

The Kentucky Second Chance Expungement Gap

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Key Findings

Est Population with criminal records: ~1.65M

Est Population with conviction records: ~1.2M

Est Population with criminal records eligible for record relief (share): ~85%

People with criminal records eligible for record relief (population): ~1.4M

Est Population with convictions eligible for sealing relief (share): ~91%

Est Population with convictions eligible for sealing relief (population): ~1.1M

Conviction sealing in last year of data (2022): ~4,630

Uptake rate of conviction relief: ~4.0%

Years to clear the conviction backlog: 242

Estimated aggregate annual earnings loss associated with clearable convictions: \$5.7B

Estimated reduction of the White-Black gap in people with conviction records: 69.4%

Estimated reduction of the White-Black gap in people with felony conviction records: 58%

*Does not include consideration of fines and fees

I. Abstract

Ky. Rev. Stat. Ann. 431.073, 431.0738 and 431.076 allow individuals whose criminal records meet certain conditions to expunge or seal their records. Ascertaining and applying the law to a sample of 42,731 criminal histories,² including about 93% with convictions records, and then extrapolating our results to the estimated population of 1.65M individuals in the state with criminal records³ and 1.2M individuals with convictions records, we estimate the share and number of people who are eligible for relief but have not yet received it. These individuals fall within the “second chance gap,” the difference between eligibility for and receipt of records relief.⁴ We also estimate the aggregate earnings loss associated with people eligible for relief

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² Our State Data Sample was provided by the Kentucky Administrative Office of the Courts as described in Appendix B.

³ This is a rough estimate obtained by calculating 24% of the 2020 total state population of 4.5M, reflecting the national average of the population with criminal records (out of ~329M Americans, ~80M have criminal records and $80/329 = \sim 24\%$); cf. Becki R. 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 (listing the total number of subjects with criminal records in the KY state repository as of Dec. 2018 as 1.6M, a number that does not take into account people that had left the state or passed away).

⁴ The “second chance gap” is defined in Chien (2020), *supra* note 1.

from convictions that have not yet received it.⁵ We did not model legal financial obligations or other out-of-record criteria. Racial disparities are significant in the Kentucky population of people with a criminal record, with an estimated 34% of white Kentuckians but 83.4% of Black Kentuckians having a conviction record based on state criminal history data and Census data (2021).

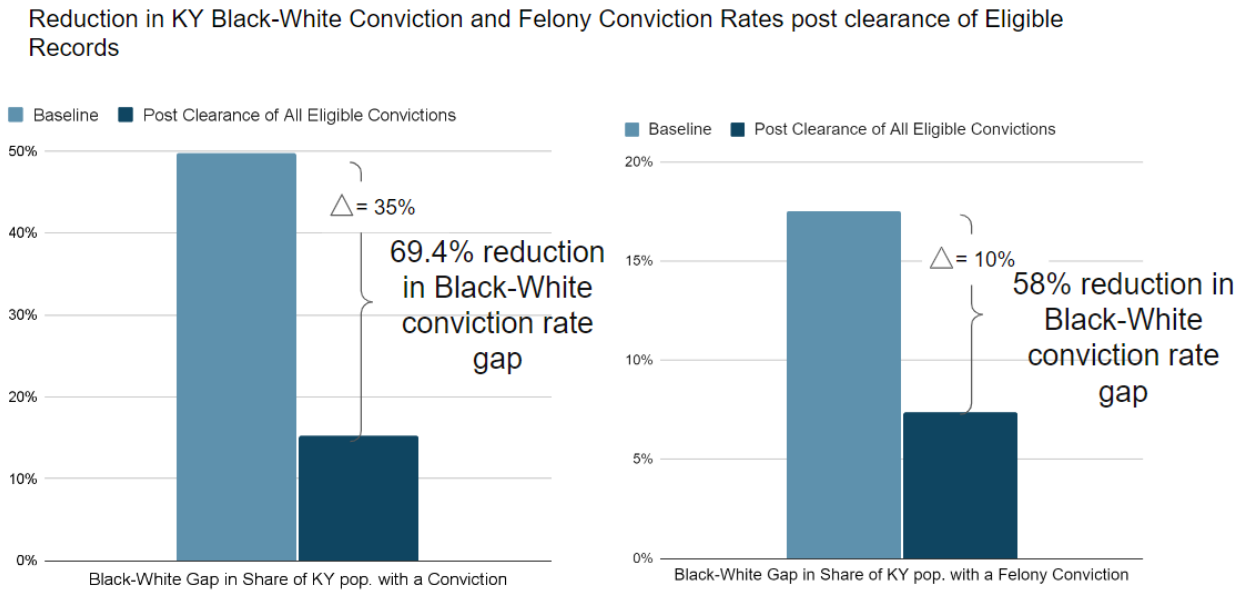
Table 1: Estimated Share of Kentucky Population with Convictions - Pre and Post- expungement of All Eligible Records - Race Analyses⁶

Metric	Conviction		Felony Conviction	
	Baseline	Post Clearance of All Eligible	Baseline - Any Felony	Post Clearance of All Eligible - Any Felony
Black	83.4%	23.2%	26.8%	10.3%
White	33.7%	8.0%	9.3%	2.9%
All	34.2%	8.4%	9.7%	3.1%
Black -White Gap	49.7%	15.2% (reduction of 69%)	17.5%	7.4% (reduction of 58%)

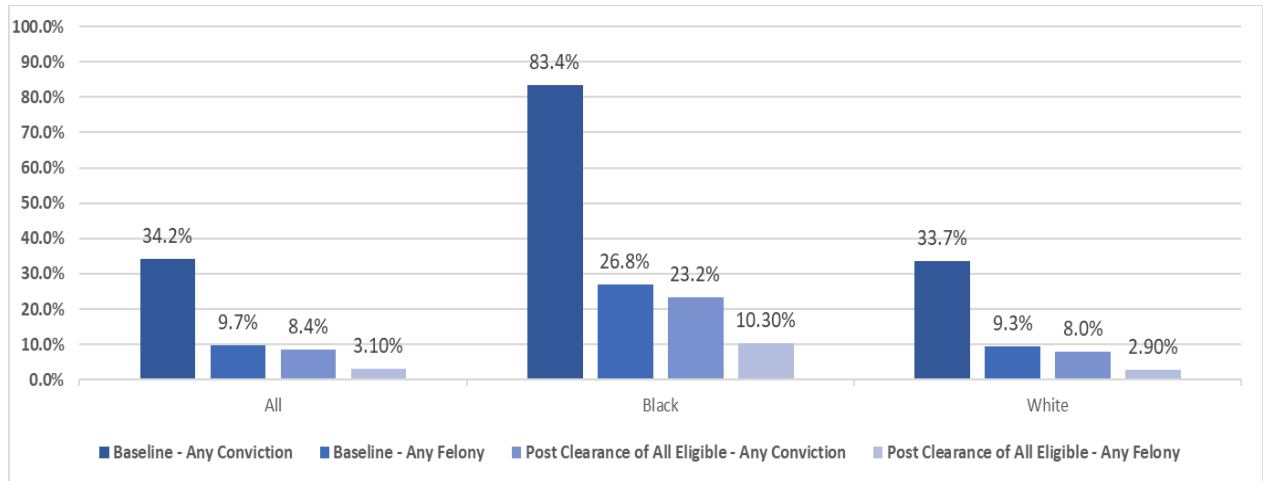
⁵ We rely on the methodology and estimates provided in Colleen Chien, et al., Estimating the Earnings Loss Associated with a Criminal Record and Suspended Driver’s License, 64 Ariz. Law Rev. 675 (2022) (estimating, based on review of the literature, the national average earnings losses associated with a misdemeanor and felony conviction to be \$5,100 and \$6,400, respectively. As averages, these numbers reflect the loss experienced by individuals with a range of criminal records, employment history, and employability). (paper available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4065920)

⁶ All race analyses shown/done based on State Data Sample described above in Appendix B and the racial distribution of people in the Kentucky population as reported by the Census (2021) (<https://www.census.gov/quickfacts/KY>). Due to deficiencies in the data (including coverage of expunged cases, deaths, and departures), the racial composition of people with records before and after “Clean Slate” clearance of everyone in the second chance gap cannot be estimated with complete certainty. As such the disparities shown should be regarded as ballpark figures.

Figure 1: Share of Kentucky Population with Convictions - Pre and Post- expungement of All Eligible Records - Racial Gap Analysis⁷



Likelihood of having a Conviction Record in KY by race



Based on the methods described above and detailed in Appendix A, we find that approximately 91% of individuals in our sample are eligible to seal at least one conviction, 76% of individuals with conviction records are eligible to seal all of their convictions, and that 85% of individuals

⁷ As stated supra, due to deficiencies in the data (including coverage of expunged cases, deaths, and departures), the racial composition of people with records before and after “Clean Slate” clearance of everyone in the second chance gap cannot be estimated with complete certainty. As such the disparities shown should be regarded as ballpark figures.

with criminal records are eligible to receive sealing or expungement relief, and 77% of individuals with criminal records are eligible to obtain relief for all records. Extrapolating to the total number of people with records in Kentucky, this yields an estimated 1.2M people with conviction records that are eligible for conviction relief and 1.5M people with criminal records that are eligible for any relief.

Combining historical statistics with our eligibility calculations, we estimate that 4.0% of people with conviction records eligible for sealing have received it, leaving 96% of people with conviction records in the Kentucky “second chance gap.” To ascertain the approximate annual earnings loss associated with Kenuckys’ second chance convictions gap, we multiply the number of people in the convictions gap 1.2M by \$5,100, a conservative estimate for the average loss in earnings yearly due to the second chance gap.⁸ We estimate that over \$5.7 Billion in cumulative earnings are lost every year in Kentucky due to convictions that could be, but have not been cleared.

Racial gap analysis

Impact on people with convictions

Currently, although 33.7% of White people have a conviction, the figure is more than double for Black people, 83.4%. However, if all eligible convictions were cleared, the White-Black gap in conviction rates would shrink to from 49.7% to 15.2% (23.2%-8%), representing a 69.4% reduction in the White-Black conviction rate gap.

Impact on people with felony convictions

Among people with felony convictions, the gap is even greater: 9.3% of White people have a felony while almost three times that share, 26.8% of Black people live with a felony conviction, contributing to a 17.5% gap in White-Black conviction and felony conviction rates. However, if all eligible convictions were cleared, the White-Black gap in conviction rates would shrink to 7.4% (10.3%-2.9%), representing a 57.8% reduction in the White-Black felony conviction rate gap.

Based on reported records, the state sealed about 4,630 conviction cases in the last year of available data (2022). At this rate, it would take about 242 years to clear the existing second chance sealing gap alone. However, due to deficiencies in the data—including that of disposition, charge type, and sentence completion criteria—and ambiguities in the law uncovered during our analysis, providing relief through “Clean Slate” automated approaches would require significant data normalization and cleaning efforts. We include, in Appendix F, statute drafting alternatives to avoid some of these problems.

Included in our report are the following: Methodology (Appendix A), Data Sample Description (Appendix B), Common Charges (Appendix D), Detailed Expungement/Sealing Statistics

⁸ \$5,100 is a national average that is associated with misdemeanors (see Id.), but the second chance gap in Kentucky includes individuals with both misdemeanor and felony convictions which makes the number a conservative estimate for application in Kentucky.

(Appendix E), Clearance Criteria Challenges and Legislative Drafting Alternatives (Appendix F).

II. Summary

Every time a person is convicted of a crime, this event is memorialized in that individual'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, Kentucky law allows people whose criminal records meet certain conditions to expunge and/or seal their records.⁹ However, we suspect the “second chance gap” in Kentucky—the share of people in the state eligible for relief who haven't expunged or sealed records because of hurdles in the petition process—is large. To carry out our analysis, we ascertained charge eligibility based on reading the code, inferred whether a person had a charge pending, and made assumptions about the estimated date of completion of the sentence based on the passage of time derived from practice. 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.

III. Key Findings

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

- In the state of Kentucky, an estimated 1.6M out of approximately 4.5M state residents have criminal records and 1.2M have conviction records.
- Of those with convictions, an estimated 91%, or about 1.1M people, are eligible for sealing of their convictions.
- Based on the assumption that our sample is representative of people with court records in Kentucky, we estimate that the current felony conviction population in Kentucky is around 343K people.¹⁰
- 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 150K total expungements/sealings and 44K total conviction sealings over the last 20 years. Based on these numbers and the calculations above, we estimate that 9% of people eligible to clear any record and that 4% of people eligible to clear their convictions have done so, leaving 91% and 96% of people in the expungement/seal uptake gap, respectively.

⁹ The relevant record relief law is described under “Kentucky Expungement and Sealing Rules” in Appendix A.

¹⁰ In 2010, the current felony conviction population in the state was estimated to be approximately 319K people. See Shannon, Uggen et. al, *The Growth, Scope, and Spatial Distribution of People With Felony Records in the United States, 1948–2010* (2017) available at http://users.soc.umn.edu/~uggen/Shannon_Uggen_DEM_2017.pdf.

- At current rates of sealing, it would take around 242 years to clear the existing backlog of eligible convictions.
- If all eligible convictions were cleared, the White-Black gap in conviction rates in the population would be reduced by 69.4%, and the White-Black gap in felony convictions would be reduced by ~58%.
- We estimate the aggregate earnings loss of the approximately 1.1M people with convictions in the Kentucky second chance gap is about \$5.7B.

IV. Conclusion

Based on our analysis, Kentucky’s expungement/seal laws allow for approximately 85% of those who live burdened with criminal records to get relief, 91% to get relief from convictions. But to date, we estimate that 9% of those eligible for any record relief and 4% of those eligible for conviction relief have actually received those remedies, leaving 90% and 96% of people, respectively, in the expungement/seal second chance gap. The conviction second chance gap translates into a cumulative annual earnings loss to the state of about \$5.7 Billion. If all eligible convictions were cleared, the White-Black gap in conviction rates in the population would be reduced by 69.4%, and the White-Black gap in felony convictions would be reduced by 58%.

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 record relief laws and developed rules logic, using legal research to develop lists of eligible and ineligible 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 and sealings historically granted. We then developed flow logic to model the laws, and applied the flow logic to the data sample in order to estimate eligibility shares in the sample. Finally, we extrapolated from the population in the sample to the total criminal population in the entire state to calculate number and share of individuals in the “current gap” (people with records currently eligible for relief) as well as the “uptake gap” (share of people eligible for record relief over time that have not received it). The descriptions below disclose several shortcomings in our approach, including our inability to account for outstanding fines or out-of-state charges that could potentially disqualify some individuals for relief, our 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 the entire population of individuals 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 below, 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 personal conditions (e.g., a lifetime limit of 2 convictions) that define eligibility. These are disclosed in every report in the “Kentucky Expungement and /Sealing Rules” section below.

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., misdemeanor or felony), degree, and the maximum possible duration of incarceration/amount to be fined for each offense. Once we had assembled the characteristics of each potentially ineligible offense, we checked each conviction and non-conviction charge for its possible disqualification. 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 remaining offenses that meet all of the relevant eligibility requirements were deemed eligible for relief. We did not consider the eligibility of offenses that fulfilled the unmodeled criteria referenced above, making our estimate both 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 was not 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 ~24% of Americans having a criminal record (derived from 329M total individuals in the population and 80M individuals in the nation 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 people that may have left the state since their disposition. 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 numbers 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 (which in turn is 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. Where sentence completion was not readily available, we assumed 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. 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 KY 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 current 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 it).

Sources

Source: [Kentucky CCRC \(12/22/2021\)](#) / [Ky. Rev. Stat. Ann. § 431.073 \(2019\)](#) / [Ky. Rev. Stat. Ann. § 431.078\(2\) \(2019\)](#) / [Ky. Rev. Stat. Ann. § 431.076 \(2020\)](#)
<https://kycourts.gov/AOC/Information-and-Technology/Pages/Expungement.aspx> | (last checked 7/27/22)

CONVICTIONS:

1. Misdemeanors:
 - a. Expungement is mandatory for a misdemeanor (or traffic or violation) conviction, or series of misdemeanors arising from a single incident, upon petition after a 5-year waiting-period starting from completion of sentence, if clean (no conviction during waiting-period, no pending charges). [Ky. Rev. Stat. Ann. § 431.078](#)
 - b. Expungement is discretionary for a series of misdemeanors not arising from a single incident, upon petition after a 5-year waiting-period starting from completion of sentence, if clean (no conviction during waiting period, no pending charges). [Ky. Rev. Stat. Ann. § 431.078](#)
2. Felonies:
 - a. Expungement available for pardoned felonies after 7-year waiting period from completion of sentence. Ky. Const. § 77; [Ky. Rev. Stat. Ann. § 431.073 \(1\)\(c\)](#)
 - b. Expungement available for listed Class D felony convictions upon completion of sentence and after a 5-year waiting-period starting from date of completion of sentence and clean (no convictions, no pending charges). [Ky. Rev. Stat. Ann. § 431.073](#).
3. Not eligible: Violations of Ky. Rev. Stat. Ann. §§ 189A.010 (DUI), 508.032 (domestic assault), or 519.055 (impersonating a peace officer), abuse of public office, a sex offense, an offense committed against a child, or an offense that resulted in serious bodily injury or death. § 431.073(1)(D). For misdemeanors, no sex offenses or offenses against a child. [Ky. Rev. Stat. Ann. § 431.078](#)
4. Lifetime or other Limits: Once per lifetime for felonies, [Ky. Rev. Stat. Ann. § 431.073\(4\)\(a\)](#), but effective June 26, 2019, this limitation restarted, so that a person who had a felony conviction expunged prior to that date is eligible for one more. For misdemeanors, no apparent limit.
5. Treatment of Multiple Convictions from the Same Incident: Permissible. [Ky. Rev. Stat. Ann. § 431.073 \(1\)](#)
6. LFO payment required for sentence completion: Restitution must be paid for completion of sentence.

7. Other Unmodeled Criteria or details: Juvenile eligibility, human trafficking eligibility, “voided & sealed” records for 1st felony possession of controlled substances, not expungement; we assumed all misdemeanors were eligible even though the court has discretion to deny petitions beyond the first misdemeanor expungement.

NON-CONVICTIONS:

1. Automatic expungement for misdemeanor and felony arrests/charges disposed of after July 15, 2020 where charges dismissed with prejudice or acquitted upon disposition with no waiting-period. [Ky. Rev. Stat. Ann. § 431.076\(1\)\(a\).](#)
2. Expungement for misdemeanor arrests/charges where charges dismissed with prejudice or acquitted, before July 15, 2020, after 60-day waiting-period from disposition. [Ky. Rev. Stat. Ann. § 431.076.](#)
3. Expungement for felony arrests/charges where no indictment was filed, before July 15, 2020, after 60-day waiting-period from disposition. [Ky. Rev. Stat. Ann. § 431.076\(1\)\(b\).](#)
4. Expungement for felony arrests/charges where charges dismissed without prejudice after 3-year waiting-period starting from date of disposition. [Ky. Rev. Stat. Ann. § 431.076\(2\)\(c\).](#)
5. Expungement for misdemeanor arrests/charges where charges dismissed without prejudice after 1-year waiting-period starting from date of disposition. [Ky. Rev. Stat. Ann. § 431.076\(2\)\(c\).](#)

Appendix B: Data Sample Description

Our data comprised a 5% sample of criminal histories chosen at random from dataset provided by the Kentucky Department of Information & Technology Services Research and Statistics, including case, charge, sentence, and defendant data for criminal cases filed from January 1, 1999 to June 22, 2022. CourtNet, which provides a summary of court cases statewide, was queried statewide for criminal cases with a case number type of Circuit Criminal, Felony, Misdemeanor, Traffic, and Non-Support, that included at least one felony or misdemeanor charge, and that were filed on or after January 1, 1999. Records of District Criminal cases from Jefferson and Oldham Counties prior to 7/1/2002 are incomplete. Prior to this date, these counties did not enter all District Criminal cases into the SUSTAIN database (which later became CourtNet).

Data Statistics	
Number of People in the Sample	42731
Share of People with Convictions	93%
Share of People with Felony Convictions	26%

Share of People with Misdemeanor Convictions in the Sample	85%
Share of People with Felony Charges in the Sample	28%
Share of Charges Missing Dispositions / Pending	4%
Share of Charges Missing Charge Types (“Other”)	7.4%

<Appendix C: None>

Appendix D: Common Charges

A. Top 10 Charges in our Dataset

<u>Charges</u>	<u>Number of Charges</u>	<u>Percentage of Charges</u>
Obs Theft By Deception-Incl Cold Checks Under \$300	12750	6.58
Obs Possession Of Marijuana	6214	3.21
Obs Theft By Deception-Include Cold Checks U/\$500	5586	2.88
Obs Theft By Unlawful Taking/Disp-Shoplifting	5557	2.87
Drug Paraphernalia - Buy/Possess	5412	2.79
Poss Of Marijuana	5260	2.71
Public Intoxication Controlled Subs (Excludes Alc	4601	2.37
Obs Tbut Or Disp Shoplifting U/\$500	4317	2.23
Assault 4Th Degree Domestic Violence Minor Injury	3953	2.04
Contempt Of Court	3909	2.02
Total share and charges associated with top 10 charges	57559	29.7%

B. Top 10 Expungeable Charges in our Dataset

<u>Expungeable Charges</u>	<u>Number of Charges</u>	<u>Percentage of Charges</u>
Obs Theft By Deception-Incl Cold Checks Under \$300	10648	7.86%
Drug Paraphernalia - Buy/Possess	5380	3.97%

Obs Theft By Deception-Include Cold Checks U/\$500	5331	3.93%
Poss Of Marijuana	5248	3.87%
Obs Possession Of Marijuana	4897	3.61%
Obs Theft By Unlawful Taking/Disp-Shoplifting	4612	3.40
Obs Tbut Or Disp Shoplifting U/\$500	4292	3.17%
Public Intoxication Controlled Subs (Excludes Alc	4248	3.14%
Disorderly Conduct, 2nd Degree	3430	2.04%
Obs Use/Possess Drug Paraphernalia, 1St Offense	2778	2.02%
Total number and share of charges associated with top 10 expungeable charges	50864	37.54%

Appendix E: Detailed Expungement/Seal Statistics

We obtained expungement statistics for CY 2009-2022 from the Department of Information and Technology Services, Research and Statistics, from the Commonwealth of Kentucky. CourtNet, which provides a summary of Kentucky court cases, was queried statewide for all documents of any of the types: Application to Vacate and Expunge Felony Conviction, Petition to Expunge Acquittal (Also applies to dismissed charges and felony charges in District Court not resulting in indictment). To calculate the gap we looked at petition based expungements, and distinguished between conviction expungement petitions (PEXC) from acquittal expungement petitions (PEXA), and excluded from our analysis petitions to expunge that did not specify the type of petitions covered (PEX); these totalled less than 10% of total petitions to expunge.

Appendix F: Clearance Criteria Challenges and Legislative Drafting Alternatives¹¹

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	Records relating to a first conviction ...voided upon the petitioner's successful completion of the sentence will be sealed by the	Disposition Date (+ X Years)

¹¹ Adapted from Chien (2020).

	often unclear whether or not outstanding fines and fees must be paid and whether they have been.	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).	
First conviction; qualifying conditions	Lack of unique identifier across precludes determination		Bless commercial identification approximation technique
Personal demographic traits 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 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.	Explicitly specify the qualifying crimes
Court-ordered conditions	Require individual review /check for any “court-ordered” conditions and compliance re: same		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”