassified felony offense carrying a term of imprisonment of not more than ten years, upon 12 year wait-period from date of last conviction.
3. Lifetime or Other Limits: disqualified sex crimes as defined in [Section 54-250](#) and [Section \(4\)\(B\)](#), pending charges.
4. LFO Payment Required for Sentence Completion: None Found
5. Other Unmodeled Criteria or Details: “family crimes” section 46b-38a not eligible

Appendix B: Database Description

Our sample comprised a database of 40 years of conviction data from March 1980 to March 2020 that was released by the Connecticut State Police in accordance with the decision of the Connecticut Supreme Court in the matter of *Hartford Courant Company v. Freedom of Information Commission*, 261 Conn. 86 (Conn.2002). 447K people were in the database, 309K on which we performed our analysis (due to a decision to focus on 30-years of convictions and the availability of complete data).

<u>Data Statistics</u>	
Number of People in the Sample	446,595
Share of People with Convictions	100%
Share of People with Felony Convictions	38%
Share of People with only Non-Felony Convictions in the Sample	61%
Share of Charges Missing Dispositions	0%
Share of Charges Missing Chargetypes	1%

Appendix C: Common Charges

A. Top 10 Charges in our Dataset

<u>Charges</u>	<u>Number of Charges</u>	<u>Percentage of Charges</u>
probation viol	272,278	14%
larceny 6	134,176	7%
poss narcotics	125,528	6%
flr to appear 2	118,498	6%
assault 3	90,034	5%
op un influence (DUI)	64,723	3%
intrfere/resist	58,765	3%
poss drug/mrhna	58,733	3%
burglary 3	56,656	3%
brch of peace 2	55,210	3%
Total share and charges associated with top 10 charges	1,034,601	52%

B. Top 10 Expungeable Charges in our Dataset

<u>Expungeable Charges</u>	<u>Number of Charges</u>	<u>Percentage of Expungeable Charges</u>
probation viol	267,240	36.6%
larceny 6	81,217	11.1%
assault 3	59,384	8.1%
und suspension (operating under suspension)	38,936	5.3%
intrfere/resist	38,743	5.3%
brch of peace 2	30,563	4.2%
breach of peace	28,927	4.0%
disorderly cndt	25,587	3.5%
larceny 5	16,956	2.3%
larceny 4	14,100	1.9%
Total share and charges associated with top 10 expungeable charges	601,653	82.4%

Appendix D: Detailed Absolute Pardon Statistics

We obtained expungement statistics from the Board of Pardons and Parole, at <https://portal.ct.gov/BOPP/Research-and-Development-Division/Statistics/Historical>. The Board of Pardons and Parole reports that 1,424 absolute pardons and 1,079 expedited pardons (for a total of 2,503 pardons) were granted from 2016-2019. The average number of pardons across this period was 626. To get to a conservative estimate of the number of pardons issued over the past 20 years we took the actual data available and assumed a run rate for the previous years based on the first year of data available, or 11,911 pardons.

Appendix E: Clearance Criteria Challenges and Legislative Drafting Alternatives¹²

Criteria	Administrability Challenge	Example	Drafting Alternative
Sentence completion	Not tracked in court data and hard to infer as clean sentencing data is often not available; it also is often unclear whether or not outstanding fines and fees must be paid, and whether have been.	Records relating to a first conviction ...voided upon the petitioner's successful completion of the sentence will be sealed by the court. KRS §§ 218A.276(1), (8), (9). Record...can be sealed by the court one year after sentence completion if the petitioner has no subsequent charges or convictions. Colo. Rev. Stat. § 24-72-705(1)(c)(I), (1)(e)(I).	Disposition Date (+ X Years)
First conviction; qualifying conditions	Lack of unique identifier across precludes determination		Bless commercial identification approximation technique
Personal demographic trait such as age, military status, or other condition	Information may not be easily ascertainable / available on the record or charge category condition	Records relating to an offense committed by current and former military personnel ,,can be dismissed Cal. Pen. Code § 1170.; A record relating to a matter sealed pursuant to section 781 is destroyed ...when the person reaches 38 years of age. Cal. Welf. & Inst. Code §781(d). Cal. Welf. & Inst. Code § 781(d).	Specify an identification strategy that can be implemented at scale or do not include demographic traits
Class or grade condition	Missing class, grade or category information	Records relating to a charge or conviction for a petty offense, municipal ordinance violation, or a Class 2 misdemeanor as the	Explicitly specify the qualifying crimes

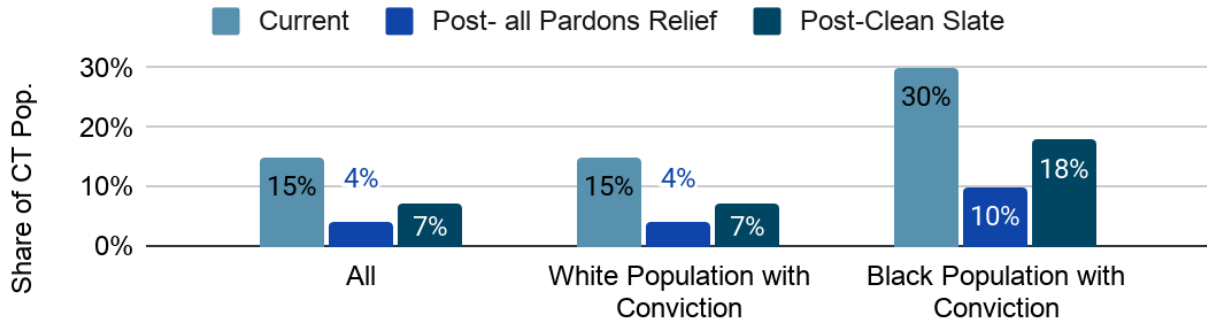
¹² Adapted from Chien (2020)

Court-ordered conditions	Require individual review /check for any “court-ordered” conditions and compliance re: same	highest charge can be removed from the public record after 10 years, if all court-ordered conditions are satisfied. S.D. Codified Laws § 23A-3-34.	Do not include court-ordered conditions
Laundry list disposition criteria	Vulnerable to changes to definitions, requires detailed clean data	Records of arrest are destroyed within 60 days after detention without arrest, acquittal, dismissal, no true bill, no information, or other exoneration. R.I. Gen. Laws § 12-1-12(a), (b).	Simple description e.g. “All records that do not end in a conviction”

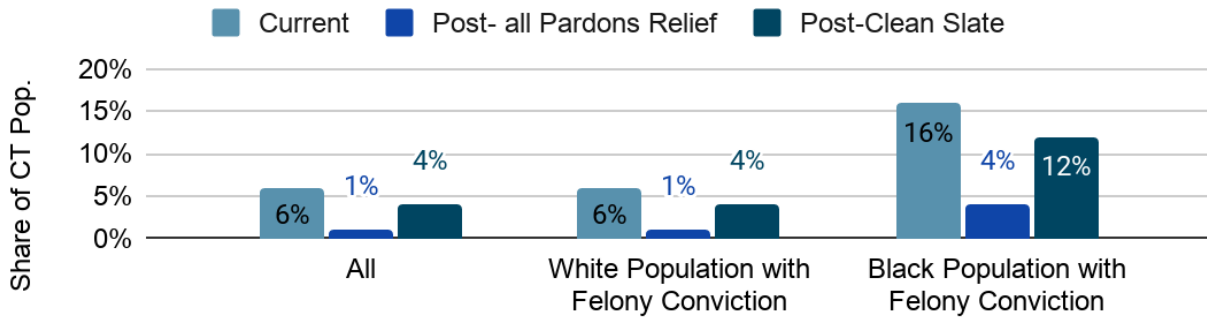
Appendix F: Race Statistics

Racial Distribution of Convictions Pre and Post Automatic Pardons / Clean Slate Clearance

CT's Criminal Population by Race

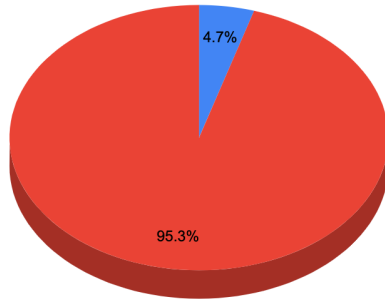


CT's Felony Population by Race



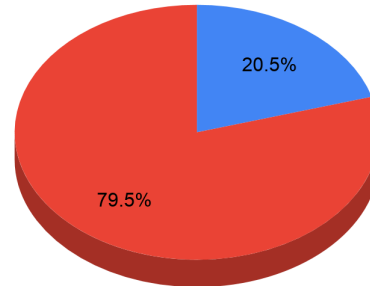
Views of the Population of People with Records

Race/Sex (State Population as of 2019)



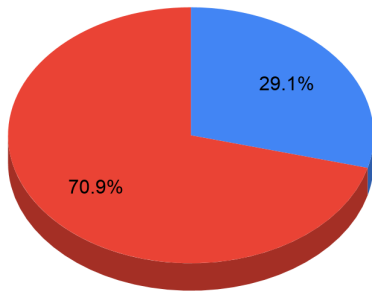
● Black Men Over 18 Years Old ● All Others

Race/Sex (Convictions as of Nov. 2020)



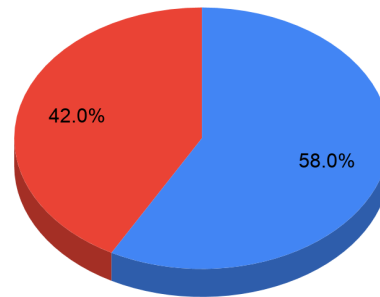
● Black Men Over 18 Years Old ● All Others

Race/Sex (Felonies as of Nov. 2020)



● Black Men Over 18 Years Old ● All Others

Race/Sex (Prison Population as of Dec. 2020)



● Black Men Over 18 Years Old ● All Others

Sources of data: <https://www.census.gov/quickfacts/CT> (Adult black male population share approximated based on the following calculation: Black population = 12.2%, Male = 48.8%, Over 18 years = 79.6%. $.122 \times .488 \times .796 = 4.7\%$). Source of incarceration data: <https://portal.ct.gov/DOC/Report/Monthly-Statistics>