

**The Clean Slate Task Force Report**

**Recommendations for an Automated  
Clean Slate Expungement Process**

**Submitted to the Legislature on  
April 28, 2022**

## **Task Force Membership**

### Co-Chairs

Jennifer Perez, Director of the Office of Trial Court Services, Designee of the Administrative Director Office of the Courts

Ret. Major Denman Powers, Commanding Officer, Identification & Information Technology Section, New Jersey State Police (January 2021 – June 2021)

Major Charles Sheppard, Commanding Officer, Identification & Information Technology Section, New Jersey State Police (June 2021 – December 2021)

### Members

**Kirstin L. Krueger**, Counsel to the Attorney General, Office of the Attorney General

**Senator Sandra B. Cunningham**, New Jersey State Senate, representing District 31, Deputy Majority Leader

**James McGreevey**, Former Governor, Chairman of the New Jersey Reentry Corporation (NJRC)

**Christopher Rein**, Chief Technology Officer of the Office of Information Technology

**Jack McCarthy**, CIO/Director of the Information Technology Office, the Administrative Office of the Courts

**Melinda Haley**, Esq., Assistant Commissioner, Chief Diversity Officer, Division of Diversity and Legal Affairs, New Jersey Department of Corrections

**Karen Taylor**, Warden, Camden County Department of Corrections

**Matthew Leith**, Warden/Jail Administrator, Burlington County Corrections Department

**Chief John Zebrowski**, Vice President, the New Jersey State Association of Chiefs of Police

**Lawrence S. Lustberg**, Co-Chair, Commercial & Criminal Litigation and Director, John J. Gibbons Fellowship in Public Interest & Constitutional Law, Gibbons P.C.

**Michael J. Cowden**, Director of Solutions Engineering, Code for America

## Executive Summary

The Clean Slate statute tasked the State to, “**develop and implement an automated process, based, to the greatest extent practicable, on the recommendations of the task force established pursuant to subsection b. of this section, by which all convictions, and all records and information pertaining thereto, shall be rendered inaccessible to the public, through sealing, expungement, or some equivalent process, for any person who has been convicted of one or more crimes, one or more disorderly persons or petty disorderly persons offenses, or a combination of one or more crimes and offenses under the laws of this State.**” N.J.S.A. 2C:52-5.4

The new legislation allowed a former defendant to wipe their record clean after ten (10) years, even if they would not otherwise be eligible for expungement, as long as they meet certain criteria. N.J.S.A. 2C:52-5.3(a)-(b). This opportunity for a Clean Slate expungement is unique to the expungement process because it does not require a former defendant to submit a petition, it is an additional opportunity for an expungement of multiple cases at the 10 year mark, and it credits the length of time that a person has not received an additional conviction. The Clean Slate Law required the Task Force to issue a report after examining, evaluating, and making recommendations regarding the development and implementation of an automated process for expungements. The duties of the Task Force included identifying required systematic and technological changes, seeking consultation from non-profit computer programming organizations, and recommending solutions to assist in the development and implementation of the automated process.

The Task Force found that there were several state agencies with different data systems that process expungements. These separate data systems were designed to protect data and allow the individual agencies to perform the functions necessary to their designated responsibility.

Traditionally, expungements have been a manual process. While some parts of the manual process may be necessary, there are ways in which automation can enhance the process while at the same time ensuring data security. It is also important that resources be dedicated, particularly toward enhanced technology for law enforcement entities, to achieve the overall system goals.

Additionally, Clean Slate called for the Judiciary to develop an e-filing system for petitioners with the ability to notify relevant parties, compile all possible records for individual expungement, and transmit orders. N.J.S.A. 2C:52-10.1. In 2020, the Administrative Office of the Courts (AOC) worked to create and implement an enhanced e-filing system, which will also serve as a foundation for automated petition-less<sup>1</sup> expungements.

The Task Force looked at ways that this foundation could be strengthened, taking into account the concerns of the different parties that will interact with this system. The Task Force found that the expungement process for those who are clean slate-eligible can be intimidating and

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<sup>1</sup> A petition-less system removes the petitioner and application from the process so that eligibility for expungement is determined by a review of factors by the relevant agencies (AOC, NJSP, County Prosecutors, and the Attorney General's Office) on a case-by-case basis.

overwhelming. The e-filing system alleviates much of this stress but there are still barriers that expungement eligible candidates face, such as access to technology and knowledge of their eligibility.

Interested parties that utilize the system, namely, New Jersey State Police (NJSP), prosecutors, attorneys, and Courts will benefit and have benefited from automation in certain areas of the system. Over the past two years, these state partners upgraded their systems to handle the increased speed and enhancements that were essential to the success of an e-filing system. They also met the challenge of expunging marijuana convictions that had been decriminalized pursuant to N.J.S.A. 2C:52-6.1. What was key in the upgrades of these systems was communication and a phased implementation approach. The experience gained from these initiatives can be applied to the automation process for clean-slate expungements as well.

The Task Force found that automation can be achieved by enhancing and building upon the technology that supports the manual portions of the process, creating a petition-less process, and ensuring the petition-based process continues effectively. As anticipated by the legislation, it is more advantageous for expungement eligible candidates to have both a petition-based and a petition-less option available because it gives them multiple avenues to achieve a clean slate.

## **Findings and Recommendations**

The Clean Slate Task Force first met in January of 2021 and formed several subcommittees: Data and Technology, Policy and Research, and Community Outreach. The subcommittees worked diligently to explore issues, discuss ideas generated by stakeholders with various interests, and report their findings to the Task Force. The subcommittees were composed of members of the Task Force and, where applicable, staff from their agencies. Detailed below, are the findings and recommendations of the Task Force organized by subcommittee.

### **Data and Technology**

The Task Force unanimously agreed to the following recommendations to the Administrative Office of the Courts, Attorney General, NJSP, and the Legislature:

#### **Recommendations**

**Recommendation 1.** *The Judiciary should build on the existing eCourts expungement system to identify cases that may be eligible for the 10 year “clean slate” petition-less automatic expungement. Once identified, Judiciary should provide a form that prosecutors can review confirm eligibility and submit an objection where appropriate. The Judiciary should also provide corresponding data so aspects of prosecutor review can be automated in their system.*

**Recommendation 2.** *It is anticipated that there will be as many as 2 million cases eligible for a 10 year “clean slate” expungement. Under the circumstances, cases should be programmed by*

*the Judiciary to be sent from the Judiciary to assistant prosecutors and NJSP in batches rather than all at once. The order and size of the batches should be determined through consultation and planning by the Judiciary, assistant prosecutors, and NJSP.*

**Recommendation 3.** *The Judiciary, in collaboration with NJSP should build on current automated data exchanges to both send and receive data on cases that may be eligible for a “clean slate” expungement. This data exchange should be accomplished in batches and would improve processes for both petition-based and petition-less automatic expungements.*

**Recommendation 4.** *NJSP should build an automated process to compare the case data provided by the Judiciary with the NJ criminal history record, and out of state history to which law enforcement has access.*

**Recommendation 5.** *NJSP should work with assistant prosecutors to build within their systems an automated expungement eligibility screening process to replace the NJSP Opinion Letter. This should be used for both petition-based and petition-less expungements and would result in an automated workflow that gathers necessary information as to whether to disqualify or object to a petition and pass that to the assistant prosecutor for review with recommendations. Petitions requiring additional review beyond the automation would be moved to the NJSP InfoShare Expungement Module for a manual review by assistant prosecutors.*

**Recommendation 6.** *At a later phase, system automation should generate the prosecutor’s objection or consent to the expungement and electronically transfer this data to eCourts. This process would be useful for both petition-based and petition-less expungements.*

**Recommendation 7.** *The Judiciary should store the necessary information in the eCourts Expungement system to provide statistical review of both petition-based and petition-less clean slate expungements. Information related to the execution of the expungement order from law enforcement should be passed to the eCourts Expungement system in an automated fashion.*

**Recommendation 8.** *The Judiciary and NJSP should store the necessary information in their respective systems to allow for the recovery of records such as criminal complaints, court dispositions (dismissals, diversionary and discharge programs), not guilty verdicts and criminal conviction record information. All systems must have the necessary safeguards to limit public exposure of information.*

**Recommendation 9.** *Expungement laws should be reviewed by the Legislature and streamlined so that technological solutions can be more easily implemented. This review should include the statutory eligibility requirements (attached) as well as the requirement to subsequently restore a criminal history that has been expunged.*

## Technological Overview of the Current Expungement System

The current expungement system includes the Judiciary's recently created e-filing application. Since December 2020, as required by the Clean Slate Law, almost all expungement petitions have been electronically filed through the eCourts Expungement system<sup>2</sup> available at njcourts.gov. As part of the petition-based process, the petitioner provides the e-filing system with a case number. The system links the party identification number from the case and connects to the Judiciary's Master Data Management (MDM) database<sup>3</sup>, which has already compiled all known judiciary party records together into an enterprise party ID (EID).

Once an EID is obtained, the system presents the petitioner with a list of possible cases, known as a Party Court History, so that the correct cases can be confirmed. A recent enhancement provides this Party Court History to prosecutors and NJSP as well as the applicant or their attorney. As a result, the user need not complete manual searches to gather this information. It also provides Public Defenders and private attorneys with the necessary information to assist their clients during the process, and law enforcement with the necessary information to consider whether an objection should be filed. As discussed below, enhancements to the system are a natural part of automation and work best in a phased approach.

In the current eCourts petition-based process, as in the prior paper process, the NJSP review the application, screen for eligibility, and provide the assistant prosecutor, in the counties where the application is pending, a NJSP Opinion Letter. This screening reviews the court case history, the New Jersey Computerized Criminal History, and out of state records, for specific charges that may render an application ineligible to receive an expungement.

Once the NJSP review is completed, the case is routed to the assistant prosecutor for review and the submission of an objection, if one is warranted. Currently, once a prosecutor reviews the petition and NJSP Opinion letter, he or she may enter any objection in the eCourts Expungement system.

Once a judge approves or denies an expungement application, the associated data is kept in the eCourts Expungement system. Assistant prosecutors, NJSP, and local law enforcement are electronically notified of the decision and can log into the eCourts system and review the pertinent tasks that are pending. After manually sealing the data from source systems, they return to the eCourts system to mark the tasks completed. Once all the notification tasks are resolved for the final order, it is marked as expunged in eCourts. NJSP is responsible for sealing the NJ Computerized Criminal History (CCH)<sup>4</sup> and maintaining the NJ CCH records including court

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<sup>2</sup> The eCourts Expungement system is integrated with an electronic CaseJacket where judges and judiciary staff with elevated system permissions can view the relevant data, case disposition, prosecutor objection (if any), expungement order granting or denying, and any other relevant documents.

<sup>3</sup> The MDM leverages probabilistic matching algorithms to link party records, allowing the Judiciary to provide lists of all eligible cases across multiple divisions (Municipal, Criminal and Family / Juvenile) stretching back 40 years.

<sup>4</sup> For law enforcement, the NJ Computerized Criminal History (CCH) is a comprehensive system detailing criminal arrest activity and court disposition records, including those that are expunged where fingerprints were taken pursuant to N.J.S.A. 53:1-15, 1-18.1.

disposition information as received by NJSP from the Judiciary. All entities are responsible for expunging their own records and maintaining those records for future use.

## **Findings**

### **Automated data exchanges:**

The Clean Slate Data and Technology subcommittee considered the potential requirements for providing an *automated data exchange* of petitions and associated data filed through the eCourts system to NJSP for distribution to law enforcement partners. This can be accomplished via an automated and auditable data exchange agent currently used between Judiciary and law enforcement systems, such as IBM MQ File Transfer or Web Services. Such exchanges allow for large-scale data transfers between operating systems that can be managed and audited. It would include filing details, petitioner details, case data, fees and fines, system generated documents (petition and proposed order) and any other documents that an applicant may upload in support of the expungement request.

An automated process is already being developed to provide a data feed from NJSP to the appropriate prosecutor's office through the NJSP<sup>5</sup> vendor (CSI) via the Infoshare system.<sup>6</sup> As discussed above, NJSP provides the assistant prosecutor with a State Police Opinion Letter, once they have completed an eligibility review of the criminal history, including out of state records and other data that is not accessible by the assistant prosecutors. While it provides consistency statewide, the opinion letter process is not required by statute or court rule, rather it is the assistant prosecutor that must respond within 60 days pursuant to statute. The review and letter are completed manually through a thorough but time-consuming process. If the comparison of court and NJSP criminal history data were automated, prosecutors would have access to the data they need to conduct their own eligibility review, further streamlining the process and eliminating delays associated with the NJSP Opinion Letter.

The prosecutor's objection or consent to the expungement should be generated by an automated system and transmitted to eCourts. As a final step, after the expungement is granted and the order sent to the prosecutor, the prosecutor's system should automatically notify eCourts of expungement without prosecutors or State Police having to go back into eCourts.

### **Petition-less System for Clean Slate Eligible Candidates:**

The Subcommittee found that the technology and process developed to allow individual expungement petitions to be e-filed should be leveraged, in a cost-efficient manner, to create a

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<sup>5</sup> NJSP has currently contracted with three outside computer software firms to build and implement automated solutions for the Expungement Unit. This will drastically reduce the processing time for an expungement.

<sup>6</sup> The NJSP and the assistant prosecutors use a common platform for managing cases called Infoshare. This platform serves as the basis for sharing case information and status across these entities. The Judiciary also has the capability to interface with this platform.

petition-less procedure for 10-year “clean slate” expungements<sup>7</sup>. As described above and below, the proposed enhancements to the eCourts system and law enforcement systems should be repeated and repurposed for automatic petition-less expungements. The petition-based process would remain an option for petitioners who have more complicated records, those seeking expungements pursuant to other statutory provisions such as drug court expungements or minor matters that do not require a 10-year wait, and those who prefer to go through the petition-based process.

If the Task Force recommendations are adopted, the Judiciary would initiate either a petition-based or petition-less process. A petition-based option allows a petition to be filed through the eCourts system. In a petition-less process the Judiciary would identify a case(s) where there were no subsequent convictions in the past 10 years. In either scenario, the Judiciary, NJSP, and prosecutor computer systems would work together, and data would be exchanged in the process. The assistant prosecutors would still review petition-less candidates for eligibility and exchange data with NJSP. Assistant prosecutors would still be able to object, as this is an essential purpose of the prosecutor’s role in the process.

NJSP estimate that there could be as many as 2 million eligible clean slate matters. This volume can only be successfully processed if well managed. The Task Force found that the eCourts e-filing system was ultimately successful because of the phased approach taken by the Judiciary to test and manage it, and because of feedback from NJSP, prosecutors, defense attorneys, and others. The feedback allowed for enhancements to be made to the eCourts Expungement system. The Task Force strongly recommends that the creation of a petition-less system occur in the same way. A phased approach would allow for the coordinated development and testing of the multiple systems involved. After a testing phase, petition-less expungements can be prioritized<sup>8</sup> by making organized batches or groups of eligible convictions, which would be determined in consultation with the Judiciary, Office of the Attorney General, NJSP, the 21 County Prosecutors, the public defender, and Legal Services of New Jersey (LSNJ). While this system is built, having the petition-based system in place allows petitioners to file applications and ensures access to expungement should a petitioner be overlooked by the system.

**Other Considerations:**

Clean Slate N.J.S.A. 2C:52-5.4 requires that a person’s convictions and criminal history be restored in certain circumstances if they are subsequently convicted of a crime not subject to

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<sup>7</sup> “Any person who has been convicted of one or more crimes, one or more disorderly persons or petty disorderly persons offenses, or a combination of one or more crimes and offenses under the laws of this State, unless the person has a conviction for a crime which is not subject to expungement pursuant to subsection b. or c. of N.J.S.2C:52-2, upon the expiration of a period of ten years from the date of the person’s most recent conviction, payment of any court-ordered financial assessment, satisfactory completion of probation or parole, or release from incarceration, whichever is later. N.J. Stat. 2C:52-5.4

<sup>8</sup> Priority could be based upon a age of the convicted person, the year of the last conviction, or other factors. In order to ensure fairness, the Judiciary, Office of the Attorney General, NJSP, the 21 County Prosecutors, the public defender, and Legal Services of New Jersey (LSNJ) should convene to make determinations on what factors should be considered.

expungement. To reinstate expunged data the relevant entities will need to retain that data in secure locations. While each entity will create appropriate safeguards with regard to this data, such may be costly, and the mere possession of the data raises future risk of its public exposure.

Finally, it should be noted that expungement laws in New Jersey are complex, as evidenced by the eligibility chart provided by Legal Services of New Jersey and attached as an appendix to this report. The processes described above, and the recommendations of this Task Force represent a multifaceted technical initiative across the Judiciary and Executive branches of our government. Given the longstanding communication and cooperation between criminal justice partners in New Jersey, the Task Force has a high degree of confidence that an automated petition-less process can be achieved, but it will need to be done in phases over time, with resources dedicated accordingly.

## **Policy and Research**

The Task Force unanimously agreed to the following recommendations to the Office of the Attorney General, Administrative Office of the Courts, and the Legislature:

### **Recommendations**

**Recommendation 10.** *The Attorney General should examine establishing eligibility requirements (attached to appendix) for prosecutor screening of expungements, whether petition-based or by the 10 year “clean slate” petition-less process. This would drive consistency in prosecutorial review and prosecutor discretion, as well as transparency to the public.*

**Recommendation 11.** *The Attorney General should take action to form a working group to review the records management guidelines for law enforcement and prosecutor’s offices, including but not limited to the types of systems used and how records are redacted, to ensure uniformity and provide training if necessary.*

**Recommendation 12.** *The State Legislature should engage with data brokers and search engine providers to make them aware of the requirement to remove expunged records. The State Legislature should consider legislation that protects New Jersey records that have been expunged from private data mining companies.*

**Recommendation 13.** *A petition-less system should be undertaken in phases in order to develop a user-friendly process, ensure adequate testing and accuracy, and allow for maximum input from interested parties with regard to the criteria and processes for automating petition-less expungements.*

**Recommendation 14.** *A petition-less and petition-based system should be user-friendly and communicate well with all of the interested parties and should notify expungement eligible candidates of their status.*

**Recommendation 15.** *There should be ongoing, periodic training with regard to such topics as how to apply for an expungement and how to assist petitioners, how to confirm that a petition-less expungement has been granted, prosecutorial review and objection, and safeguarding information across both court and law enforcement systems. Such training should be a coordinated effort between the Judiciary, Attorney General, and Public Defender and legal service providers.*

## **Overview**

The goal of the Policy and Research Subcommittee was to review existing policies, procedures, legislation, and systems in other states in an effort to identify best practices and thus to propose improvements that would result in a more efficient and better automated system for implementing the Clean Slate petition-less provision of New Jersey's expungement statute. N.J.S.A. 2C:52-5.3(a)-(b).

The former paper process for expungements was challenging. Applicants had to gather records, sometimes from courts in multiple locations, and send costly certified mailings to numerous law enforcement agencies. Although e-filing is an improvement over the manual process and more efficiencies will be gained by further automation, the Policy and Research Subcommittee identified the need to assure both effective expungement and the continued availability of necessary records, as well as to provide direction on how record-keepers should respond to background checkers.

The Policy and Research Subcommittee looked at ways to strengthen the foundation of the expungement process and procedure, taking into account the concerns of different parties who will interact with this system. To that end, the Policy and Research Subcommittee heard from the following persons:

- Former Governor of New Jersey and Chairmen of the Board of the New Jersey Reentry Corporation James McGreevey;
- Director of Operations for the New Jersey Reentry Corporation Robert Carter;
- New Jersey Reentry Corporation representatives Jynae Judson, Isakova Sealy, and Ronelle Bush;
- Program Director, Criminal Justice at Code for America Meilani Santillan;
- Sharon Dietrich, the Litigation Director and Managing Attorney for the Community Legal Service of Philadelphia;
- Vice President and Assistant General Counsel at Legal Services of New Jersey, Akil Roper,;
- Assistant Prosecutor Brian Fiorello, Passaic County;
- Assistant Prosecutor Elizabeth Doyle, Camden County; and
- Assistant Prosecutor Jessica Marshall, Morris County.

The input of these community support agencies, legal service providers, prosecutors, and representatives of other jurisdictions were instrumental in framing the recommendations presented and discussed below.

## **Findings**

### **Attorney General Should Examine Law Enforcement Policy and Procedure**

The Policy and Research Subcommittee discovered that record management differs between municipalities causing confusion among local police departments on what and how to expunge the files of petitioners. Certainly, the Subcommittee found that uniformity among Courts and Police Departments can and should be improved. That said, the Task Force recognizes that the Judiciary's e-filing system has at least begun the process of technologically unifying the Courts and has vastly improved interaction for all interested parties. An Attorney General examination and subsequent action should address the records management of law enforcement and prosecutor's offices, including but not limited to the types of systems used and how records are redacted, to ensure uniformity. The Policy and Research Subcommittee also suggests the Attorney General explore guidance and training for police departments to clarify what files and records should be redacted.

In addition, the Subcommittee found that counties differ in their discretionary review process. The Task Force suggests the Attorney General examine the eligibility requirements for prosecutor expungement screening to explore consistency in prosecutorial review. This examination could benefit both the current petition-based and anticipated future petition-less procedure as well.

### **Background Checking and Internet Searching**

One concern arises from the inability of those seeking an expungement to purge information from a conviction where that was in the news or appears on social media or will be revealed from Google searches and the like. Preventing private background checkers from finding information about expunged convictions on the internet is something an expungement system cannot address. However, we suggest engaging with search engine providers to make them aware of this important societal issue. Legislation should be considered to protect those New Jersey records that have been expunged.<sup>9</sup> For example, the State of Minnesota requires private data mining companies to promptly delete a criminal record it knows to be sealed, expunged, or the subject of a pardon (Minn. Stat. 332.70(3a)). There may be ways that search engines can purge their databanks of old criminal information that made the news or was posted on social media.

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<sup>9</sup> New Jersey agencies and courts have safeguards in place. For example, in New Jersey, most court staff have no access to expunged cases because they are removed from the system. In addition, the limited court personnel that do have access are instructed not to tell background checkers a case is expunged but rather that there is no record. By employing this tactic, the private background checker is unable to make any assumptions or inferences.

Communication with these critical participants in the process is essential and we recommend that meetings be convened to explore alternatives.

### **Communication**

As discussed above, the Task Force is making recommendations for the automation of the petition-less process. The subcommittee found that there are steps that can and should be taken in anticipation of such automation to enhance the system so that it can be readied for a petition-less process. Communication, both in terms of reaching out to those potentially eligible for expungement and in terms of the exchange of data between State and local entities is the key to the success and efficiency of an electronic or automated expungement system.

To assure both maximum communication and efficacy, petition-less expungements should be undertaken in phases allowing input from interested parties with regard to the criteria and processes for automating expungements. For example, criteria for auto-expungement can be tested with lower-level crimes or over certain time frames; during this process, interested stakeholders can and should be consulted on how the process is working, including what criteria should be used to measure success.

Data should be made available to all of the interested parties that will make clear a petitioner's eligibility and status while ensuring data integrity. A petitioner could also be informed about what employment and licensing options are available to them post-expungement, as well as those that are unavailable.<sup>10</sup> It should be made clear to a petitioner that during the process of expungement, a New Jersey criminal history record can be sealed in NJSP's NJ CCH system, but not completely expunged until all processes have been completed. Once sealed, prospective non-criminal justice employers and professional licensing entities will not have access to the CCH results as part of a background check. This works the same regardless of whether the case is sealed or expunged. Non-criminal justice employers and professional licensing entities will not have access to the CCH in either case, sealed or expunged.

The development of user-friendly systems for both the Judiciary process and law enforcement processes, including automated interfaces between systems, is a priority.<sup>11</sup> For example, as discussed in the Data and Technology section, Judiciary e-filing system users should be able to interact to allow the prosecutor and counsel, or even *pro se* petitioners, to communicate with the system. The system should notify all users that a case has been reviewed, withdrawn, amended, objected to, or changed. Relevant case documents should be available to authorized users; indeed, because expunged records may need to be restored in the event of a new conviction, it is imperative that law enforcement have access to expunged records within prosecutor and state

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<sup>10</sup> It should be noted that Legal Services of New Jersey provides a clear and understandable expungement manual online, Clearing Your Record, a Six-Step Guide to Expunging Criminal Records in New Jersey. [CYR.pdf \(lsnj.org\)](#)

<sup>11</sup> In a completely automated petition-less system, Assistant Prosecutors (or other law enforcement) would still be required to verify the accuracy of the petition, which is why the data exchanges between systems is crucial, and why law enforcement needs to develop an automated process to compare data.

police systems. In sum, system interaction by and among all users, and enhanced automation within those systems is still key to achieving the goals set forth in the statute for “clean slate” expungements.

### **Training and Education**

There should be periodic training of court and prosecutor’s office personnel every year by video or in person, with regard to such topics as directing and guiding petitioners, expungement eligibility, prosecutor review and objection, and safeguarding information. Initially, at least, automation may not mean fewer staff required to process, but rather, more resources dedicated to communication, implementation and, for example, safeguarding information by law enforcement. Moreover, the more the expungement system evolves to an automated system, the more information will need to be made available for potentially expunged record holders to keep them informed as to a process, which might otherwise become opaque.

### **Uniformity**

A reliable automated system can only be achieved through uniformity among New Jersey’s courts, a process that is already in place through the use of the eCourts system. The process of expungement should be the same in each county and municipality. Many counties have legal aid services which will assist petitioners who choose to file their expungement on a *pro se* basis. However, many *pro se* petitioners are unaware that legal services exist and how legal services can help them. Every *pro se* petitioner who chooses to file electronically should be made aware of the legal aid services available in their county prior to filing. An effort should be made to ensure that expungements are handled in a similar way in courts, prosecutor’s offices, and with police departments.

## **Community Outreach**

The Task Force unanimously agreed to the following recommendations to the Administrative Office of the Courts, NJSP, the Attorney General, and the Legislature:

### **Recommendations**

**Recommendation 16.** *Informational events, flyers and websites should be made available to the public and petitioners with regard to eligibility for an automatic 10 year “clean slate” expungement. Such should be produced in multiple languages and should be available from multiple sources – courts, state agencies, faith-based and non-profit community support organizations.*

**Recommendation 17.** *The public and petitioners should be made aware, through web content, flyers, and social media, of employment and license opportunities available upon receiving an expungement, and what rights they obtain as a result thereof. This will encourage people to check to see if their record has been automatically expunged, as well as pursue a petition-based*

*expungement if they have not yet reached the 10-year requirement for a “clean slate” expungement. Such should be produced in multiple languages and should be available from multiple sources – courts, state agencies, faith-based and non-profit community support organizations.*

**Recommendation 18.** *The public and petitioners should be made aware of Legal Services of New Jersey and other legal services entities that provide assistance in confirming whether an automatic expungement has been issued, and /or submitting an electronic application for a petition-based expungement.*

## **Overview**

Community outreach is a critical component of ensuring that the largest number of people with convictions in New Jersey are able to benefit from the development of an automatic, petition-less 10-year “clean slate” expungement. There is an opportunity to build on the existing outreach efforts of the New Jersey Courts and other agencies have done on the eCourts Expungement system.

To support the launch of the petition-based eCourt Expungement system, the courts have taken a number of steps to raise public awareness of the e-filing system. The court has also been providing regular training sessions in most counties via their ombudsman offices, created “how to” guides for self-represented litigants and lawyers, and two tutorial videos that are being translated into all of the major languages used in court (English, Spanish, Portuguese, Haitian Creole, Korean, & Arabic).

## **Findings**

One of the biggest challenges of an automatic petition-less expungement process, however, is informing individuals that such an opportunity exists, and instructing them on how to confirm whether their criminal history has been expunged.

As part of its standard operations, the Judiciary conducts community outreach events through its Office of Communications and Community Relations including Diversity, Inclusion, and Community Engagement and Litigant Services, and the statewide Judiciary Ombudsman Program. The Office of Communications and Community Relations publishes press releases as needed for public awareness and creates informational publications for print and electronic dissemination by the vicinages and for posting to the njcourts.gov website and via the Judiciary’s social media channels. A press campaign with an accompanying poster/infographic card is planned with regard to the online expungement tool and the upcoming automatic petition-less process.

The Office of the Attorney General (OAG) has utilized its own resources to educate the public on many community concerns. The OAG is exploring ways to conduct seminars, trainings, and events to facilitate expungements. The OAG is committed to assisting the Task Force, Judiciary, prosecutors, and relevant stakeholders in making sure there is ongoing public awareness and resources dedicated to Clean Slate initiatives.

Resources such as informational flyers and websites should be made available to the public and petitioners with regard to eligibility for 10 year “clean slate” expungement. This can be done in a number of ways - from the Courts, which should advise those convicted and those ending their probationary period of their future right to expungement; the Department of Corrections, which should educate inmates during and especially at the end of their sentences; the State Parole Board, which should do the same during terms of parole; public defenders offices, legal services offices and government agencies (such as welfare offices), faith-based organizations, community groups (such as the New Jersey Reentry Corporation and others), law school clinics, etc. State public service announcements and, as noted, printed materials, like those produced by Legal Services of New Jersey, should also be made readily available. Finally, petitioners should also receive information about what employment and license opportunities are available upon receiving an expungement and what rights they obtain as a result thereof.

A member of the Task Force, Code for America, interviewed community members for additional suggestions about the best ways to reach people in their communities. The following was their feedback on potential opportunities to expand outreach efforts.

Community interviewees stressed that credible messengers are vital in spreading information:

*“You have to find the folks who people trust and can get the word out in ways people trust.”<sup>12</sup>*

Individuals who are in need of expungement assistance often learn about options like the eCourts Expungement system through friends and family networks. In interviews conducted with individuals affected by Pennsylvania's Clean Slate legislation, Code for America found it was common for an extended family member to have seen media coverage about the change in legislation and then reach out to tell family members living with convictions about it:

*“Someone in my family told me about Clean Slate. They were like, ‘Hey, did you see in the news that Pennsylvania is clearing people’s records?’ and I was like, ‘What?’ They're like, ‘the Clean Slate thing.’ I was skeptical but they sent me a link to the story, and I realized I could qualify.”<sup>13</sup>*

Community Legal Services in Pennsylvania also set up a very clear explainer page (<https://mycleanslatepa.com>) that all of the media articles and press releases linked to. This made it very easy for people to get additional information about the new laws.

New Jersey community interviewees also consistently suggested three key spaces for outreach in their communities: direct engagement with faith communities, local businesses, and social media.

These suggestions support the actions the courts and other agencies are already taking in New Jersey. Religious organizations, in particular, offer a unique opportunity in that many have invested in improved internet access in order to broadcast services during COVID-19. Beyond helping get the message out about the expungement tool and future changes to expungement law, many faith-based organizations have the internet capacity to host clinics where the eCourts

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<sup>12</sup> The community interviewee prefers to remain a nonymous.

<sup>13</sup> The community interviewee prefers to remain a nonymous.

Expungement system is used to create and submit applications. In fact, the NJ Public Defender's Office, with the support of the Burlington County Prosecutor, tested this model on October 29, 2021, with the help of a local Black church.

One concern repeatedly raised was the complexity of seeking a petition-based expungement, even if simplified through electronic filing. Petitioners interviewed had little confidence they could have successfully used the system without help. The petitioners were also concerned about negative consequences if they filed petitions incorrectly.

Legal Aid attorneys also felt that the tool was too complex for most pro-se petitioners to use on their own:

*“The real thing that’s missing in e-courts is the advice -- just because you can file a petition doesn’t mean you should file. If I was a petitioner, I would probably select everything that came up under my name and hit send because I would have no idea which charges are eligible for expungement.”<sup>14</sup>*

The Public Defender has committed to representing any individuals who have submitted a petition for expungement where a prosecutor has filed an objection. The eCourts system notifies the public defender in such circumstances. Although this is a significant step, and not one available in other jurisdictions, self-represented litigants would be better served having an attorney at the outset.

Legal Services of New Jersey has historically been engaged in expungement work, and could provide guidance and assistance to those seeking an expungement. In addition, as noted above, many counties have legal aid services and non-profit organizations that can assist petitioners who choose to file expungement applications on a *pro se* basis. However, many *pro se* petitioners are unaware that Legal Services of New Jersey or other legal services providers exist, or how they can be of assistance; their existence and the services they offer should be a part of the community outreach discussed here.

The Task Force recommends the creation of local and regional public outreach events within the first months of the release of this report. These events will help to educate the public on the current expungement system and the task force recommendations while also directing them to important information and services. Task Force members will coordinate with the Judiciary and Attorney General's Office to plan these events.

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<sup>14</sup> The community interviewee prefers to remain anonymous.

## Appendix

<b>General Expungement Eligibility Chart<sup>15</sup></b>			
<b>Type of Expungement</b>	<b>Waiting Period*</b>	<b>Ref. Statute</b>	<b>General Eligibility Requirements</b>
Clean Slate (entire record of arrest and convictions)	10 years	N.J.S.A. 2C:52-5.3 (Clean Slate by Petition); N.J.S.A. 2C:52-5.4 (Automated Clean Slate)	<ul style="list-style-type: none"> <li>• Must be ineligible for other types of expungement</li> <li>• Ineligible for Clean Slate relief if ANY “non-expungeable” convictions (<i>see list attached</i>)</li> <li>• Ineligible for petition-based Clean Slate after establishment of automated Clean Slate process</li> <li>• For Automated Clean Slate, fines MUST be paid in full. Additionally, expungement will be revoked for anyone convicted of a “non-expungeable” offense.</li> </ul>
Indictable Conviction (and up to 3 Disorderly Persons)	5 years (or at least 4 years under “compelling circumstances”)	N.J.S.A. 2C:52-2	<ul style="list-style-type: none"> <li>• No previous expungement of an indictable conviction</li> <li>• No subsequent convictions</li> <li>• “Non-expungeable” convictions may not be expunged</li> <li>• Multiple convictions in a “crime spree” may be expunged if all convictions are under one indictment or “were interdependent or closely related in circumstances and were committed as part of a series of events which that took place within comparatively short period of time”, but not subsequent convictions</li> <li>• In determining eligibility, convictions for violating N.J.S.A. 2C:35-5(b)(11) or (12), or either and a violation of N.J.S.A. 2C:35-7(a), or for violating N.J.S.A. 2C:35-10(a)(3) shall be considered</li> </ul>

<sup>15</sup> This chart was created by Akil Roper of Legal Services of New Jersey to assist this Task Force in its understanding of the eligibility requirements of N.J.S.A. 2C:52.

			<p>disorderly persons offenses, and violation of N.J.S.A.35-10(a) (4), (b) or (c), or N.J.S.A. 2C:36-2 involving marijuana or hashish will not be considered a conviction.</p> <ul style="list-style-type: none"> <li>• Must provide “compelling circumstances” for early expungement.</li> <li>• “Compelling circumstances” must also be provided for the expungement of third and fourth degree convictions for sale, distribution and possession with the intent to sell CDS.</li> </ul>
Disorderly Persons (up to 5)	5 years (or at least 3 years under “compelling circumstances”)	N.J.S.A. 2C:52-3	<ul style="list-style-type: none"> <li>• No previous expungement of an indictable conviction.</li> <li>• No indictable convictions.</li> <li>• No subsequent disorderly persons convictions.</li> <li>• Multiple convictions in a “crime spree” may be expunged if all convictions were entered in the same day or “were interdependent or closely related in circumstances and were committed as part of a series of events which that took place within comparatively short period of time”, but not subsequent convictions.</li> <li>• In determining eligibility, convictions for violating N.J.S.A 2C:35-5(b)(11) or (12), or either and a violation of N.J.S.A. 2C:35-7(a), or for violating N.J.S.A. 2C:35-10(a)(3) shall be considered disorderly persons offenses, and violation of N.J.S.A.35-10(a) (4), (b) or (c), or N.J.S.A. 2C:36-2 involving marijuana or hashish will not be considered a conviction.</li> </ul>
Municipal Ordinance Violation	2 years	N.J.S.A. 2C:52-4	<ul style="list-style-type: none"> <li>• Ineligible if any indictable convictions or more than two Disorderly Person</li> </ul>

			<p>convictions. If so, may be eligible to expunge after criminal conviction has been expunged.</p> <ul style="list-style-type: none"> <li>• Fines must be paid in full</li> </ul>
Individual Juvenile Delinquency Adjudications	Same as adult offenses	N.J.S.A. 2C:52-4.1(a)	<ul style="list-style-type: none"> <li>• Same as eligibility for expungement of adult offenses</li> </ul>
Entire Juvenile Record	3 years (from final discharge or court order not involving custody or supervision)	N.J.S.A. 2C:52-4.1(b)	<ul style="list-style-type: none"> <li>• No indictable, disorderly persons convictions, or adjudications of delinquency during the three years prior to filing the petition</li> <li>• No “non-expungeable” offenses committed as a juvenile</li> <li>• Never had an adult conviction expunged</li> <li>• Never had adult criminal charges dismissed following completion of a supervisory treatment or diversion program</li> </ul>
Certain Drug Offenses for Young Offenders	1 year	N.J.S.A. 2C:52-5	<ul style="list-style-type: none"> <li>• Must have been 21 or younger at time of offense.</li> <li>• May expunge one conviction for possession or use of CDS.</li> <li>• No other convictions</li> <li>• No violations of any conditions of probation or parole.</li> <li>• Not eligible if any other criminal charges dismissed because of acceptance into a supervisory treatment or other diversion program</li> </ul>
Certain Marijuana-Related Offenses	Immediately to 3 years	N.J.S.A. 2C:52-5.1	<ul style="list-style-type: none"> <li>• Subject to Automatic Marijuana and Hashish-Related Expungement:</li> </ul>

			<ul style="list-style-type: none"> <li>• N.J.S.A. 2C:35-5(b)(12); N.J.S.A. 2C:35-10(a)(3); N.J.S.A. 2C:35-10(a)(4); and if in connection with the above: N.J.S.A. 2C:36-2; N.J.S.A. 2C:35-10(b); N.J.S.A. 2C:35-10(c); includes conspiracies, attempts, and any such disorderly persons convictions subject to conditional discharge. Cases that include convictions for charges not listed above will not be automatically expunged.</li> <li>• Convictions for N.J.S.A. 2C:35-5(b)(11) are eligible for expungement by petition after a three year waiting period.</li> </ul>
Arrests Not Resulting in Conviction, Veterans Diversion Program	Immediately	N.J.S.A. 2C:52-6	<ul style="list-style-type: none"> <li>• Not eligible if dismissal resulted from a plea bargain involving the conviction of other charges. Will be eligible when the conviction is expunged.</li> <li>• Subject to expungement immediately upon dismissal</li> </ul>
Special Probation (Drug Court) or Court-ordered Rehabilitation	Immediately (upon successful discharge)	N.J.S.A. 2C:35-14(m)	<ul style="list-style-type: none"> <li>• Title 2C offenses only</li> <li>• Not eligible if any indictable or disorderly persons convictions during special probation</li> <li>• Not eligible if any “non-expungeable” convictions</li> <li>• Court may deny if it finds need for availability or records outweighs the desirability of having the person freed from disabilities</li> </ul>

Supervised Treatment Program, Conditional Discharge, and Conditional Dismissal or other diversion program	6 months	N.J.S.A. 2C:52-6	<ul style="list-style-type: none"> <li>• Waiting period commences at time of Order of dismissal regardless of whether any fines are owed</li> </ul>
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\* Typically, "Waiting Period" is the time elapsed since most recent conviction, payment of fine, satisfactory completion of probation or parole, or release from incarceration, whichever is later.

\*\* **Note:** The payment of fine requirement might be relaxed if you were in substantial compliance with a court-ordered payment plan or could not do so because of your financial condition. Further, if you still owe fines, the court may still grant your expungement provided you were on a court-ordered payment plan and not willfully noncompliant. In such case, the court may enter a civil judgment against you, collectable by the State Treasurer.

\*\*\* As to eligibility, expungements may also be denied if the court determines that the need for availability of the records outweighs the desirability of having a person freed from disabilities; or the arrest or conviction sought to be expunged is at the time of the hearing, the subject matter of civil litigation between the petitioner or his legal representative and the State, any governmental entity thereof or any State agency and the representatives or employees of any such body. See N.J.S.A. 2C:52-14b;d.

Further, expungements petitions will not be heard by the court if at the time of the filing or date of hearing, has a charge or charges against him alleging the commission of an indictable or disorderly persons offense. Such charges must be brought to finality before the court will hear the petition. See N.J.S.A. 2C:52-13.

Out-of-State, traffic related offenses under Title 39 and civil matters may not be expunged. See generally N.J.S.A. 2C:52-2, et seq.; N.J.S.A. 2C:52-28; and N.J.S.A. 2C:52-1

#### **Non-Expungeable Convictions**

- Criminal homicide (except death by auto as specified in N.J.S.A. 2C:11-5 and strict liability vehicular homicide as specified in N.J.S.A. 2C:11-5.3)
- Kidnapping
- Human trafficking
- Luring or enticing
- Sexual assault or aggravated sexual assault
- Aggravated criminal sexual contact
- Criminal sexual contact (if the victim is a minor)
- Criminal restraint or false imprisonment (if the victim is a minor and the offender is not the parent of the victim)
- Robbery
- Arson and related offenses
- Terrorism
- Producing or possessing chemical weapons, biological agents, or nuclear or radiological devices
- Endangering the welfare of a child by engaging in sexual conduct that would impair or debauch the morals of the child or causing the child other harm
- Photographing or filming a child in a prohibited sexual act or for portrayal in a sexually suggestive manner
- Causing or permitting a child to engage in a prohibited sexual act or the simulation of an act, or to be portrayed in a sexually suggestive manner
- Distributing, possessing with the intent to distribute, or using a file-sharing program to store items depicting the sexual exploitation or abuse of a child
- Possessing or viewing items depicting the sexual exploitation or abuse of a child
- Leader of a child pornography network
- Knowingly promoting the prostitution of the actor's child
- Perjury
- False swearing
- Conspiracies or attempt to commit such crimes.

Also, certain additional crimes, if committed prior to September 1, 1979, cannot be expunged:

- Manslaughter
- Treason
- Anarchy
- Rape or forcible sodomy
- Embracery
- Conspiracies or attempts to commit any of the foregoing; or aiding, assisting, or concealing persons accused of the foregoing crimes.

#### **Abuse of Public Office**

Any indictable conviction for an offense committed by a person holding any public office in this state, or conspiracy or attempt to commit such an offense, cannot be expunged if the crime involved or touched such office, position, or employment.

#### **Controlled Dangerous Substances**

Convictions for the sale or distribution of a controlled dangerous substance or possession with the intent to sell cannot be expunged, except in cases where the crimes involve:

- Marijuana, where the total quantity sold, distributed, or possessed with intent to sell was less than one ounce; or
- Hashish, where the total quantity sold, distributed, or possessed with intent to sell was less than 5 grams.
- Any controlled dangerous substance provided that the conviction is of the third or fourth degree, where the court finds that compelling circumstances exist to grant the expungement.

## **Recommendations**

**Recommendation 1.** *The Judiciary should build on the existing eCourts expungement system to identify cases that may be eligible for the 10 year “clean slate” petition-less automatic expungement. Once identified, Judiciary should provide a form that prosecutors can review confirm eligibility and submit an objection where appropriate. The Judiciary should also provide corresponding data so aspects of prosecutor review can be automated in their system.*

**Recommendation 2.** *It is anticipated that there will be as many as 2 million cases eligible for a 10 year “clean slate” expungement. Under the circumstances, cases should be programmed by the Judiciary to be sent from the Judiciary to assistant prosecutors and NJSP in batches rather than all at once. The order and size of the batches should be determined through consultation and planning by the Judiciary, assistant prosecutors, and NJSP.*

**Recommendation 3.** *The Judiciary, in collaboration with NJSP should build on current automated data exchanges to both send and receive data on cases that may be eligible for a “clean slate” expungement. This data exchange should be accomplished in batches and would improve processes for both petition-based and petition-less automatic expungements.*

**Recommendation 4.** *NJSP should build an automated process to compare the case data provided by the Judiciary with the NJ criminal history record, and out of state history to which law enforcement has access.*

**Recommendation 5.** *NJSP should work with assistant prosecutors to build within their systems an automated expungement eligibility screening process to replace the NJSP Opinion Letter. This could be used for both petition-based and petition-less expungements and would result in an*

*automated workflow that gathers necessary information as to whether to disqualify or object to a petition and pass that to the assistant prosecutor for review with recommendations. Petitions requiring additional review beyond the automation would be moved to the NJSP InfoShare Expungement Module for a manual review by assistant prosecutors.*

**Recommendation 6.** *At a later phase, system automation should generate the prosecutor's objection or consent to the expungement and electronically transfer this data to eCourts. This process would be useful for both petition-based and petition-less expungements.*

**Recommendation 7.** *The Judiciary should store the necessary information in the eCourts Expungement system to provide statistical review of both petition-based and petition-less clean slate expungements. Information related to the execution of the expungement order from law enforcement should be passed to the eCourts Expungement system in an automated fashion.*

**Recommendation 8.** *The Judiciary and NJSP should store the necessary information in their respective systems to allow for the recovery of records such as criminal complaints, court dispositions (dismissals, diversionary and discharge programs), not guilty verdicts and criminal conviction record information. All systems must have the necessary safeguards to limit public exposure of information.*

**Recommendation 9.** *Expungement laws should be reviewed by the Legislature and streamlined so that technological solutions can be more easily implemented. This review should include the statutory eligibility requirements (attached) as well as the requirement to subsequently restore a criminal history that has been expunged.*

Could or should? I'd write this as a recommendation rather than what is possible.

**Recommendation 10.** *The Attorney General should examine establishing eligibility requirements (attached to appendix) for prosecutor screening of expungements, whether petition-based or by the 10 year "clean slate" petition-less process. This would drive consistency in prosecutorial review and prosecutor discretion, as well as transparency to the public.*

**Recommendation 11.** *The Attorney General should take action to form a working group to review the records management guidelines for law enforcement and prosecutor's offices, including but not limited to the types of systems used and how records are redacted, to ensure uniformity and provide training if necessary.*

**Recommendation 12.** *The State Legislature should engage with data brokers and search engine providers to make them aware of the requirement to remove expunged records. The State Legislature should consider legislation that protects New Jersey records that have been expunged from private data mining companies.*

**Recommendation 13.** *A petition-less system should be undertaken in phases in order to develop a user-friendly process, ensure adequate testing and accuracy, and allow for maximum input from interested parties with regard to the criteria and processes for automating petition-less expungements.*

**Recommendation 14.** *A petition-less and petition-based system should be user-friendly and communicate well with all of the interested parties and should notify expungement eligible candidates of their status.*

**Recommendation 15.** *There should be ongoing, periodic training with regard to such topics as how to apply for an expungement and how to assist petitioners, how to confirm that a petition-less expungement has been granted, prosecutorial review and objection, and safeguarding information across both court and law enforcement systems. Such training should be a coordinated effort between the Judiciary, Attorney General, and Public Defender and legal service providers.*

**Recommendation 16.** *Informational events, flyers and websites should be made available to the public and petitioners with regard to eligibility for an automatic 10 year “clean slate” expungement. Such should be produced in multiple languages and should be available from multiple sources – courts, state agencies, faith-based and non-profit community support organizations.*

**Recommendation 17.** *The public and petitioners should be made aware, through web content, flyers, and social media, of employment and license opportunities available upon receiving an expungement, and what rights they obtain as a result thereof. This will encourage people to check to see if their record has been automatically expunged, as well as pursue a petition-based expungement if they have not yet reached the 10-year requirement for a “clean slate” expungement. Such should be produced in multiple languages and should be available from multiple sources – courts, state agencies, faith-based and non-profit community support organizations.*

**Recommendation 18.** *The public and petitioners should be made aware of Legal Services of New Jersey and other legal services entities that provide assistance in confirming whether an automatic expungement has been issued, and /or submitting an electronic application for a petition-based expungement.*