



CLEAN SLATE EXPUNGEMENT IN UTAH

ALSO KNOW AS AUTOMATIC EXPUNGEMENT

DEFINITION OF EXPUNGEMENT

- UCA 77-40-102(g)
 - "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

PETITION-BASED EXPUNGEMENT PROCESS

- Application
- Determination
- Certificate of Eligibility
- Petition Court
- Court Order for Expungement of Record(s)
- Distribution of Order and Expungement of Record(s)



SUMMARY OF PETITION-BASED PROCESS

- Thorough
- Complicated
- Long
- Expensive
- Burden on Petitioner

WHAT ARE CLEAN SLATE ELIGIBLE OFFENSES?

- Misdemeanor conviction for possession of a controlled substance
- A class B or C misdemeanor conviction
- An infraction conviction



WHAT OFFENSES ARE *NOT* INCLUDED?

- The individual is found “not guilty by reason of insanity”
- The individual owes fines or restitution
- The case resulted in one or more pleas held in abeyance or convictions for certain types of offenses



ELIGIBILITY CRITERIA

- Cannot have two or more felony convictions
- Cannot have any combination of three or more convictions that include two class A misdemeanors
- Cannot have any combination of four or more convictions that include three class B misdemeanors
- Cannot have five or more convictions of any degree whether misdemeanor or felony
- Is a case that resulted in an acquittal on all charges or was dismissed with prejudice



WAITING PERIODS

- At least five years for a class C misdemeanor or an infraction
- At least six years for a class B misdemeanor
- At least seven years for a class A misdemeanor conviction for possession of a controlled substance



PROCEDURE

- Courts are using Code for America to help identify the cases that may be eligible
- The cases that may be eligible are sent to the prosecutors
 - They have 35 days to review and file an objection if the case is not eligible, the individual has not paid restitution to the victim or believe that the individual is continuing to engage in criminal activity
- If the criteria has been met and there is no objection filed from the prosecutor, the court may issue individual orders for the expungement of that case
- Orders are sent to BCI and the prosecutor
- BCI notifies the law enforcement agencies identified in the case

IMPLEMENTATION STATUS

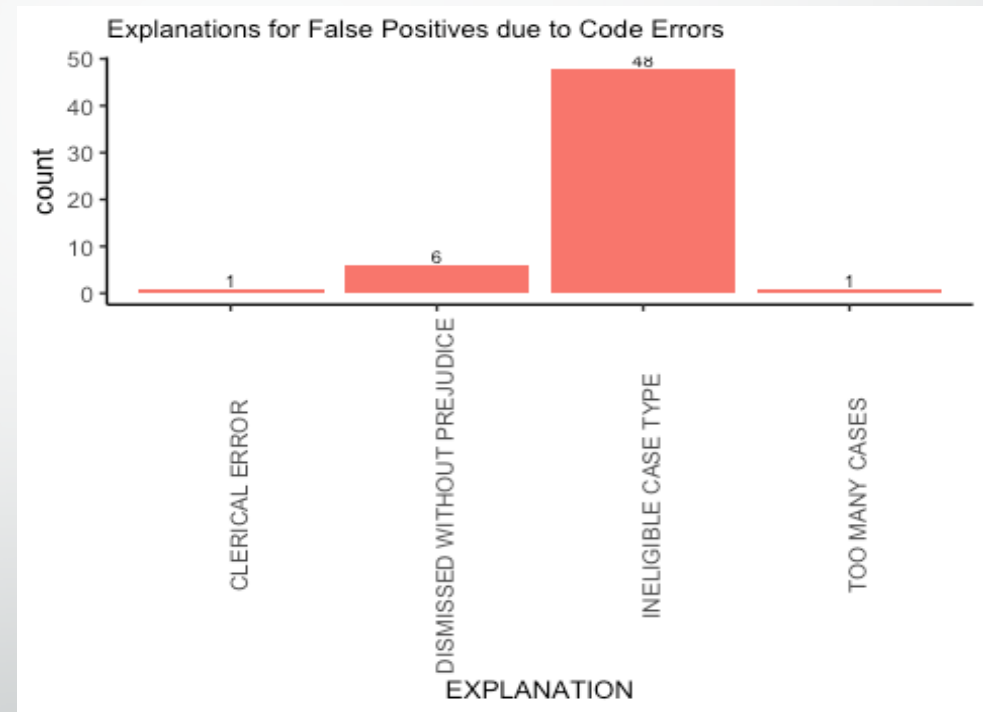
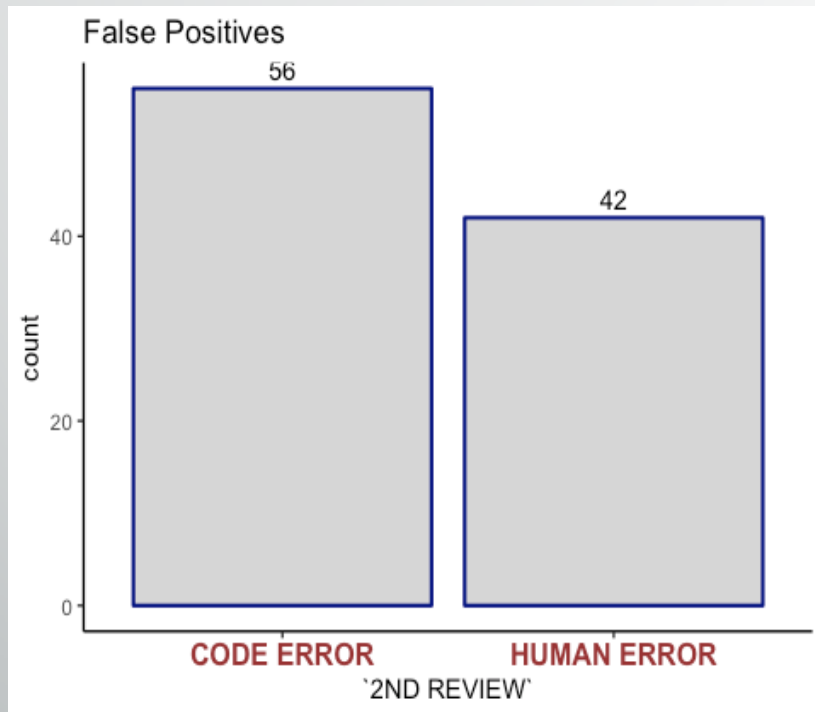
- Code for America has written code to identify clean slate eligible cases
 - Over 200,000 people across the state have a clean slate eligible case
 - ~20,000 additional people likely to be clean slate eligible each year
- Code for America's work has been validated by University of Utah researchers, in partnership with BCI and legal expungement experts
- Automated record clearing is likely to begin in August 2021

RESULTS OF CLEAN SLATE VALIDATION

- 20 volunteers, including criminal defense lawyers, prosecutors, legal aid lawyers, and the BCI Expungement Unit reviewed 1,571 randomly selected eligible and ineligible cases
- Initial review: 86% match between code and human review
 - 6.5% false positive rate & 7.5% false negative rate*
- After second review: 3.5% false positive rate
- After code corrections: under 1% false positive error rate

*A “false positive” refers to a situation where the code found a case eligible, but a human reviewer determined the case was ineligible. A “false negative” refers to a situation where the code found the case ineligible, but a human reviewer found the case to be eligible.

FALSE POSITIVES





IMPLEMENTATION CHALLENGES

- Court records are case-based, not person-based
- Renumbered code provisions
- Clerical errors
- Notification of impacted individuals

BCI AUTOMATION

- Broadcast Message to Law Enforcement Agencies