



Snapshot

REDUCING THE COLLATERAL CONSEQUENCES OF A DELINQUENCY ADJUDICATION*

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When it comes to dealing with youth in trouble with the law, the responsible thing to do is to ensure that youth are rehabilitated and don't commit new crimes. Taking this level-headed approach makes our communities safer. Unfortunately, our current juvenile justice system is like an exceptionally difficult maze, with too many paths in and too few ways out. And in many jurisdictions, current policies often ensure that youth who leave the system are still caught in the maze – years and often decades later.

In particular, youth returning from juvenile facilities face many challenges reintegrating into the community. These hardships, or “collateral consequences,” include barriers to education, employment, military service, and public benefits – making it difficult for them to leave the maze and become responsible members of society. A promising strategy to redesign the maze and reduce these collateral consequences is to keep juvenile records confidential. When communities take this practical step to build clearer exits to the maze of the justice system, they will help youth fully exit the maze so they can move on to contribute to their communities.

* This snapshot is drawn from information compiled by the National Juvenile Justice Network for publication on the [Juvenile Justice Resource Hub](#), hosted by the Juvenile Justice Information Exchange and sponsored by a generous donation from the John D. and Catherine T. MacArthur Foundation's [Models for Change](#) initiative.

Confidentiality of Juvenile Records¹

While a common perception is that juvenile delinquency records are private and protected, confidentiality of these records has eroded significantly in recent years, while at the same time, the negative impacts (or “collateral consequences”) of a juvenile record have become harsher and more numerous.² A growing number of states no longer limit access to records or prohibit the use of juvenile adjudications in subsequent criminal proceedings, and many do not keep juvenile court proceedings private at all.³ Additionally, many youthful offenses are recorded and made public on sex offender registries for years, if not a lifetime. Even a youth’s DNA is now sometimes collected and held indefinitely in law enforcement databases.⁴

WHAT ARE JUVENILE RECORDS?

Juvenile records refer to all the documents created from the time of a youth’s arrest, including police reports and charging documents, witness and victim statements, court-ordered evaluations, fingerprints, and DNA samples. Many of these records contain sensitive information, including details about a child’s family, social history, mental health history, substance abuse history, education, and involvement with the law. When this information is not confidential, “it can stigmatize the youth and erect barriers to community reintegration.”⁵ For example, juvenile records that are public and accessible to employers and landlords are often used to deny individuals jobs and housing.

CORE PRINCIPLES FOR PROTECTING CONFIDENTIALITY OF RECORDS

In a [report](#) released in November 2014, the [Juvenile Law Center](#) developed core principles for protecting the confidentiality of and access to juvenile records during and after juvenile court proceedings. Below are some of their key recommended state statute reforms:⁶

- Specifically state that confidentiality protections apply to all information in law enforcement and court records, and detail the type of information contained in these records.
- Make clear that juvenile records shall be filed and kept separately from adult records.
- Prohibit public inspection of juvenile court and law enforcement records.
- Limit access to juvenile record information to individuals connected to the case, which may include juvenile court personnel, the youth and his or her attorney, the youth’s parents, supervising agencies, and the prosecutor. Limited access may be granted to individuals conducting research.
- Put protections in place for juvenile record information released to government agencies and schools.
- Confidentiality exceptions only permitted by court order.
- Provide sanctions for the unauthorized sharing of confidential juvenile record information (except for youth who share their own information).

NJJN'S POLICY RECOMMENDATION

In August 2016, the National Juvenile Justice Network (NJJN) issued a policy platform, [“Confidentiality of Youth in the Juvenile Justice System.”](#) in which we recommended the following:

[L]aw enforcement and court records and related information associated with youth under the age of 18 who come into contact with the justice system [should] be kept from any and all public disclosure. Our recommendation pertains to the records, wherever they are kept, of youth in contact with both the juvenile and adult systems. We recommend, further, that limits be put in place regarding the sharing of information between government agencies, law enforcement, courts, and schools. Any records that are created as a result of a youth’s justice system involvement should be automatically sealed and reviewed for expungement when the youth is discharged from court supervision. Furthermore, we recommend that juvenile court proceedings be kept presumptively closed.⁷

Sealing and Expunging Juvenile Records

Both sealing and expunging juvenile records are recommended methods to further protect the confidentiality of juvenile records and help to reduce the barriers to youth re-entering their communities.

WHAT ARE SEALING AND EXPUNGING?

“Sealing” a juvenile record generally means that the records are closed to the general public but remain accessible to certain agencies and individuals, although criteria for access differs by jurisdiction.⁸ “Expungement” generally refers to erasing a juvenile record as if it never existed so that it is no longer accessible to anyone. In some cases, though not in all, both physical and electronic records are destroyed.⁹

However, these definitions are not ironclad. In some states, “expunged” records are treated more like sealed records in that they are still available to certain parties.¹⁰ The types of records eligible for sealing/expungement — and when they become eligible — also vary by state, with some including court records, law enforcement records, DNA information, and juvenile fingerprint records.¹¹

RECOMMENDED POLICIES ON SEALING AND EXPUNGEMENT

Recommended policies regarding sealing and expunging records in order to best protect youth’s confidentiality include the following from the [Juvenile Law Center’s](#) November 2014 [report](#) and their core principles:¹²

- Immediately seal records upon the closure of the youth’s case and ensure sealed records are completely closed to the general public.

- Define expungement to mean that records are electronically deleted and physically destroyed.
- Ensure that records of any offense are eligible for expungement at the time the youth's case is closed.
- Inform youth at their [adjudication](#) and [disposition](#) hearings of their right to sealing and/or expungement of records.
- Provide educational materials to youth and their families regarding the collateral consequences of juvenile adjudications and any rights they have to sealing and/or expungement.
- Provide opportunities for automatic expungement of records. Where this is not done automatically, inform youth of the procedures for sealing and/or expunging records, and ensure that the process is simple enough for youth to complete without attorney assistance.
- Do not charge youth for sealing and/or expunging records.
- Notify youth promptly when records have been sealed and/or expunged.
- Impose sanctions on individuals or agencies that violate the laws on sealing and expungement.

TOOLS TO HELP YOUTH WITH EXPUNGEMENT

More tools now exist to help youth with expungement. Organizations in Illinois, Maryland, and Louisiana have developed web-based expungement tools to help youth with the process.¹³ Interactive websites, which can be downloaded as apps, help youth (and adults with juvenile records) to determine their eligibility for expungement through simple yes/no questions and then direct them to legal resources to help them proceed. The first tool was developed in Illinois ([Expunge.io](#)), and Maryland ([ExpungeMaryland.org](#)) and Louisiana ([Expunge.LA](#)) were quick to follow.

For More Information

- The American Bar Association has developed a [“Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records”](#) (August 2015) which states can use in developing legislation on this topic.
- [“Confidentiality of Youth in the Juvenile Justice System”](#) (August 2016) is a National Juvenile Justice Network (NJJN) Policy Platform which provides NJJN's recommendation on youth confidentiality and background information. The accompanying document, [“Safeguarding the Confidentiality of Youth in the Justice System.”](#) provides further recommendations and resources.
- The Illinois Juvenile Justice Commission's [“Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois”](#) (January 2016), details the lack

of protections for Illinois youths' records and makes recommendations for improvement.

- Juvenile Justice Information Exchange, “Juvenile Justice Resource Hub: Re-entry,” <http://jjie.org/hub/reentry/>, provides further details on this topic.
- Juvenile Law Center has several helpful publications on this topic:
 - [“Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement”](#) (2014)
 - [“Failed Policies, Forfeited Futures: A National Scorecard on Juvenile Records”](#) (2014)
 - [“Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records”](#) (February 2016)

¹Riya Saha Shah and Lauren Fine, “Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement” (Philadelphia, PA: Juvenile Law Center, 2014), <http://bit.ly/14wgc2w>. Referred to hereafter as “Shah and Fine, ‘Juvenile Records.’”

² Juvenile Justice Information Exchange, “Re-entry: Key Issues/What Challenges Do Returning Youth Face?” (Juvenile Justice Resource Hub), accessed Nov. 4, 2016, <http://jjie.org/hub/reentry/key-issues/>; Juvenile Justice Information Exchange, “Re-entry: Reform Trends/Reducing the Collateral Consequences of a Delinquency Adjudication” ((Juvenile Justice Resource Hub) accessed Nov. 4, 2016, <http://bit.ly/re-entryfn199>.

³ Shah and Fine, “Juvenile Records,” 6; Melissa Sickmund and Charles Puzzanchera, “Juvenile Offenders and Victims: 2014 National Report” (Pittsburgh, PA: National Center for Juvenile Justice, 2014): 97-8, <http://1.usa.gov/1DhEoyR>.

⁴ Kristin N. Henning, “Eroding Confidentiality in Delinquency Proceedings: Should Schools and Public Housing Authorities be Notified?” *New York University Law Review*, vol. 79: 537-8, (2004), <http://bit.ly/1UcFXtU>.

⁵ Shah and Fine, “Juvenile Records,” 12.

⁶ Shah and Fine, “Juvenile Records,” 20-22.

⁷ National Juvenile Justice Network (NJJN), “Confidentiality of Youth in the Juvenile Justice System: Policy Platform” (Washington, DC, August 2016): 1, <http://bit.ly/2emRoyy>.

⁸ Shah and Fine, “Juvenile Records,” 23.

⁹ Shah and Fine, “Juvenile Records,” 24.

¹⁰ Shah and Fine, “Juvenile Records,” 25.

¹¹ Shah and Fine, “Juvenile Records,” 26-27.

¹² Shah and Fine, “Juvenile Records,” 46-47; Juvenile Law Center, “Failed Policies, Forfeited Futures: A Nationwide Scorecard on Juvenile Records,” accessed Nov. 4, 2016, <http://bit.ly/1w4mVNq>.

¹³ Zoe Schein, “New Web-Based Expungement Tools Launched by IL, MD, LA” (National Juvenile Justice Network, October 2, 2014), accessed Nov. 4, 2016, <http://bit.ly/1BWhkHq>.