

**CALIFORNIA COMMISSION ON ACCESS TO JUSTICE
VIDEO CONFERENCE MEETING MATERIALS**

Tuesday, April 24, 2018

10:00 a.m. – 2:00 p.m.

State Bar Offices in Los Angeles and San Francisco

TABLE OF CONTENTS

1.	Agenda for April 24, 2018 Access Commission Meeting	2
2.	February 9, 2017 Access Commission Meeting Minutes	4
3.	December 8, 2017 Access Commission Meeting Minutes	10
4.	Code for America Handout – Closing The Delivery Gap.....	17

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE**NOTICE AND AGENDA**

Tuesday, April 24, 2018

10 am - 2 pm

The State Bar of California

Toll-Free Call-In Number: 855-520-7605 | Conference Code: 800-482-3252#

180 Howard Street, San Francisco, CA 94105

845 S. Figueroa Street, Los Angeles, CA 90017

Questions regarding any agenda item should be directed to the Committee Coordinator(s), Stephanie Choy at 415-538-2249, Elizabeth Hom at 415-538-2143 or Chair, Hon. Mark Juhas at 415-538-2143.

The order of business is approximate and subject to change.

Committee meetings and items scheduled for a particular day may be moved to an earlier or later day to facilitate business of the Committee.

OPEN SESSION**I. WELCOME**

- A. Roll Call
- B. Call For Public Comment

II. CONSENT

- A. Approval of February 9, 2018 Meeting Minutes

III. CHAIR AND VICE CHAIR'S REPORT

- A. Report on Commission activities and any new business
- B. Report on April 2 Meeting with Bar Executives and Board of Trustee Members

IV. STAFF REPORTS

- A. Tips for Bagley-Keene Open Meeting Act Compliance
- B. IOLTA Revenue Report
- C. Staff Changes and other State Bar developments

V. COMMITTEE REPORTS**VI. PRESENTATION ON LANGUAGE ACCESS ISSUE IN FIELD OF WORKERS' COMPENSATION**

VII. STATE BAR STRATEGIC PLANNING AND APPENDIX I INQUIRY

- A. Overview
- B. State Bar Strategic Planning
 - i. Justice Gap Study- Speaker Carlos Manjarrez from Legal Services Corporation
 - ii. Explore recommendations re. Licensing of Paraprofessionals, including Limited License Legal Technicians
 - iii. Review of Rules that may impact Access to Justice, including rules governing Special Admissions, Lawyer Referral Service Certification, and other rules
- C. Review of Access to Justice Commission priorities, including current committees
- D. Discussion about Commission priorities

VIII. JULY BOARD OF TRUSTEES MEETING - PLANNING FOR PRESENTATION ON ACCESS TO JUSTICE POLICY INITIATIVES**IX. PUBLIC WELFARE GRANT ON REMOVING BARRIERS TO CLEARING CRIMINAL RECORDS IN CALIFORNIA: PRESENTATION BY CODE FOR AMERICA****X. COMMUNITY LIAISON UPDATES, IF ANY**

- A. State Bar of California Board of Trustees
- B. Council on Access & Fairness (COAF)
- C. Legal Aid Association of California (LAAC)
- D. Judicial Council

XI. ADJOURNMENT***CLOSED SESSION*****NONE**

In compliance with the Americans with Disabilities Act, those requiring accommodations at this meeting should notify Elizabeth Hom at 415-538-2143. Please provide notification at least 72 hours prior to the meeting to allow sufficient time to make arrangements for accommodations at this meeting.

The notice and agenda is available at <http://board.calbar.ca.gov/committees.aspx>

Alternate Locations:

Wiley W. Manuel Courthouse, 661 Washington Street, Dept. 107 Oakland CA 94607, 914 Capitol Mall, Sacramento CA 95814, Santa Clara University, School of Law, Charney Hall - Room 254, 500 El Camino Real, Santa Clara, CA 95053, 1215 K Street, Suite 1400 Sacramento, CA 95864

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2352 – (415) 538-2524/fax

NOTES AND ACTION ITEMS

Friday, February 9, 2018 | 10:00 a.m. – 2:00 p.m.

Access to Justice Commission Video Conference Meeting San Francisco and Los Angeles State Bar Offices

Roll Call

Commissioners

Judge Mark Juhas
Catherine Blakemore
John Adkins
A. Beverly Cole
David Daniels
Juan Gutierrez
Amos Hartston
Judge James Herman
Janis Hirohama
Judge Lisa Jaskol
Michael Levy
James Meeker
Lisa Pruitt
Judge Tony
Richardson
Panida Rzonca
Johanna Sobalvarro
Judge Erica Yew

Ex Officio

Justice Earl Johnson
Justice Ron Robie
Toby Rothschild

Public

Hilarie Atkisson
Judge Steve Austen
Salena Copeland
Carin Fujisaki
Lorin Kline

Guest Speakers

Gloria Chun
Carole Conn

Staff

Stephanie Choy
Rod Fong
Suzanne Grandt
Donna Hershkowitz
Vanessa Holton
Elizabeth Hom
Rodney Low
Sharon Ngim
Nicole Pereira
Leah Wilson

I. Welcome

A. Roll Call

Judge Juhas called the meeting to order and welcomed the attendees. Roll call was taken. A quorum was not present.

B. Call for Public Comment

Judge Juhas invited any member of the public to comment on any items on the agenda. No one from the public responded.

II. Consent

A. Approval of December 8, 2017 Access Commission Meeting Minutes

Without a quorum present, the December 8, 2017 Access Commission meeting minutes were tabled. A Motion to Amend the minutes to add Judge Lisa Jaskol as present at the meeting was not considered for the same reason.

III. Chair & Vice-Chair Report

Judge Juhas reported on the appointments process for 2018-2019. There are six Commissioners whose terms are expiring. Three are eligible for reappointment and Judge Juhas encouraged them to accept reappointment; there is one Commissioner who has served two three-year terms and is not eligible for reappointment. There will be one State Bar appointee vacancy for the Access Commission in 2018-2019. The deadline of February 5, 2018 has passed. Judge Juhas urges recruitment of suitable candidates. The applications should go to the Appointments staff person, then it will be sent to staff and the Access Commission for processing and consideration.

The terms for Chair and Vice Chair also expire, but as officers, they may be reappointed for another year. ExCom has asked Judge Juhas and Catherine Blakemore to stay for another year for continuity, and both are willing to do that. If anyone on the Commission wants a change in leadership, please communicate to Rod. The Commission will make recommendations for all appointments to the Board of Trustees, which approves the appointments.

There will be a meeting between State Bar leadership, Office of General Counsel, and Commission leadership to discuss Brosterhous and governance issues on April 2, 2018. Judge Juhas and Catherine Blakemore will attend on behalf of the Access Commission.

Given reduced staff capacity, Judge Juhas requested that Commission Members respond to staff requests in a timely manner, particularly regarding Bagley Keene deadlines.

Catherine Blakemore reported on the Administrative Agency report, which she reviewed with Michael Levy. They discussed the need to mirror the comments made by the Judicial Branch Support Committee on minimum standards. Catherine hopes to bring this updated report to ExCom and then to this full Commission for an upcoming meeting.

Catherine also reported on the Trust Fund Program evaluation "reboot." The process is complete and the goal now is to use the data collected by programs to show outcomes and return on investment. This will be helpful to demonstrate impact and results to the Board of Trustees, and to share nationally.

IV. Business

A. Bagley-Keene Open Meeting Act - refresher presented by Office of General Counsel Nicole Pereira and Suzanne Grandt

The Office of General Counsel provided a refresher training on Bagley-Keene Open Meeting Act requirements. They provided a handout and answered specific questions.

V. Presentation on Veterans Legal Issues

Office of Legal Services staff Elizabeth Hom reported on the office's work to implement AB 360, legislation that requires the State Bar to study legal services for veterans, report findings, and administer a program to coordinate pro bono civil legal assistance to veterans and their families who cannot otherwise afford legal services. Staff has met with organizations, including the Department of Defense, JAG, and legal services organizations. This project is in the initial stages of gathering information. Commissioners raised additional areas to study and include in findings, including veterans treatment courts, immigration issues and women in the military. Commissioners also made suggestions on other constituents to contact. Catherine requested a follow-up presentation when the report is finalized.

Staff from the Bar Association of San Francisco and its Justice and Diversity Center presented on their veterans initiatives. Director of Public Service Programs Carole Conn spoke of their Lawyer Referral and Information Service ("LRIS") Military Panel for Low-Income Veterans. Also, they have created VHub – Veterans Legal Resource Hub, in partnership with Swords to Plowshares, Legal Aid Society Employment Law, and Golden Gate School of Law Legal Clinic. This partnership was created at the request of the Veterans Administration to connect veterans to both medical and legal services. The LRIS triages calls, centralizes requests, and makes "warm" referrals.

Gloria Chun presented the services available for veterans through the Justice and Diversity Center ("JDC"). The Homeless Advocacy Project serves homeless people with severe mental health disabilities. Working with Swords to Plowshares, JDC is able to provide holistic services to homeless veterans and provide direct legal services as well as advocacy. JDC also hosts brief legal information and advice clinics to assist veterans.

VI. State Bar Updates/Staff Report

A. Staffing Update

The Commission welcomed Chief Program Officer Donna Hershkowitz. Rod Fong announced that his last day as Director of the Office of Legal Services is February 20; he is returning to academia. Stephanie Choy, who manages the Legal

Services Trust Fund Program, will serve as interim Director of the Office of Legal Services. The Commission thanked Rod for his service.

Stephanie Choy provided an update on the Legal Services Trust Fund Program, and noted that with respect to the Reboot project introduced by Catherine, the Trust Fund Program intended a report on 2017 data before the end of the year, and she thanked the Blue Shield Foundation for funding the work, and NERA, Jim Meeker and the State Bar Office of Research and Institutional Accountability for their assistance with the data analysis. Stephanie also reported that the Trust Fund Program is working on bank recertification to ensure that banks understand IOLTA and pay comparable interest rates.

B. BOT Strategic Planning Session – January 26

Rod reported on the Board of Trustees Strategic Planning Session. The Board of Trustees is focusing on justice gap and possible ways to increase access to the justice system. Carlos Manjarrez from the Legal Services Corporation spoke on a national Justice Gap report which was published in the Fall of 2017. He encouraged a Justice Gap study in California. Lisa Pruitt and Salena Copeland reported on Rural Access and some current methods of addressing the lack of legal services in rural areas, including law school loan repayment programs. The Board also discussed the Diversity Pipeline, reviewing various court rules and State Bar rules with an access to justice lens, including Special Admission Rules like Registered In-House Counsel and Registered Legal Services attorneys, the Lawyer Referral Service Rules Revision project, and the role of paraprofessionals, including Limited Licensed Legal Technicians and Legal Document Assistants, to fill the justice gap.

State Bar Executive Director Leah Wilson reported that the Board decided to focus on Loan Repayment Assistance Programs, Rural Access to Justice, review and revision of Special Admissions programs (Registered In-House Counsel and Registered Legal Services Attorneys) and Certified Lawyer Referral Service rules.

VII. Committee Updates and 2018 Work Plan Review

A. Judicial Committees

1. Judicial Branch Support – Judge Herman reported that the Committee met on January 22. They heard reports from Bonnie Hough on the Futures Report and Court Navigators.

B. Delivery System Support Committees

1. Amicus Curiae Standing Committee – This committee hasn't met. Amicus Committee will report at next meeting

2. Pro Bono Coordinating Committee – Co-Chairs Hilarie Atkisson, Keith Wurster and David Daniels discussed plans to move the work of the Committee forward with combined Standing Committee on the Delivery of Legal Services (“SCDLS”) and Pro Bono Coordinating Committee (“PBCC”) members. PBCC will keep the same name, and will invite former SCDLS members to participate. The goals will be to create subcommittees to focus on specific issues and initiatives as well as provide opportunity to share information.

3. Modest Means Committee –The Modest Means Committee plans to focus on adapting Colorado Bar’s Guide to Serving Moderate Income Clients for California, Technology in delivery of remote legal services, and evaluation and report on Incubator Projects.

4. Right to Counsel –This Committee plans to study the initiative in San Francisco, which would provide free representation for all tenants, regardless of income.

5. Rural Task Force –The Rural Task Force plans To write short white papers in lieu of updating the Rural Task Force Report. White papers will focus on rural attorney desert issue, natural disasters in rural areas, rural housing issues, and immigration in rural areas.

C. Communications, Outreach and Funding

1. Communications and Outreach Committee –*LA Magazine’s* March issue will focus on legal services themes. There will be an article on the right to counsel by Toby Rothschild and an article on rural access by Lisa Pruitt. David Daniels’ book review is also included.

2. Funding Committee –This committee has not met.

VIII. Liaison Updates

A. **Legal Services Trust Fund Commission (LSTFC)** – See State Bar updates.

B. Council on Access & Fairness (COAF)

Rod encouraged COAF and this Commission to collaborate. The Annual Pathways to Law Summit at USF is upcoming. Also, the California Law Academy Support Council (“CLAS”) Summit will be in June. There are now 22 high schools in California with law-themed classes. The curriculum is similar to Street Law curriculum. Each high school is tied to a bar association and there are opportunities to meet judges and lawyers. Students are low-moderate income. Twenty nine community colleges also participate. COAF looked at curriculum and compared those classes qualified to fit at a UC. It also studied Marjorie Schultz’ 26 factors of effective lawyers, created super-lawyer skill-sets, and tailored their studies around these markers. Another opportunity to collaborate with COAF is the area of public education. Rod also discussed community colleges and high

schools in rural areas. These efforts are coordinated and not in isolation. There is information about financial literacy and includes specific language and lessons in that area. Rod will follow up with the website link.

C. Legal Aid Association of California (LAAC)

LAAC provided an update on their advocacy efforts for legal aid funding. Legal Aid Day will take place on Feb. 28 in Sacramento. Forty volunteers will educate non-lawyer legislators about legal aid, using LAAC talking points, handouts, and offer information regarding impact of legal aid on clients.

LAAC is also working with Karen Lash on Justice in Government project, which is an organized effort to open up funding for legal aid, like VOCA, and has lobbied California Office of Emergency Services.

LAAC announced upcoming events:

- Feb. 22-23, 2018 –2018 Self-Represented Litigation Network Conference at the Judicial Council office
- March 28, 2018 –Third Annual Legal Aid Technology Summit at State Bar office in San Francisco

IX. Potential Topics for Discuss at Future Access Commission Meetings

The following topics were suggested for future discussion: status of Language Access Expansion, Administrative Agency report, Right To Counsel, and new funding for Self Help in the Courts.

X. Adjournment

There being no other business, Judge Juhas moved to adjourn the meeting.

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California – 180 Howard Street – San Francisco, CA 94105 – (415) 538-2352 – (415) 538-2524/fax

ACTION SUMMARY

Friday, December 8, 2017 | 10:00 a.m. – 2:00 p.m.

The State Bar of California

180 Howard Street, Room 4B, San Francisco, CA 94105

845 South Figueroa Street, Room 2A, Los Angeles, CA 90017

I. Welcome

A. Roll Call:

The Access to Justice Commission meeting was called to order by Chair, Judge Juhas. Roll call was taken and a quorum was established.

Commissioners

Judge Mark Juhas
Catherine Blakemore
John Adkins
Beverly Cole
David Daniels
Judge Timothy Dillon
Juan Gutierrez
Amos Hartston
Judge James Herman
Janis Hirohama
Judge Lisa Jaskol
Venus Johnson
Michael Levy
Deborah Moss-West
Lisa Pruitt
James Meeker
Panida Rzonca
Shumika Sookdeo

ExOfficio

Justice Ron Robie
Toby Rothschild

Board of Trustees

Mark Broughton
Hailyn Chen

Public

Salena Copeland
Carin Fujisaki
Loren Kline

Staff

Rodney Fong
Elizabeth Hom
Newton Knowles
Rodney Low
Sharon Ngim
Leah Wilson

B. Call for Public Comment

Public member: Name unknown - a woman, impressed with access to justice issues addressed by the commission, decided to attend the meeting at the Los Angeles State Bar Office and share her complaint about an attorney representing her in a workers compensation case. The complaint was denied by the State Bar and she wanted to appeal the decision. The Commission invited her to send her documents to the Commission for review.

C. Introduction of New Members:

Judge Juhas introduced Judge Timothy Dillon who is a family law judge in Los Angeles. He was a civil litigator before being appointed to the bench. Judge Juhas also

introduced Johanna Valle Sobalvarro, a certified Spanish interpreter, who will be advocating for language access.

- D. The minutes from the September 19, 2017 Access Commission Meeting Minutes were approved.

DRAFT

II. Chair & Vice-Chair Report

A. Joint Meeting with Programs Committee of the Board of Trustees and CCAJ Executive Committee

Judge Juhas, Catherine, Janis, and Judge Jaskol attended the Joint Meeting. It was a good opportunity to describe Access Commission's work to BOT and guide their thinking. Commissioners found it helpful to learn what issues CCAJ and BOT were both interested in, such as attorneys serving rural communities and loan forgiveness. Trustees thought there was a good dialogue and pointed out that in the Central Valley, one of the challenges is that there are insufficient number of courthouses. The Board was also interested in supporting victims of recent fires, plus addressing immigration issues.

B. LA Lawyer Magazine Articles:

Lisa reported submitting her article on rural access and is waiting to hear if it will be published. The next edition may be pushed back to February. Salena will follow up.

C. 100% Access Update –

Dag report that the \$50K Public Welfare grant will be transferred to Code for America to study the data that has been generated.

Venus will send a link to a study conducted of the expensive costs to obtain criminal records, such as lifescan fingerprinting. She has experience with Code for America in Alameda County and believes that their services are good for straightforward cases, but not for complicated cases, which may require more legal work.

Judge Juhas reminded that if this study is due by June of 2018, the research needs to be done by March. Prior to releasing the study, it should be submitted for review to Commission. Code for America is contracted to draft the report, but Dag will oversee the final study. Dag will see if Code for America could make a presentation at the February meeting.

III. State Bar Update/Staff Report

A. Leah reported on the BOT Strategic Planning Session in January. Since access to justice is now part of Mission Statement, the BOT will examine some challenges to access. First, how to quantify the justice gap and measure the impact of access efforts. Second, the delivery of legal services in rural areas, such as providing incentives for attorneys to work in remote areas and loan repayment programs. Also, are law school tuition so high that it discourages recent graduates from taking jobs in legal services? Lastly, staff will explore whether State Bar rules and regulations are preventing more attorneys from providing legal services and doing pro bono work.

B. Leah announced that fee statements were being posted and reminded Commissioners to make a Justice Gap donation.

C. Rod described the new organizational structure of the State Bar management and referred to a chart in the materials. He also described the restructuring of the BOT

committees. He discussed the work required by Governance in the Public Interest Task Force Report, specifically Appendix I, which requires the Program Committee to review the role, structure, and work of all sub-entities. The report must be completed by August 31, 2018. Staff is currently compiling materials and information for the BOT to review. This is a good opportunity to integrate the Commission's work with the State Bar.

Some Commissioners questioned the language used by the BOT describing the Commission as a "sub-entity", which contradicts the Commission's position as an independent entity. In response Leah reassure the Commission that the BOT is committed to access to justice and the work of the Commission.

- D. Disaster Recovery Work in OLS – Staff has been coordinating legal service providers in Northern California and a hotlines has been established with over 400 volunteer attorneys. In Northern California, consumer scam are occurring, including phony contractors, false insurance claims, identity theft, rent gouging, and lawyers preying on victims. LAAC and PLI have organized training for attorneys, including those wanting to volunteer. Wildfires recently broke out in Southern California and OLS staff is coordinating services in Los Angeles, Ventura, Santa Barbara and San Diego counties.
- E. Legal Services for Veterans – The State Bar has been charged with studying and coordinating legal services for veterans (AB360). Some of the complex issues include who is considered a veteran and qualified to receive veteran's benefits. The report is due at the end of 2018.
- F. Incubator Grant Report – After all the incubator grants were distributed and \$6,125 remained. Staff sought and received approval to use the balance of funds to conduct a study of the incubators. A discussion ensued on the need for incubators at San Joaquin Law School in Fresno.
- G. Proposed rule re finger-printing all attorneys – All attorneys may be required to get fingerprinted. Some attorneys will be exempt. Can the exemption be expanded to include legal services attorneys? The project is out for public comment and Commissioners were encouraged to comment. LAAC will draft comments and share them with the Commission. Deadline to comment is December 16, 2017. Catherine will prepare a draft letter on behalf of the Commission.

IV. Business

A. Keller & Brosterhous Discussion

Newton Knowles, OGC, described the decision in both cases and how it might apply to the Commission's work. In Justice Robie's opinion, most of the Commission's work is permissible for general funding because it supports the mission of the State Bar and does not run afoul of the prohibitions announced in Brosterhous II. Still, the Commission must be aware of its work in light of the decisions.

B. 2018 Work Plan Review

Comments and ideas about the work plan:

- Make services more accessible by using navigators and more court interpreters. Judicial branch committee will explore navigator programs.
- Work with California Judges Association to administer the Aranda Award. California Lawyers Association may take on the Loren Miller and Pro Bono Awards.
- Adequacy of funding for low and modest means clients. Examine Equal Access Funds and maintain other funds, such as cy pres and justice gap funds. Consider fees & fines.
- Look at strategies to increase rural access and update the Rural Report.
- Promote Access to Justice in media; educate low and modest means clients about their rights; conduct another Trust and Confidence Survey since nothing has been done since 2005.
- Diversity & Inclusion – currently the responsibility of the Council on Access & Fairness. Washington State Access Commission considers racial equity in its 2018-2020 State Plan. Should diversity be included in discussions about legal services and access to justice?
- Get Commission Strategic Plan approved in February.
- Commissioner should sign-up for Committees that they are interested in before February 9 meeting.

V. Committee Updates

A. Judicial Committees

- Judicial Branch Support – The Committee has not met yet and the chairs will work with staff to schedule a meeting.
- Language Access – no report

B. Delivery System Support Committees

- Amicus Curiae Standing Committee – The Supreme Court invited supplemental briefs on the *Desta* case. The Committee submitted a supplemental brief with the argument that without access to a court transcript, the litigant cannot prove an error and thus the litigant, who was granted a fee waiver, should also have access to a free transcript.
- Pro Bono Coordinating Committee – The Committee will meet next Tuesday. A survey was sent to the PBCC members to ascertain their priorities. Staff is drafting a report. Toby shared that a new 10 hr. curriculum for recent bar passers and the first hour is on and pro bono.
- Modest Means – Deborah Moss-West agreed to become chair of the Committee. Rodney Low provided a report on last week's Moderate Income Working Group.
- Right to Counsel – Amos Hartston reported that the Committee met and discussed the Shriver Report and the New York Court movement. The Committee is seeking new members.
- Rural Task Force - Next meeting is on January 19.

- Communications and Outreach Committee – no report
- Funding Committee – has not met yet.

VI. Liaison Updates

- Legal Services Trust Fund Commission (LSTFC)
Mary Tam reported on the grant making process and that the LSTFP looks forward to working more closely with the Commission.
- Council on Access & Fairness (COAF)
Rod reported for Pat Lee on the diversity and inclusion efforts of COAF, including the history of COAF to evolve into a “think tank” and a highlight of the current projects and initiatives.
- Legal Aid Association of California (LAAC)
Salena reported on the upcoming Self-Represented Litigation Conference at the Judicial Council on February 21-23.

VII. Potential Topics for Discuss at Future Access Commission Meetings

- Presentation on legal services for veterans.

VIII. Final Meeting Schedule for 2018

Meeting	Type/Location	Date/Time
First Meeting	Video Conference Meeting <i>LA and SF State Bar Offices</i>	Friday, February 9, 2018 10:00 a.m. – 2:00 p.m.
Second Meeting	Video Conference Meeting <i>LA & SF State Bar Offices</i>	Tuesday, April 24, 2018* 10:00 a.m. – 2:00 p.m. <i>* This is a date change from previous version</i>
Third Meeting	Video Conference Meeting <i>LA & SF State Bar Offices</i>	Friday, July 13, 2018 10:00 a.m. – 2:00 p.m.
Fourth Meeting	In-Person Planning Meeting <i>San Francisco Office</i>	Friday, September 21, 2018 10:00 a.m. – 4:00 p.m.
Fifth Meeting	Video Conference Meeting <i>LA & SF State Bar Offices</i>	Thursday, December 6, 2018 10:00 a.m. – 2:00 p.m.

IX. Adjournment

There being no further business, Judge Juhas adjourned the meeting at 2:00 p.m.

DRAFT

CLOSING THE DELIVERY GAP

Making good on the promise
of California's record clearance
laws to secure clean slates for
five million Californians

CODE *for*
AMERICA

By Jenny Montoya Tansey
and Katherine Carlin, Esq.

April 2018



Acknowledgements

Code for America’s Clear My Record team is deeply appreciative of the trust that our public defender and legal aid partners have placed in us. Clear My Record would not exist without their generosity in letting us shadow them, making time for research interviews, and for their commitment to working with us to build a record clearance process that can scale to meet the needs of all Californians with criminal records. Thank you to the East Bay Community Law Center, and to the public defender’s offices of Alameda, Contra Costa, Fresno, Marin, San Diego, San Francisco, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Ventura, and Yolo counties. A special note of thanks to Aleem Raja, who was our first attorney champion, and to Serina Rankins, Brandon Greene, Vinuta Naik, Lindsay Horstman, Ellen McDonnell and Danielle Vanderlip for going above and beyond to get this project off the ground.

Code for America is deeply grateful to the Public Welfare Foundation and the State Bar of California for the financial support that made writing this report possible.

We are also grateful to other government and community partners in this effort who have helped with research and advice on Clear My Record, including the California Judicial Council, the California Department of Justice, Californians for Safety and Justice, Checkr, OneJustice, Root and Rebound, Legal Services for Prisoners with Children, Community Legal Services of East Palo Alto, Neighborhood Legal Services of Los Angeles County, and many others. This work was made possible with financial support, and strategic advice, from the Laura and John Arnold Foundation, Google.org, the California Wellness Foundation, the Passport Foundation, and the State Bar of California.

Finally, we would like to thank the over 6,200 and counting Californians with criminal records who we have been honored to serve on their journey to record clearance. Your openness about your struggles, your incredible determination to achieve your goals, and your hard-earned wisdom and resilience inspire us to do this work everyday.



Contents

05	Introduction
11	Part I. People with Criminal Records and Barriers They Face
19	Part II. The Process of Applying for Clean Slate Services through CMR
24	Part III. California Counties
27	Part IV. Policy Recommendations and Proposed New Models
31	Part V. Conclusion
32	Appendix

“I’m in need of help to clear my record so I can get hired at a foundry. To make it happen, my background must be cleared by this month.”

CMR Applicant in Alameda County

Introduction

Code For America and the Clear My Record project

An estimated 29% of people in the United States have a criminal record.¹ Some of them have serious felonies, but the majority have arrests or convictions for low-level offenses. Long after they have served their time or resolved their cases, those individuals face significant barriers to employment, education, housing, and other opportunities due to their records. Record clearance remedies - like expungements, sealing, dismissal and reclassification of convictions as lower-level offenses - can help reduce those barriers and improve outcomes of people with convictions. In fact, **a 2017 study** of East Bay Community Law Center’s clients showed that record clearance increased an individual’s average earnings by an astonishing 33%. To help those individuals who have completed their sentences move on with their lives, California voters and legislators have each taken action in recent years to expand eligibility for reclassification, sealing, and dismissal of convictions. California now boasts some of the broadest record clearance opportunities of any state in the country, with an estimated five million people eligible for some form of conviction relief.²

Recognizing the tremendous difference record clearance could make in the lives of everyday Californians, **Code for America** started the **Clear My Record project** to bridge the gap between the promise of our state’s laws and the relief that

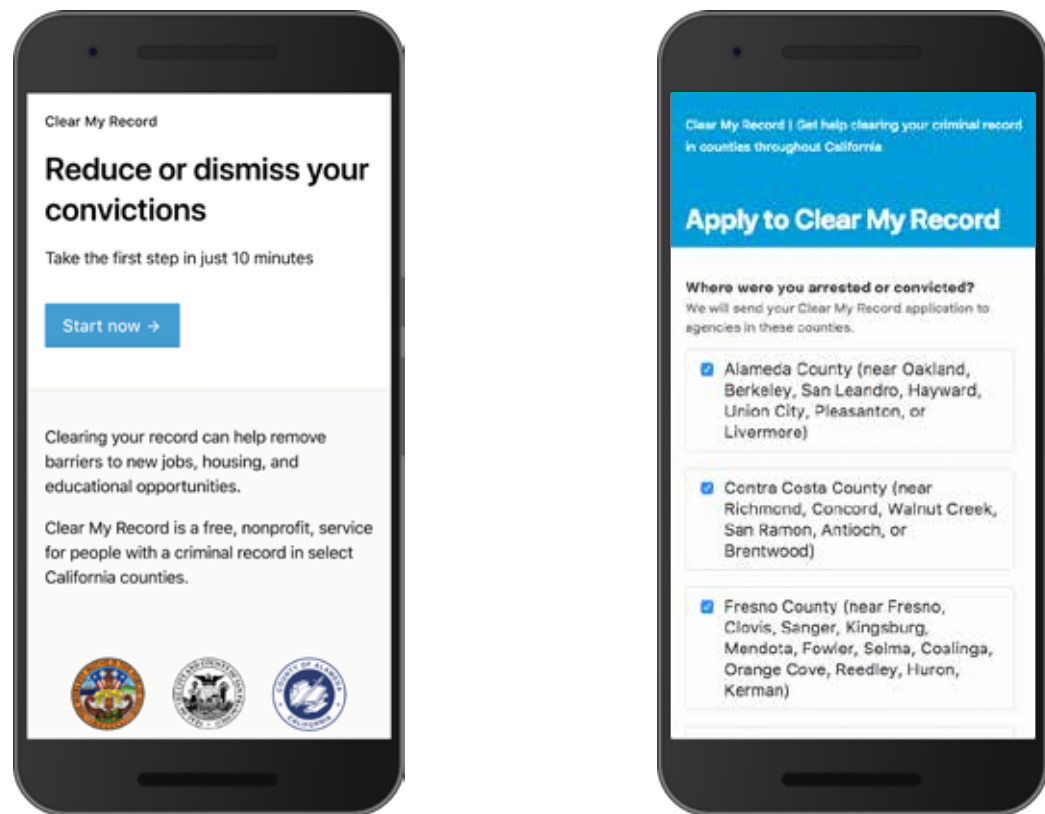
people with criminal records actually receive. While millions have been spent by philanthropy, and state and local government to implement recent record clearance laws like Prop 47 and Prop 64, only a fraction of those eligible for record clearance have been able to successfully navigate the process of petitioning. Multiple factors including lack of awareness, complex processes for securing legal assistance, accessing criminal records, and filing a petition that differ from county to county make the process challenging for both applicants and the attorneys supporting them.

California now boasts some of the broadest record clearance opportunities of any state in the country, with an estimated 5 million people eligible for some form of conviction relief.

After shadowing attorneys, support staff, and clients in San Francisco’s Clean Slate Clinic to better understand the challenges, Code for America first launched **Clear My Record** (CMR). CMR is a free, online application for record clearance remedies in partnership with the San Francisco Public Defender’s Office in April 2016. Launching CMR meant that low-income individuals who wanted to clear up their criminal records in San Francisco no longer had to arrange work schedules, childcare and transportation to attend a legal clinic on Tuesday mornings at the Public Defender’s Office. Now they could get the process started by taking 8 minutes to fill out a web form on their phone. We designed CMR so that for simple cases, that web form would

1. Poverty and Opportunity Profile: Americans with Criminal Record, The Sentencing Project, (Nov. 2015), <http://www.sentencingproject.org/wp-content/uploads/2015/11/Americans-with-Criminal-Records-Poverty-and-Opportunity-Profile.pdf>.

2. For purposes of this report, “record clearance remedies” in California means relief under Prop 47, Prop 64, and Penal Code Sections 1203.4, 17(d), and, 4852.



give the attorney everything they needed to access the individual’s criminal record and file the record clearance petition. After reviewing it, with a couple of clicks, CMR would generate an email to send automatically back to the client from their attorney, letting the client know that they appeared to be eligible and that the attorney would update them when the court had processed the petition. For more complex cases, we developed plain language instructions and tools to compose a personal statement, gather supporting documents and communicate about the case.

Through developing and operating this service online, Code for America began to collect data about people accessing the record clearance process and their experiences navigating it. We used this data to iterate and further develop the service. For example, when we realized that 40% of CMR applicants in San Francisco had a conviction in another county in California, we started reaching out to other legal service providers, and expanded to Contra Costa and Alameda counties in October 2016, in order to offer applicants a more complete remedy. Today, people with records can fill out a

single webform to start the record clearance process in 14 counties in California, covering 32% of the state’s population. We have helped over 6,200 people apply to clear their records, and we have helped our partners become more efficient and deliver better outcomes for applicants. Our attorney partners report that they are able to serve 58% more applicants per week after partnering with CMR, and that CMR helps them achieve court outcomes for their clients an average of 4 weeks faster.

Making policy come true

At Code for America, we believe that justice doesn’t just mean enacting good policy, it means getting the implementation right. We want everyone who is eligible under California law for a record clearance remedy to receive it when they become eligible. Today, the vast majority of people who are eligible for record clearance have not received it, and those that do receive it struggle with the collateral consequences³ of their records for years before

3. Collateral consequences are additional civil penalties and disqualifications that result from criminal convictions. They affect a convicted person’s employment and professional opportunities, and access to government programs.

applying successfully. More than one fifth (22%) of CMR applicants surveyed reported that it had been over ten years since they had completed all post-conviction requirements, including parole or probation. Unfortunately, a years-long delay from the time an individual becomes eligible to when that individual clears their record is likely to have a huge negative effect on lifetime earnings.

We are proud of our work and especially the work of our attorney partners. But much more will be required in order to make the leap from thousands of individuals served to millions of eligible records cleared. While working with public defenders is critically important, it is not a model that can scale to serve the estimated five million Californians eligible to reduce or dismiss convictions. Access to attorneys promises to be an even bigger barrier when we consider the tens of millions of Americans eligible for record clearance remedies nationwide. Nationwide, public defenders offices are understaffed, underfunded and many are at a breaking point.⁴ We view our partner attorneys as heroic for their efforts to assist Californians to live without the stigma and economic consequences of old convictions, but it is unreasonable to expect that attorneys have much more capacity to do so, while also delivering on their core defense work.

Moving forward, in addition to operating the existing version of Clear My Record, Code for America will be investing in two new efforts:

Prototyping a self-help service:

Many smaller jurisdictions in California do not have public defenders, and even in some larger jurisdictions, the public defenders’ offices often do not or cannot provide clean slate services. Where services exist, they are limited due to resourcing constraints, staff turnover, or factors beyond the county’s control. That’s why Code for America has begun researching and prototyping an alternate pathway for record clearance petitioners that does not require full representation by an attorney. We’re

4. Laird, L. (2018). Starved of money for too long, public defender offices are suing—and starting to win. [online] ABA Journal. Available at: http://www.abajournal.com/magazine/article/the_gideon_revolution/ [Accessed 8 Feb. 2018].

experimenting with building out a scalable pro per (self-represented) applicant service that petitioners with simpler cases can use to file online without individual assistance from the public defender’s office or legal aid. This will preserve clean slate attorneys’ capacity to serve petitioners with more complex issues.

Supporting policy reforms that expand access:

We are also interested in supporting policy efforts that can radically expand access to record clearance remedies. Through operating Clear My Record and doing research with CMR applicants and attorney partners, we have gained an in-depth understanding of the bottlenecks and points of failure in the existing process across much of the state. Through data-driven experimentation, we have also learned about opportunities to improve the system. **This report is part of our effort to help make the case for policy reforms that are driven by the aggregate experiences of real Californians seeking to clear their records.**

This report is based on four sources of data:

- Code For America’s Clear My Record web and mobile analytics - including website data, intake form data, and other service data - generated between April 2016 and November 2017
- An eight-state survey targeting members of the public with criminal records about how those records have impacted their lives (655 complete responses)
- A CMR applicant-only survey fielded to over 5,500 people who applied on our site between April 2016 and December 2017 (586 complete responses)
- Extensive internal research including applicant interviews, attorney partner interviews and in-person site visits to public defender’s offices

The collection and analysis of this data provides the most current and comprehensive information available today on the experiences of Californians seeking to clear up past convictions on their records.

Key findings and insights

While California’s efforts to expand opportunities to dismiss and reclassify old convictions have lead to higher rates of record clearance, the vast majority of eligible and motivated Californians are still missing out.

27% of Californians with criminal records who we surveyed indicated they had attempted to clear up their record versus 21% of those with criminal records in other states. Likewise, 15% of Californians reported they had successfully cleared or reduced the charges on their records, versus just 10% of non-Californians.

Most people pursue record clearance to reduce barriers to employment.

Half of CMR applicants said the primary reason they were applying was their job search. An additional 11% said they had a pending job offer and needed to resolve issues on their background check to start work.

California’s record clearance process takes a long time.

Clear My Record applicants who reported that they had succeeded in clearing up at least one conviction reported that the process took 5.6 months, on average. In the context of a job search or other time-sensitive issues for this extremely economically vulnerable population, this length of time creates unnecessary and significant hardships for both individuals and families.

Old court fines and fees are significant barrier to record clearance.

People with fees of less than \$500 are 2.6 times more likely to clear up at least one of their convictions than those who owe more than \$500.

Difficulty accessing a copy of one’s criminal record is also a barrier.

Of those who reported that they had dropped out of the process, 39% said that it was “too hard” to get a copy of their criminal record and they still didn’t have it. Less than 8% of respondents in that category found it “very easy” to get a copy, whereas 35% of people who had successfully cleared at least one conviction from their records reported that it was “very easy” to get a copy of their records.

At least one in seven Californians lives in a county that does not provide legal assistance with the record clearance process to low-income petitioners.

Our research indicates that at least 25 and as many as 32 counties in California do not currently provide legal assistance to individuals working to clear up criminal records. Growing numbers of these individuals are actually entitled to record clearance remedies due to changes in the law, and the mark of post-conviction records is economically and otherwise disenfranchising, leaving this population reliant on public defenders to help them.

Low staffing levels in counties that do provide clean slate services hamper the ability of attorneys to get petitioners through the process efficiently.

In Clear My Record’s partner counties, teams with three or more dedicated public defender or legal aid staff are able to deliver services to clients an average of five times faster than smaller operations.

“Never in a million years did I think I’d go through the system. It still haunts me to think that I made such a stupid mistake... Getting my record cleared gave me peace of mind. It allowed me to forgive myself for the mistake I made. It’s still something I’m ashamed of, but I’ve taken it as a lesson learned and something I never want to experience again.”

CMR applicant in San Francisco County

Part I: People with Criminal Records and Barriers They Face

What do we know about people with criminal records?

An estimated 70 million - or about 29% of - U.S. adults have an arrest or conviction history (BJS Survey, 2014), including over 11 million Californians. There is scant publicly available information about who those 70 million people are and what is included in their criminal histories. A 2017 Demography study provided the first published estimate of the number of people in the United States with felony convictions. The authors estimated that in 2010, within the non-incarcerated population, 6.2% of adults (9.6% of adult men) and 18% of black adults (25% of adult African American men) had a felony conviction, for a total of 16 million non-incarcerated people with felony convictions nationwide.

6.2% of adults (9.6% of adult men) and 18% of black adults (25% of adult African American men) had a felony conviction

Taken together, these two studies suggest that about 54 million people in the U.S. have criminal records on which the most serious item is a misdemeanor conviction or an arrest. Unfortunately, detailed state-level data on people with criminal records, including their demographic profile, and the number and type of convictions they have, is not publicly available in California today. In general, states and the federal

government collect and analyze information about events (for example, arrests and dispositions) rather than about people.

In order to supplement the existing research about people with criminal records and their experiences, Code for America fielded a survey to over 4,400 people in nine states¹ across the country, including California, that have record clearance remedies available under state law. We reached 655 respondents who were willing to say they had been arrested as an adult. 61% of those respondents said they had an adult criminal conviction, and 24% reported at least one felony conviction. For 82% of those with records, five or more years had passed since their last arrest or conviction.

Not surprisingly, we found that people with felony convictions had experienced more barriers over the years - 50% of that group said their record had been “very challenging” or had caused a “major negative impact on their life,” with a total of 86% of people with felonies reporting their record had caused problems, from minor to serious. While the challenges faced by people without felonies were less severe on average, half of people with misdemeanors reported at least some problems due to their record. Among people with arrest-only records (no convictions) 25% indicated that their criminal records had posed problems. These findings are supported by other recent research that indicates people with any kind of criminal history experience wide-ranging penalties and disruptions in their

1. The states surveyed were California, New York, New Jersey, Michigan, Ohio, Kentucky, Missouri, Minnesota and Colorado.

lives, especially given the widespread availability of criminal background information,² and people convicted of felonies face even more substantial and frequently permanent consequences.³

Among the challenges that people reported experiencing were with finding a job (62%), getting a professional license or certification (28%) and finding housing (25%). The barriers that people with criminal records encounter have ripple effects out to their families, their communities, and our country. A study by the Center for Economic and Policy Research estimated that the “employment penalty” experienced by people with felony records reduced the nation’s gross domestic product in 2014 by \$78 to \$87 billion, or about half a percentage point of the total GDP of the United States.⁴ Because of racial disparities in the justice system, that economic hit is more severe for communities of color, exacerbating an already devastating wealth gap between white, black and Latino families. (White family wealth was seven times greater than black family wealth and five times greater than Hispanic family wealth in 2016.⁵)

The survey results also suggested that California’s existing efforts to enact and implement broad record clearance remedies have been somewhat effective at expanding access to those remedies. 27% of Californians with criminal records who were surveyed indicated they had attempted to clear up their record versus 21% of those with criminal records in other states. Likewise, 15% of Californians reported they had successfully cleared or reduced the charges on their records, versus just 10% of non-Californians.

2. Sarah Lageson. 2016. “Found Out and Opting Out: The Consequences of Online Criminal Records for Families.” The ANNALS of the American Academy of Political and Social Science 665(1):127-141.

3. Ewald, A. and Uggen, C., The Collateral Effects of Imprisonment on Prisoners, Their Families, and Communities, The Oxford Handbook of Sentencing and Corrections, Edited by Joan Petersilia and Kevin R. Reitz, 2012; Uggen, C., and Stewart, R. (2015). Piling on: Collateral consequences and community supervision. Minnesota Law Review, 99(5), 1871-1910.

4. Fact Sheet: Research Supports Fair Chance Policies, National Employment Law Project, August 2016. Available at [link](#).

5. Nine Charts about Income Inequality, Urban Institute, 2017, visited February 6, 2018 at [link](#).

Who are Clear My Record applicants?

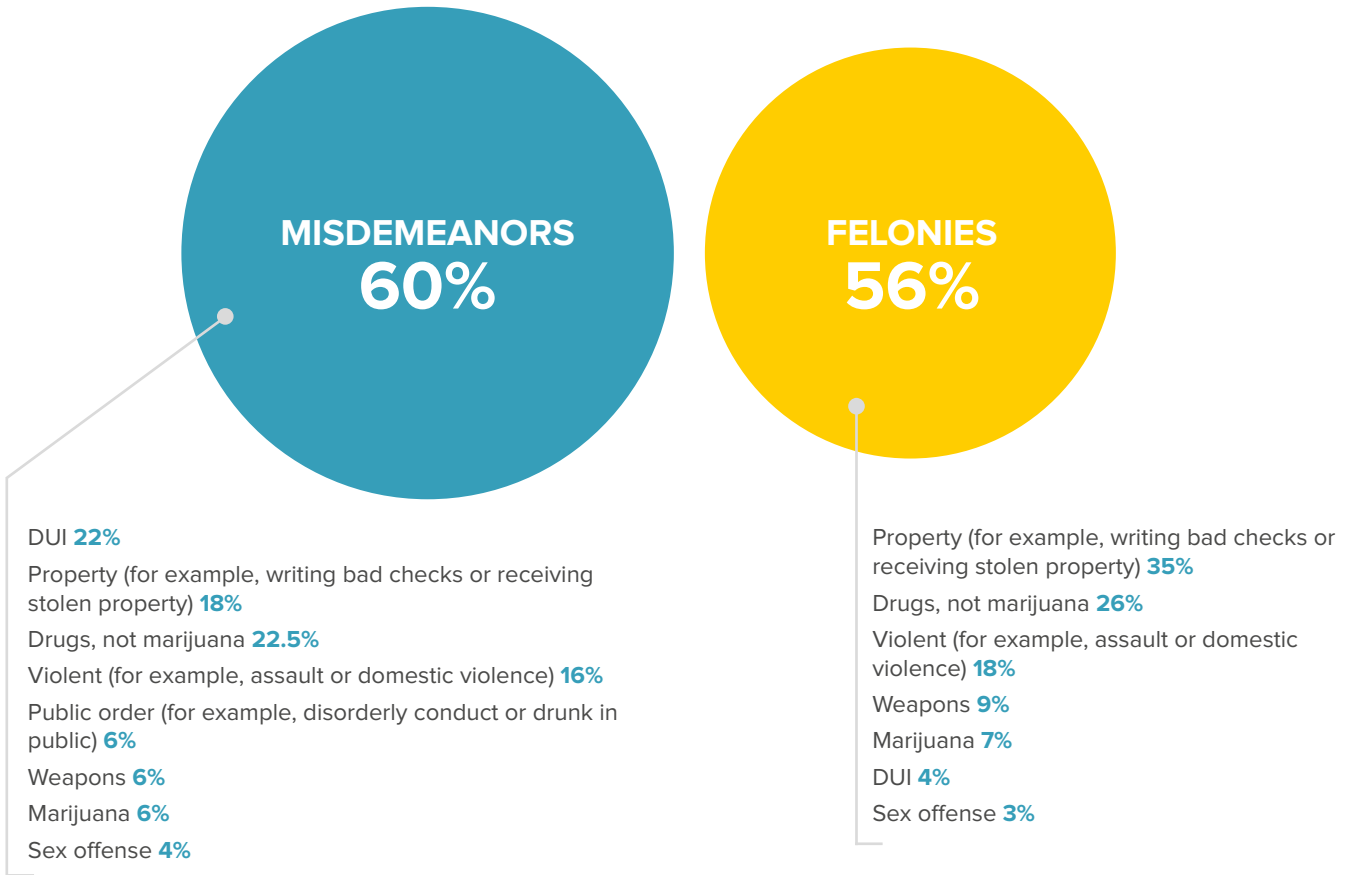
Code for America has served over 6,200 individuals with criminal records in 14 California counties - Alameda, Contra Costa, Fresno, Marin, San Diego, San Francisco, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Ventura, and Yolo. Through both the data that we collect on the Clear My Record application, as well as 586 applicant responses to a survey we sent in January 2018, we have learned a lot about who accesses the record clearance process through Clear My Record.

CMR applicants come from all racial and ethnic backgrounds: 40% identify as white; 29% are black or African American; 24% are Hispanic; and 7% are Asian American. While criminal records have negative effects for a broad cross section of society, evidence indicates that this burden is especially heavy for people of color. Multiple studies show that “minority status compounds the stigma of a criminal record.”⁶ As one would expect based on the disproportionate rates at which black people are impacted by the justice system, African Americans apply to CMR almost 4 times the rate that would be expected given their relative share of the California adult population. Latinos, in contrast, are underrepresented as CMR applicants relative to their share of California’s population and their involvement with the justice system. We suspect that this is in part because CMR serves counties that - in the aggregate - have a Latino population that is lower than the state average. To a lesser extent, the fact that CMR is not currently available in Spanish may also reduce the number of Latino applicants.

48% of CMR applicants are women, higher than one might expect given that men are about three times more likely to have a felony conviction. In fact, there is a growing body of research that indicates that despite women’s lower rates of arrest and conviction, they are disproportionately impacted by collateral consequences. Because women tend to work in

6. Pager, D., Western, B. and Sugie, N. (2009). Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records. The ANNALS of the American Academy of Political and Social Science, 623(1), pp.195-213.

What types of convictions are CMR applicants seeking to clear up?



jobs where background checking is most common, or even legally required, women with convictions may have a particularly hard time securing employment.⁷ For example, female-dominated fields like retail and the service sector tend to be less willing to hire without a background check than are male-dominated fields like manufacturing and construction.⁸ In addition, women are more likely to work jobs - like teaching and nursing - that require a license (contingent on a background check) than men are.⁹ Consistent with the research, female CMR survey respondents said they experienced,

7. Young Women of Color with Criminal Records: A Barrier to Economic Stability for Low Income Families and Communities, Community Legal Services of Philadelphia, 2014. https://clsphila.org/sites/default/files/issues/Young%20Women%20with%20Criminal%20Records%20Report_0.pdf

8. Bushway, S. D. & Stoll, M. A. & Weiman, D. Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America New York: Russell Sage Foundation, 2007. Available at [link](#).

9. Nunn, Ryan, Occupational Licensing and the American Worker, The Hamilton Project, Brookings Foundation, April 2016. Available at [link](#).

on average, more severe challenges due to their criminal record than men did. Female respondents also reported higher average levels of motivation to clear their record than men did.

CMR applicants have, on average, very low incomes and most would likely qualify as indigent in California courts. Based on reported household size and gross income, we estimate that two in three CMR applicants would be eligible for food assistance from CalFresh. For the vast majority of CMR applicants, paying for a lawyer to file a record clearance petition is not financially feasible, considering attorneys fees for a single dismissal or

reclassification can easily run **\$2,000 - \$10,000**. Paying down court fines and fees can also pose tremendous challenges for low income record clearance applicants, an issue we will discuss in detail later in this report. In our interviews with applicants and prospective applicants, they consistently reported that they were willing and able to do anything to get their records cleared - except pay money.

Clear My Record applicants have, on average, very low incomes and most would likely qualify as indigent in California courts

The average age of our applicants is 38. Applicants typically have not been actively involved with the justice system for a number of years - 70% said they wrapped their case up - including completing the requirements of probation or parole - four or more years ago. The challenges people with records experience are surprisingly long-lasting. One in four applicants say more than 10 years have passed since the conclusion of their case or sentence. People who were last convicted more than 10 years ago continue to experience lasting effects of criminal records. For instance, a Milwaukee-based study found that job applicants with ten-year old criminal records received 33% fewer callbacks than those with no criminal records.¹⁰ In California, where protections exist to limit third-party background information to the most recent seven years, those with decade-old records still indicated on our CMR survey that their aims were primarily about searching for jobs. This raises the possibility that people may not be aware that these old convictions do fall off of records, or, more alarmingly, that these convictions are not

10. Leasure, Peter and Stevens Andersen, Tia, Recognizing Redemption: Old Criminal Records and Employment Outcomes (March 21, 2017). N.Y.U. Review of Law and Social Change, The Harbinger, Vol. 41, 271-286.

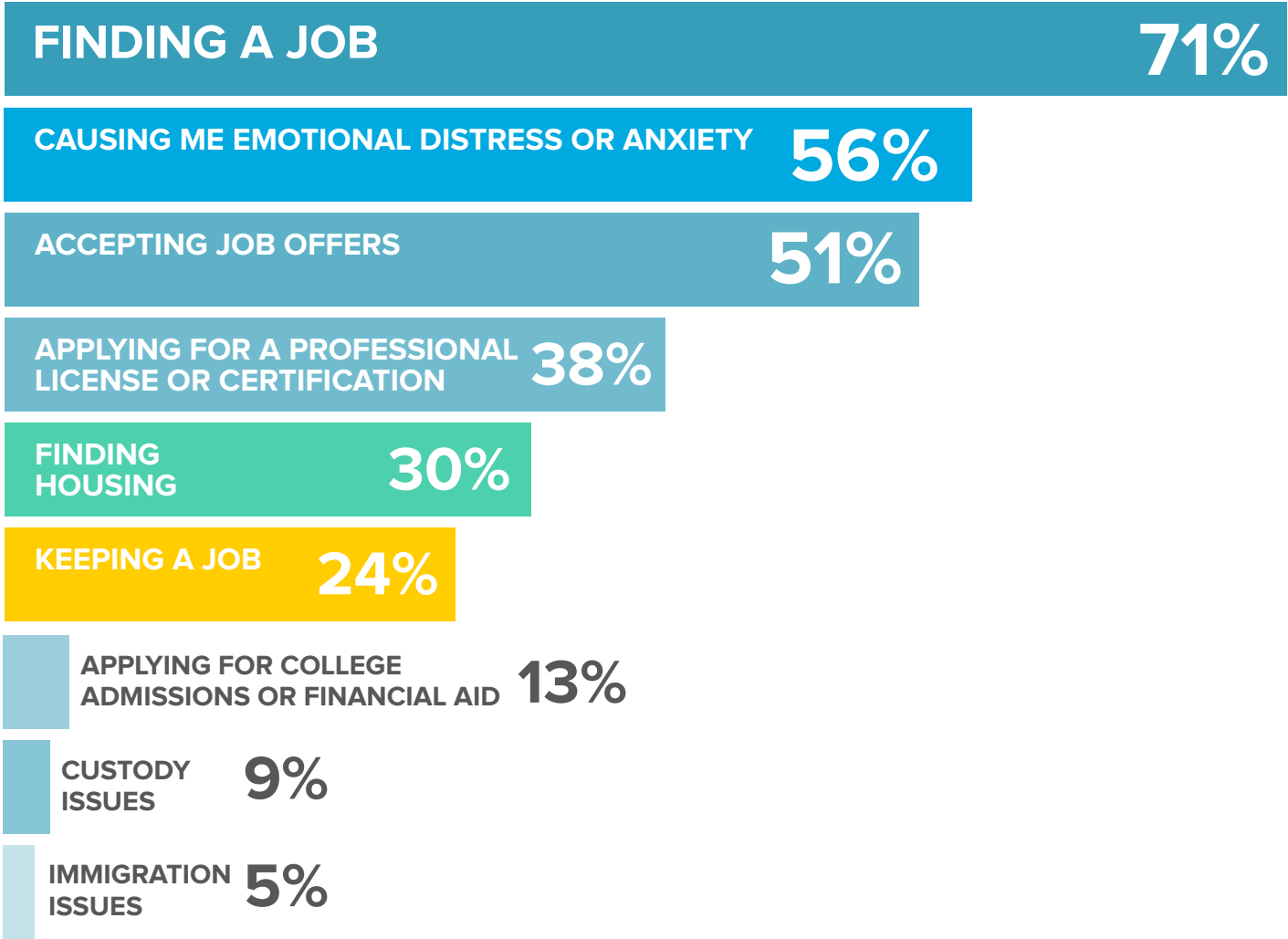
actually disappearing from third-party background check databases.

Of the 569 people who completed the CMR applicant survey, 84 took the time to write narratives about their experiences with collateral consequences. A woman in her 60s wrote of losing her license as a registered nurse due to her past conviction. A man in his 50s with a decades-old property conviction spoke of how the economic stress of not being able to earn above-poverty wages contributed to the suicide of his partner. A woman in her 30s wrote about the humiliation of being escorted from her building after misdemeanor convictions--from more than six years ago--were discovered by her employer. A man in his 30s said that he felt trapped in a job with an abusive and unethical employer. Due to convictions that stemmed from addiction several people spoke of shame and fear and an inability to move forward.

Because their records are interfering with their lives in critical ways, the record clearance process is reported as a very high priority for applicants. 70% of surveyed CMR applicants chose the highest priority option available on the survey, reporting that “it is extremely important for me to clear up my record as quickly as possible.” One example of the type of urgent issues applicants have is starting a job - one in ten CMR applicants said their primary motivation for applying was that they had a pending job offer. Many others who were job searching reported losing out on jobs due to their record. Unfortunately, the record clearance process today typically takes too long - about 5.6 months, on average - to help applicants with their time-sensitive needs related to unemployment, eviction, college admissions or legal proceedings (like custody hearings).

We surveyed applicants about their criminal history and used their responses to analyze CMR applications by conviction level and type. With respect to the level of convictions, 36% of CMR applicants surveyed said they applied to CMR

Challenges that criminal records have posed for CMR applicants



to clear up misdemeanors, 32% percent said they applied to clear up felony convictions, 24% said they applied to clear up both felonies and misdemeanors, and 8% weren't sure. Our interviews with applicants shed light on this confusion: many CMR clients said that they did not receive clear explanations about their pleas when they were convicted. About half - 48% - of CMR applicants said they were seeking to clear up more than one conviction.

Did applicants to Clear My Record have successful outcomes in the record clearance process?

In our survey to CMR applicants we asked about where they were in the record clearance process. The largest group of respondents - 48% - reported that they were still working through the process. 31% of respondents told us that they had been able to clear up one or more convictions from their criminal record. A smaller group (21%) indicated either that they had gotten stuck in the process and had given up for now, or that they had been denied or told they were not eligible.

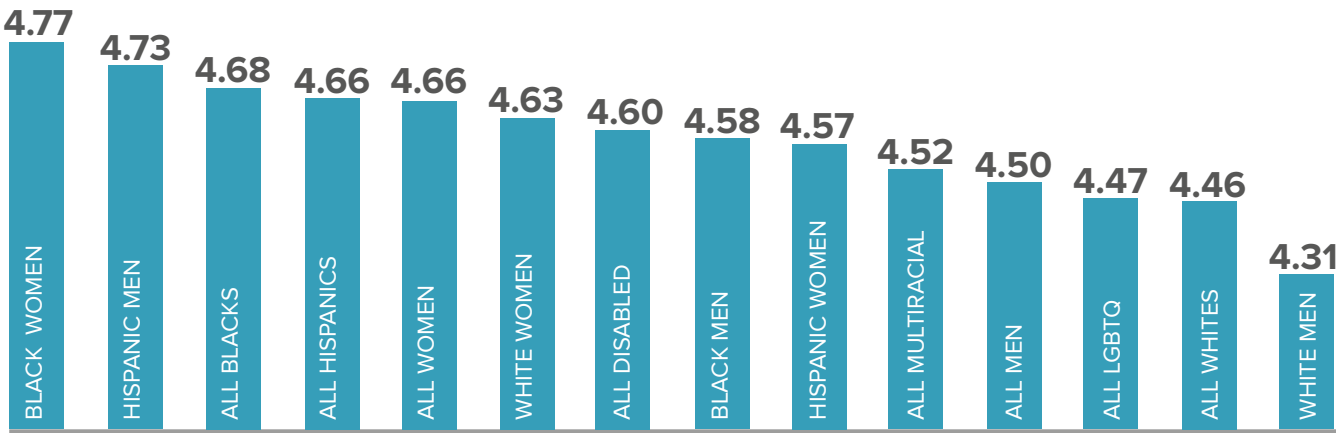
70% of surveyed applicants chose the highest priority option available on the survey, reporting that “it is extremely important for me to clear up my record as quickly as possible.”

While it might be expected that those who were most motivated to clear up their records would have higher success rates, we did not find that to be the case. The survey did not show that the higher one’s stated motivation to clear up their record, the more successful an applicant was to secure a successful outcome. This may be because people within every demographic group within our data set indicated, on average, that clearing up their record was either “a high priority” (4), or “extremely important.” (5)

Similarly, we did not find any correlation between success rates and people’s perceptions of how serious the problems caused by their records were. Note that white men, as a group and on average, perceive those problems to be the least serious of any group. People with serious disabilities (mental, emotional and/or physical) indicated that they felt the most harmed by their criminal records.

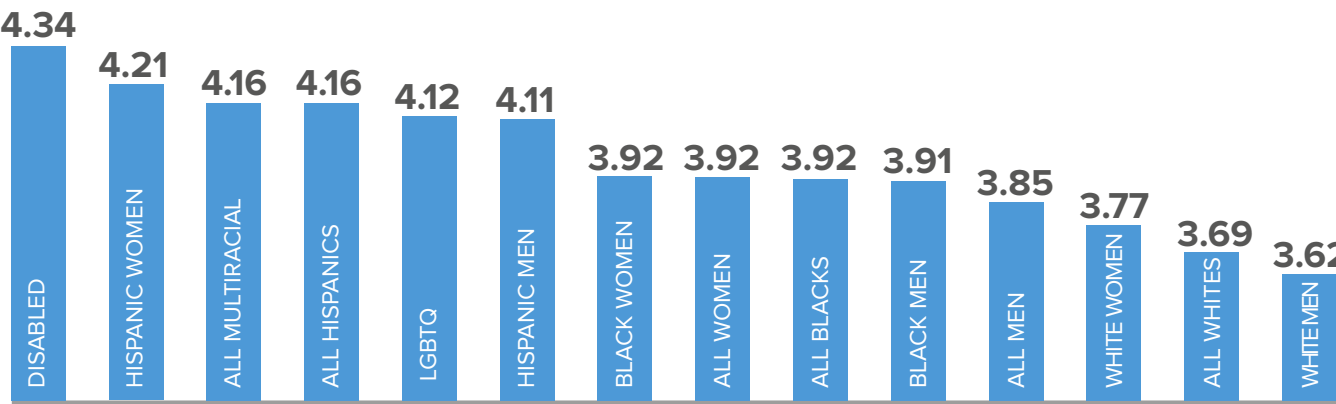
Expressed motivation to clear up record

Mean likert scores in response to the question “How important is it to you to clear up your record?” Responses “1. I don’t really care.” “2. It would be good, but it’s not a priority.” “3. I am ready to get this done.” “4. This is a high priority for me.” and “5. It is extremely important to clear up my record as quickly as possible.”



Perceived severity of collateral consequences

Mean likert scale (1-5) scores in response to the question “How big of a problem has it been for you to have a criminal record?” Responses: “1. It hasn’t been a problem.” “2. It has caused a little bit of a problem.” “3. It has been challenging at times.” “4. It has been very challenging.” and “5. It has had a major negative impact on my life.”



“I’ve completely turned my life around. My last conviction was almost four years ago. Since then I have completed residential treatment, been employed at the same job for the last three years and I have a 13 month old daughter. I have also signed up for college classes this fall and it would mean the world to me to get help clearing my record.”

CMR Applicant in Contra Costa County

Part II. The Process of Applying for Clean Slate Services through Clear My Record

Where do CMR applicants come from and how do they access CMR?

Most eligible Californians who are experiencing challenges based on their criminal records never start the record clearance process. The first step in the record clearance process is gaining awareness that there are record clearance remedies available. The next step is learning how to start the process of petitioning for those remedies. In our outreach work and our research, Code for America has found that people usually decide to apply to clear their records when they are acutely experiencing the challenges of having a record; for example, when they are looking for a job, an apartment, or they are going back to school. Employing outreach methods that target people who are going through those challenging experiences has been effective for us in helping people get to that first step.

For our team, the following strategies provided a consistent, cost-effective return: 1) craigslist jobs ads promoting CMR, 2) partnerships with background check companies and their customers to promote CMR to job seekers with convictions, and 3) links on partner websites. Using these strategies, we were able to begin consistently delivering about 650 applications per month to our partners at a cost of \$3.50 per application. More information about the outreach strategies we tried is in Appendix A.

To inform the process of redesigning the CMR homepage in spring 2017, we interviewed 10 people with criminal records about their process of making the decision to apply to CMR. Based on those interviews we developed a mental framework for how individuals decide to apply after they become aware of the record clearance opportunity.

Our clients asked:

Is this real? Prospective record clearance applicants consider the legitimacy of the CMR website. They look for positive signs that the service is real and not a scam, and that the people and organizations behind the application are “legit” and trusted. Our .org domain name, our friendly pictures, and our list of county partners all help boost the perceived legitimacy of CMR.

Is this for me? Prospective applicants also consider questions of identity when deciding to apply. For example, they look for information about who CMR helps and whether that matches their identity and needs. For example, they want to understand whether CMR can help people with the types of convictions that they have, or whether CMR can help people with their specific goals - like addressing an immigration issue or getting a specific type of work. We suspect that landing pages tailored to more specific segments of applicants - for example, tailored to people with DUI convictions, students, or to people who want to drive for services like Uber could further boost applicants’ sense that CMR is for them.

What am I getting into? Prospective applicants seek to understand what the process looks like and what it will require of them. For example, they want to understand the steps involved, whether it costs money, where their personal information goes and who will see it.

CMR applicants are split between desktop (56%) and mobile phone (41%) in terms of the device they use to fill out the CMR web form, with tablets a distant third (3%). We prioritized designing CMR for mobile because we know that low-income people and people of color are likely to rely on smartphones to access the internet. A 2015 Pew study found that the internet access of 13% of U.S. adults with an annual household income of less than \$30,000 is “smartphone-dependent,” compared with 1% of those whose total family household income is \$75,000 or more.

People usually decide to apply when they are acutely experiencing the challenges of having a record; for example, when they are looking for a job, an apartment, or they are going back to school.

Unfortunately, most county clean slate “online applications” other than CMR are PDFs, which are not mobile responsive and are therefore not practical for people who use a mobile device as their primary method of accessing the internet. The importance of an accessible online application is underscored by data we collected about when people apply: the majority (51%) submit their applications outside of “business hours,” defined as after 5:00 pm, before 9:00 am, or on weekends.

Post-application, attorneys use CMR to more efficiently communicate with their clients using text or email. We ask applicants to tell us how they would like to communicate about their case: 49% prefer email, 20% prefer text, 18% prefer both email and text, 8% prefer a phone call, and 5% do not state a preference. When we have discussed communication methods in research interviews,

applicants that prefer text or email have explained that these methods are faster and more reliable for them than calls or paper mail, which seems especially important for those striving to complete the process as quickly as possible. Those that prefer email to text perceive email to be a more private mode of communication on a topic that some don’t discuss openly with the people around them. In a survey we fielded to CMR legal aid and public defender partners in the summer of 2017, we learned the attorney perspective on this issue. Several attorneys noted that the ability to easily text and email their clients through the CMR platform had saved them time. They also told us that clients were more responsive to text and email requests than they were to phone and paper mail. We suspect that the CMR-enabled text and email communication platform is one reason CMR applicants complete the record clearance process four weeks faster than those who use other channels to apply.

The Role of Attorneys

Every morning, CMR automatically sends an email to each of our attorney partners with links to the applications that were submitted from applicants with convictions in their county the previous day. The attorneys and their support staff then review the applications, cross-referencing with their local court’s database to check eligibility. 14 of our 15 attorney partners then use CMR platform to text or email the client to let them know the status of their case and what the next steps are.

The majority of CMR survey respondents indicated that they were either actively working through the process of clearing up their records (48%) or that they had given up somewhere in the process (14%). Of those actively working through the process, just over 20% said that they were waiting to meet with or hear back from their attorney. More than one in four applicants who were working through the process reported being lost and unsure of where they were at in the process.

The level of staffing of our attorney partners has a big impact on how quickly applicants hear back. In

the four CMR counties that have a team of three or more staff delivering clean slate services, applicants hear back within an average of five days, with many getting a response the day after they apply. The remaining CMR counties, where teams of one or two people are responsible for the entire clean slate operation, applicants wait an average of 25 days to receive a communication from their attorney. In interviews with attorneys, we’ve heard about how challenging it can be to provide timely and detailed communication when dealing with high caseloads, especially given the need to keep multiple case management systems and tracking systems updated with communications and notes about the record clearance process.

The CMR platform is designed to facilitate essential communication between attorneys and clients. We believe that proactive communication can help increase efficiency for attorneys, because clients who receive all the details and updates they need in a text or email will be less likely to call the office. When focused attorney work time is interrupted by unscheduled client phone calls, it can be difficult to maximize productivity working through cases.

Communication from attorneys correlates strongly with successful outcomes - of those CMR applicants who reported to our survey that they had dropped out of the process prior to receiving any resolution, more than 80% did not think that they had been assigned an attorney. This surprising finding tells us that we need to better understand how CMR clients experience the attorney/client interaction (we suspect that applicants might not perceive the difference between an attorney texting them through the platform and the platform itself auto-generating a message to them) and whether sparse or delayed communication from attorneys may be causing people to give up. Of those who had successfully cleared at least one of their convictions, 36% believed that they had not been assigned an attorney.(100% of these people had attorneys working for them!)

In order to develop and iterate on CMR’s communication feature, our team interviewed attorneys and CMR applicants about what good

communication looks like to them. From applicants, we learned that longer, detailed messages are preferred, even when the client prefers text messages over email. If the applicant receives a message indicating they are eligible for record clearance, they look for answers to the following questions to be included in that message:

- What did you find under my name and which convictions are you going to clear?
- What will I be able to tell employers once this is done?
- How long is this process going to take?
- What do I need to do to move this process forward?
- A clear indication of the status of my case and how many steps I have left.

If they learn they are not eligible, they want to know:

- Why isn’t my case moving forward?
- What do I need to do next in order to move this process forward?

From attorneys we learned that they also want to and do give applicants detailed information about their cases, but that the complexity of the record clearance process can sometimes make that complicated. For example, if an attorney is working on more than one conviction or if the applicant has convictions in multiple counties, it can be especially difficult to give an accurate estimate of how long the process will take.

The CMR survey shows that the biggest barrier to clearing up one’s record is a perceived lack of access to counsel. This insight about the difference an attorney makes in these cases is a strong indicator that the process will work most effectively if everyone has a communicative advocate to guide them, or if far fewer people need an advocate in the process at all. Unfortunately, there are simply not enough low-cost attorneys in the state to shepherd every person through this process who needs record clearance services.

The Impact of Fees and Fines

Under California Penal Code section 1202.4(m), California requires that people pay any fines, fees and/or restitution owed before they can be considered to have successfully completed the terms of their probation. Individuals who have successfully completed probation can petition for a dismissal of their conviction as a mandatory remedy, meaning that the judge must approve it if they are eligible. Those who didn't successfully complete probation, including because they still have court debt, can apply for dismissal as a discretionary remedy. Based on interviews with our attorney partners, the likelihood that a discretionary remedy will be approved varies widely from county to county and judge to judge. Discretionary petitions can require extra steps, such as composing a letter to the judge and gathering letters of recommendation and other documents to support dismissal. Where the attorney perceives the likelihood of discretionary approval as low, she will advise the applicant to pay off their court debt before applying in order to go through the mandatory process.

As discussed in Section I, searching for a job is the primary motivator that leads CMR applicants to apply to clear up their records. Stigma in the job market from having a criminal record creates a downward pressure on people's ability to find work long after they have completed their sentences. Further hindering the search for employment are the problems associated with people both losing their professional licenses because of their conviction, and also not being able to qualify for new licenses because of a conviction. There is a reinforcing feedback loop operating here, where people are unable to pay fines and fees to complete the terms of their probation, so they face difficulty finding stable employment, which makes it very difficult to save money to pay off fines and fees.

Many current CMR applicants are unsure of whether they owe fines and fees, and how much those fines and fees may cost them. Of those who were sure that they had to pay fines and fees (22% of survey respondents), nearly 4 in 10 reported that they have been, to date, unable to pay the fines and fees

owed in order to clear up their records. 36% of CMR applicants were ultimately able to pay their fines and fees, but having to do so delayed the process for half of them. Two thirds of the remaining group, those unsure about what they might owe, reported being worried about their ability to pay. That worry is not surprising given that two thirds of CMR applicants report that they are living in households where combined monthly incomes qualify them for CalFresh assistance.

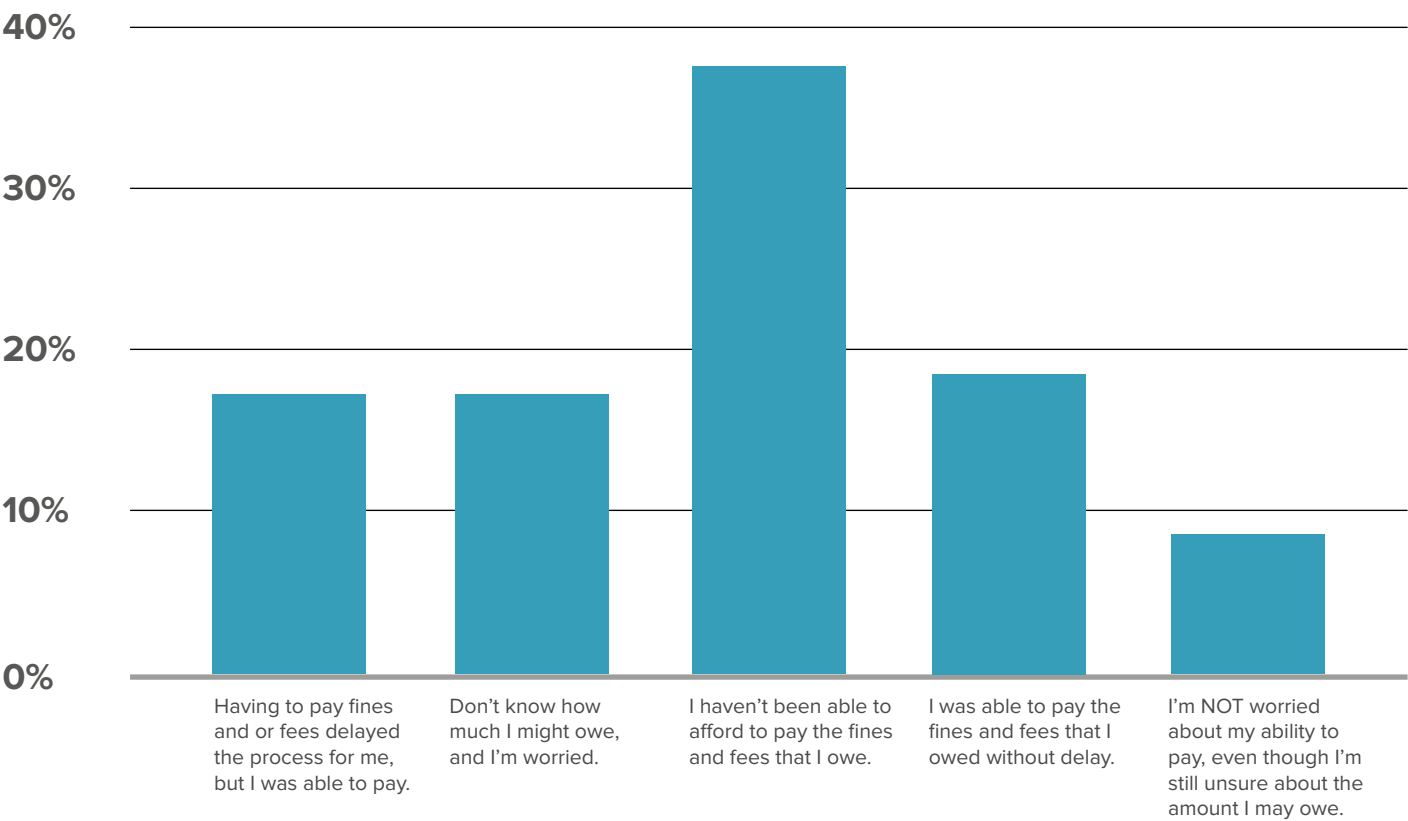
Of those who were sure that they had to pay fines and fees, nearly four in 10 reported that they have been, to date, unable to pay the fines and fees owed in order to clear up their records.

CMR clients report high amounts owed for fines and fees. More than 25% of survey respondents who owed fees owed more than two thousand dollars, with many listing the amount they owed as much higher, even topping \$100,000 in numerous cases. 75% of people who were working through the process or who had dropped out of the process prior to any resolution owed more than \$500. In analysing the survey data, we found that whether or not someone owed more than \$500 was a strong predictor of whether or not they would be able to clear up at least one conviction from their record. People with fees of less than \$500 are 2.6 times more likely to clear up at least one of their convictions.

Tracking down documentation

A lack of uniformity exists across the state with regards to how CMR clients access their criminal records. Some clients have attorneys who retrieve their criminal history information from local court records systems, and other clients are informed that they must track down their records themselves. To understand whether this requirement is

How old court fines and fees impact people's ability to clear their record



creating a disparity in successful outcomes, we asked respondents about their experience retrieving records. Four in 10 CMR applicants were asked to get their records. Of those who reported that they had dropped out of the process, 39% said that it was “too hard” to get a copy of their criminal record and they still didn't have it. Less than 8% of respondents in that category found it “very easy” to get a copy, whereas 35% of people who had successfully cleared at least one conviction from their records reported that it was “very easy” to get a copy of their records.

Part III. California Counties

Access to legal assistance in the record clearance process for low-income applicants varies widely from county to county. 35 counties, covering about 93% of California’s population, have a county public defender. Of these, Code for America knows that 25 provide some amount of assistance to record clearance petitioners. This constitutes a big step forward for many counties, which saw increased investment in clean slate services after the passage of Prop 47. However, many of these operations struggle with a low level of resourcing that makes providing consistent service a challenge, and can lead to burnout for staff. When one clean slate attorney or support staff member in a one or two person unit goes on vacation, record clearance applications - some with urgent needs - pile up, creating a large backlog when they return. In a few counties, notably Los Angeles, resource constraints mean clean slate attorneys only assist with certain remedies, leaving the same applicant with representation on their Prop 47 reclassification, but on their own when it comes to filing for 1203.4 dismissal.

Many operations struggle with a level of resourcing that makes providing consistent service a challenge, and can lead to burnout for staff.

Three counties with public defenders - Sacramento, San Joaquin, and Monterey - do not currently provide clean slate services, although they have in the past. The availability of clean slate assistance in seven county public defenders’ offices could not be

ascertained. 23 California counties - comprising about 7% of the state’s population - use a contract private defender for indigent criminal defense. The private defender in one of these counties, San Mateo, does provide clean slate services. We believe that the remaining 22 private defender counties do not offer clean slate assistance. The legal aid community and reentry community has worked diligently to provide some coverage in these counties - organizing large one-time record clearance fairs or periodic mobile clinics, but day-to-day there is a large unmet need in these parts of California, and no way for petitioners in these areas to start or complete the process online.

Thirty county courts in California charge filing fees for processing record clearance petitions, although fee waivers are typically available for those who can show financial need. These range from \$30 (Humboldt County) to \$240 (some courthouses in Solano County). Because county by county dispositions are not available, it is unclear whether fees associated with record clearance petitions correspond with the counties that may better facilitate the process for clients. We cannot rule out the possibility that charging fees for clients trying to clear up their records may help counties to operate more efficiently due to the assessment of these fees. However, as described previously in this report, fees and fines present a significant barrier to successful outcomes.

Counties ought to be able to justify the imposition of fees on a population that is already economically vulnerable by showing that fees are both necessary to the process and lead to faster resolutions. Presently, twenty eight counties do not charge fees for record clearance. Among these are Alameda and San Francisco, counties from which the majority of



CMR applicants received a disposition in under six months. Contra Costa County, also represented in the CMR survey, charges a fee of \$150 to process record clearances. Our survey respondents from Alameda, San Francisco and Contra Costa counties indicated that it takes, on average, twice as long to receive an outcome in Contra Costa County (nine months) than it does in either Alameda or San Francisco (4.5 months). Fresno County, where the average time to outcome is 6.75 months, charges \$120 to applicants.

The county to which applicants appealed for relief was a statistically significant factor in how long it took to get an outcome. One in four (27%) CMR applicants in San Diego county received an outcome less than a month after submitting an application, compared to an average of about one in ten (13%) applicants who get to an outcome that quickly across all CMR surveyed counties.

“I am so grateful for your help. It was going to take me so much time to go to both counties and sort through the different processes to get my record cleared. I just started a new job and asked for a copy of my background check and it was CLEAR!”

CMR Applicant in Alameda County

Part IV. Policy Recommendations and Proposed New Models

Automating the record clearance process

Recommendation: For mandatory record clearance remedies (Prop 47 and Prop 64 reclassification, mandatory 1203.4 dismissal), the state and counties should identify and implement options to reclassify or dismiss convictions without requiring that individuals file petitions.

The majority of Californians who are eligible for record clearance - and who are facing challenges because of their convictions - never begin the process of applying. This is particularly jarring because California’s primary record clearance remedies - Prop 47 and Prop 64 reclassification and mandatory 1203.4 dismissal - are mandatory. Improving awareness and outreach is one strategy to address this issue, but another is automating the record clearance process - in other words, reclassifying or dismissing convictions without requiring that the individual file a petition with the court. Many state and county agencies can help make the mandatory record clearance process more automatic from an applicant standpoint than it is today. At the county level, several county agencies have already taken action. For example, the public defenders in San Diego and San Joaquin counties both used court conviction data to file Prop 47 petitions on their client’s behalf without the involvement of those clients. In San Diego’s case, this proactive strategy meant that the county has filed the most Prop 47 petitions of any county in California, with over 50,000 filed by September 2016. While there were some issues with inaccurate data and with notifying individuals that their

felonies had been reclassified, this process would benefit from continued research and iteration to address those concerns. More recently, San Francisco District Attorney George Gascon **announced that his office would work with the courts to clear marijuana convictions from San Franciscans records without requiring a petition.** Gascon was quoted as saying that “A lot of people don’t even know they qualify, and I don’t think it’s the right thing to do to make people pay lawyers’ fees and jump through a bunch of hoops to get something they should be getting anyway.” We agree, and we hope that San Francisco’s process for Prop 64 auto-clearance could be expanded to encompass the needs of those individuals eligible for mandatory 1203.4 dismissal and Prop 47 relief.

At the state level, Assemblymember Rob Bonta introduced **a bill** in January 2018 that would clarify that the law allows for automatic expungement or reduction of marijuana convictions. Rather than leaving automatic record clearance to the counties, the California Department of Justice (DOJ) could explore their authority to automatically clear the records of individuals who are eligible for mandatory record clearance remedies. The DOJ’s efforts could also potentially extend to arrest sealing.

Data collection and analysis

Recommendation: the California DOJ should produce a report on Californians with criminal records, broken down by county.

As part of preparing this report, our team scoured online sources for publicly available state-level data on people with criminal records, and came up with a single 2014 report - in which BJS worked with states to survey their criminal history repositories. They estimated the total number of Californians with criminal records at 11 million. Beyond this figure, we lack even summary information about who those 11 million people are, how they are dispersed around the state, what is on their records, and what proportion of them have been able to clear their records or may be eligible to do so under existing law. This represents a critical gap in both policymakers and the public’s understanding of how much criminal records are affecting individuals across the state.

That gap makes formulating, implementing and evaluating policy solutions to address the needs of people with criminal records much more challenging. It’s hard to understand the scope and scale of the potential impact of policy proposals aimed at reducing barriers for people with criminal records without statewide data on that population. Courts, county governments, and community groups encounter challenges implementing new policies when they don’t know how many people in their service areas may be affected. We understand that the disposition gap - the up to 40% of arrests for which a disposition is not available in California’s criminal history repository - makes producing this type of research challenging. We also know that the DOJ is working with Californians for Safety and Justice to more accurately estimate the number of individuals with felony Proposition 47 crimes on their state criminal records. However, we would encourage DOJ to consider more broadly what it would take to begin reporting on both the activities of law enforcement and the courts and on the people who have been the subjects of those activities.

Outreach

Recommendation: Courts and probation test new, more effective methods to notify people that they are eligible for 1203.4 and other record clearance remedies.

Courts and probation departments are required by state law to notify people that they are eligible to petition for 1203.4 dismissal upon completion of probation or other successful completion of court requirements. Despite this requirement, only 6% of CMR applicants reported on their application form that they heard about the opportunity to clear their record from either the courts or probation. Both courts and probation could be a key outreach channel to raise awareness about record clearance remedies and how to start the process. We recommend that courts and probation test and evaluate some new strategies to comply with their notification responsibilities under 1203.4, and potentially go beyond the bare requirements of the law to inform probationers and court-involved individuals about record clearance in general, given that many individuals who are eligible for 1203.4 dismissal may also be eligible for other record clearance remedies.

Some courts and probation departments are already experimenting with more proactive, comprehensive outreaches. For example, Solano county’s Change Center gives every probationer a flyer promoting CMR’s website when they graduate from probation.

Pilot programs could also test the following recommendations for effectiveness and practicality:

- Probation staff and their clients could actually fill out the CMR application together as part of the process of closing out the case with probation
- When individuals complete probation or court requirements, probation or court staff could send them an email or text with information about record clearance that includes county-specific information about where people can get free legal help applying for dismissal (including CMR or legal clinic information)

- Courts or probation staff could use information in their case management systems to file for 1203.4 dismissals on behalf of eligible individuals, and then send an email or text notifying those individuals when the dismissal becomes effective.

Recommendation: Require employers and agencies that take an adverse action based on a criminal conviction to notify the individual that they may be eligible for record clearance remedies and where they can get assistance.

Federal and state laws require California employers to notify individuals when they take an adverse action based on a conviction and to provide those individuals with an opportunity to review their background check. This requirement can be helpful for individuals seeking to understand what is on their criminal record and to correct any inaccuracies, but it leaves out crucial information about the fact that California state law also provides a lot of opportunities to clear up evidence of past convictions. Based on what we have learned about the high application rates of individuals who are referred to CMR from Checkr, we believe that requiring plain language information about record clearance remedies in adverse action notifications could be a very effective strategy for raising awareness.

Fines and fees

Recommendation: Revise state law so that nonpayment of fines and fees is no longer a barrier to mandatory 1203.4 dismissal.

Last year, Governor Brown signed SB 185, which prevents the courts from forwarding an individual’s information to the Department of Motor Vehicles for driver’s license suspension based on nonpayment of fines and fees. When the governor signed the bill, he stated that driver’s license suspension “doesn’t help the state collect unpaid fines and can send low-income people into a cycle of job losses and more poverty.”

We believe a similar logic applies to disqualifying applicants from mandatory 1203.4 dismissal based on nonpayment of fines and fees. Like a suspended driver’s license, a criminal conviction interferes with the ability to work. Fewer eligible people successfully complete the discretionary process that is required when an applicant has outstanding court debt, and those who do wait longer for an outcome from the court. Therefore, individuals’ court debt can prolong a period of unemployment or even trap a family in poverty. We would recommend that state law be amended to prohibit the consideration of nonpayment of fines and fees in the record clearance process.

The state might also consider a broader revision to state law, to require use of the mandatory process for 1203.4 in all cases once individuals have completed probation, regardless of whether they logged any probation violations while they were supervised. Technical violations of probation can include delinquent payments, but also a host of other non-criminal activity like missing an appointment or a curfew. In a review of 29 anonymized RAP sheets of CMR applicants we found 22 - or 76% - of them included a record of a probation violation. Putting these individuals through the discretionary 1203.4 process can cause applicants to drop out of the record clearance process, stretch public defender resources, and create significant court inefficiencies, creating bottlenecks for all applicants. The more broadly California applies mandatory remedies, the greater the opportunities for efficient automation of the process.

Criminal records access

Recommendation: Give county public defenders access to CLETS, the state’s criminal history database.

Four in 10 CMR applicants reported that they were asked to get a copy of their records by their attorney. This is a financial burden for many applicants and can cause significant delays in the record clearance process. Difficulties accessing one’s record is strongly correlated with dropping out of the process. If county public defenders had access to CLETS, they could alleviate this burden from petitioners and prepare more accurate petitions. Public defender CLETS access would also reduce the surge of record review requests that the DOJ has been required to process since the passage of Prop 47 and Prop 64. Finally, CLETS access would create more opportunities for public defenders to take initiative to file record clearance petitions without the involvement of the individual with the record.

The Role of the Bar

Recommendation: The California State Bar Association should make additional investments to expand access to clean slate services and close the record clearance gap.

We are deeply grateful for the support the California State Bar Association has provided to Code for America to support the development of this report and to build out our prototype to help self-represented applicants prepare petitions for record clearance. We recommend that the Association consider further investments to close California’s record clearance gap. Historically, the Association’s Legal Services Trust Fund Commission and the Access to Justice Commission, two bodies which help meet the legal services needs of low-income Californians, have focused on civil law issues. Individuals who are eligible for record clearance are predominantly low-income. Their experiences illustrate how criminal records can pose challenges far beyond the confines of the criminal justice

system - affecting people’s ability to earn a living, find housing, further their education or keep their family together. There are numerous ways that the Association could help more eligible individuals meet their need for record clearance, including 1) funding positions in the counties where clean slate services are not being provided, or in larger counties where there are only one or two clean slate staff, or (2) partnering with DOJ on the creation of a list of people who may be eligible for record-clearance, as a first step towards further automating the process.

“Thank you so much for this help. It has been somewhat of a struggle finding a job with a criminal background. However I am looking and applying everyday for employment. All this mess began when I was homeless and began stealing food and it seems like things just snowballed. I am working hard to get back on track.”

CMR applicant in San Francisco County

“I had applied everywhere to no avail. Nobody would hire me because of my record. With me clearing my record, I’ve got a second chance to live life productively, not having to depend on anybody. I can go out with confidence that I will get employed. I can finally walk with my head up high now that this burden has been lifted off my back.”

CMR Applicant in San Diego County

Conclusion

California has made great strides to provide remedies for post-conviction relief to the 11 million Californians who remain marked by a criminal history, but years of harsh policies that criminalized offenses--including some of which that are no longer considered crimes--has deeply injured many of California’s residents, families and communities. Record clearance remedies are an important step in rectifying this but they are of limited use when they rely on the expertise and available bandwidth of chronically short-staffed public defender offices.

We learned through our applicant surveys that respondents are highly motivated to clear up their records. They feel heavily burdened by these records and want to eliminate barriers to meaningful employment so that they can be providers and caregivers in their homes and in their communities. We learned that this population is mostly very poor and without the economic resources to hire attorneys to advocate for them or to pay excessive fines and fees. Many are trapped in a cycle of poverty because of the stigma associated with having a criminal record.

Where people are failing, it is not for lack of individual efforts on the part of clients and attorneys, but because the system in which they are operating is exceedingly difficult to navigate.

Because we work at the intersection of technology, legal services, policy making and direct support to clients, Code For America is able to view this problem at a systems level. Our recommendations take into account the perspectives of all of our stakeholders. We know that where people are failing, it is not for lack of individual efforts on the part of clients and attorneys, but because the system in which they are operating is exceedingly difficult to navigate. It is discouraging, dispiriting and expensive. We know that it can be better. We look forward to continued partnership with government and communities to ensure that the promise of California’s record clearance laws translate into increased opportunity for every individual who has worked hard to move on from their past.

Appendix

A.

In the spring and summer of 2017, Code for America tested and evaluated numerous ways to reach potential applicants and build their awareness of record clearance and CMR. We wanted to identify sustainable outreach strategies that could scale within the given constraints of cost and our team’s capacity.

Offline methods we tried included:

- tabling at job fairs,
- partnering with clean slate clinic and fairs, and
- flyering at courts and in probation offices.

Online methods we tried included:

- email outreach to organizations that serve people with records, including schools, labor unions, community colleges, and health clinics
- links on our partner websites and other government and community websites
- advertising on substance abuse recovery blogs
- partnerships with background check companies and their customers to promote CMR to job seekers with convictions, and
- digital ads on Facebook, Google, Craigslist.

By September, we had developed a set of strategies that could consistently deliver about 650 applications per month to our partner counties at an average cost of \$3.50 an application. In the end, a few outreach methods set themselves apart as significantly more sustainable and cost-effective than the others.

1) Craigslist ads. Advertising on Craigslist in the jobs section of the site in the metropolitan areas that CMR serves proved to be our most effective method of outreach, bringing in 41% of total applications at the close of 2017. A typical ad would be posted in a jobs category like general labor, retail, or transportation, with a subject like “Free help to clear your criminal record and get a job.” We suspect Craigslist ads are effective because they reach people in the midst of their job search - at a point where they may be worried about how their record will impact their ability to find work. Google Adwords are also effective at reaching applicants (18% of our applicants arrived via Google Adwords) but costs twice as much per completed CMR application than Craigslist, due to competition with for-profit expungement law firms. One in three CMR site visitors from Craigslist completes an application, compared to fewer than one in ten visitors from Google (which itself delivers about 18% of our applicants.)

2) Partnerships with background check companies and their customers. We formed a partnership with Checkr, which is a start-up that provides background check services to many on-demand economy companies, including Uber. Checkr is starting to expand to serve other industries and, because of our work, now has an arrangement with Uber and a group of other customers to benefit job applicants with convictions on their records. When Checkr discovers a criminal record on the application of someone in one of CMR’s partner counties, an email is sent to that applicant letting them know they might be able to clear up their conviction using CMR. The only cost of this partnership for Code for America was the time we

spent meeting with Checkr and Uber to decide on how the arrangement would work, and drafting the email to job seekers. Currently, thirty-six percent of CMR site visitors from Checkr submit an application to us, and these applicants make up 15% of CMR’s total app volume. We suspect that we see the high rate of conversions for the same reason Craigslist ads are effective - we are able to reach people at a critical point in their job search.

3) Links on partner websites. We strongly encouraged our county and legal aid partners to link to Clear My Record from their website in order to quickly facilitate the process of learning about CMR’s service (step one!). We have found that the number of applications that result from those county website links depends on factors including traffic to those websites and also the prominence of the CMR link within that site. Take together, county websites are driving 19% of CMR applications.

About the Authors

Jenny Montoya Tansey is the Director of Safety and Justice at Code for America, where she helps create digital services that meet the needs of those most impacted by the justice system. Previously, she was the research director at Californians for Safety and Justice, where she supported state and county justice reform efforts. With CSJ’s sister organization, Vote Safe, she helped develop and pass Proposition 47, a 2014 state ballot measure that reclassified low-level drug and property offenses as misdemeanors and used the savings for prevention and victims services. A Stanford-trained attorney, she served in the Obama Administration as a senior advisor on civil rights at the United States Department of Agriculture.

Katherine Carlin is a California attorney and decision scientist who approaches complex legal, social, and workplace problems using an interdisciplinary, systems science framework to facilitate meaningful change. Her data-driven analysis and insights support the work of policy makers and executive teams to formulate effective, compassionate responses to difficult, seemingly intractable problems. Ms. Carlin is deeply invested in fostering economic equity in the modern workforce, and applies the tools of complexity science to model potential solutions for investors and employers. She is a graduate of UC Santa Cruz and UC Hastings. Ms. Carlin earned her M.Sci. (Decision Analysis) from Minerva in 2017.

About the Team

Code for America’s Clear My Record project was developed by Tiffany Andrews, Jen Aprahamian, Mikela Clemmons, Ben Golder, Laura Kogler, Jazmyn Latimer, Jenny Montoya Tansey, and Sarah White.