Eliminating the Consequences of a Juvenile Record

Expungement and Deregistration

June 2015
Today’s Presentation

- How having a juvenile record and/or being on the sex offender registry affects youth
- Legal and logistical obstacles to expunging a record/removal from the registry
- How professionals can help
- Policy Changes
- Powerpoint will be available on the CJJ website after the conference
Consequences of a Juvenile Record
Consequences in Court

- Investigation
- Disposition planning
- Subsequent offenses
- Adult criminal proceedings
- Prior record score
Employment Consequences

Public records

Police records
Education Consequences

- College Applications
- Implications at current school
Military

- Moral criteria
- Moral waiver
- ALL records, even those expunged
Other possible consequences

- Driver’s License
- Child Welfare System
Other possible consequences

- Financial Aid
- Public benefits
- Possession or Purchase of a firearm
Life on the Juvenile Registry
Consequences of a Juvenile Sex Offense

- Placement on the sex offender registry can be even more detrimental than simply having a juvenile adjudication.
Requirements of Sex Offender Registration

- Most recent federal statute: SORNA
- Registration and Notification
- Different state to state
States that require registration

Map 3: Registration of Serious Juvenile Sex Offenders

SMART Summary: Prosecution, Transfer and Registration of Serious Juvenile Sex Offenders. March 2015.
Stigma

“Sex Offender registration is slow death by humiliation.”

- Registry may be publically available on the internet.

- Even in states where registration status is not required to be publicly posted online, many private entities make the registration information available online.

- If the youth is prosecuted as an adult, subject to adult registration requirements.
Registry may be publically available from a state or local law enforcement agency

- In Colorado, anyone can get the entire statewide list for $25, which includes thousands of children including children as young as 10 years old, and provides their addresses.

- Police may come to the house at any hour to “check” on the registrant, in full view of neighbors.

- In some states yard signs and other public “notification” is required.
Stigma

- Schools are often notified (this is sometimes required by law)

- Schools may put specials “plans” in place that require the student to use the bathroom alone, prohibit school field trips, prohibit the student from participating on sports teams, and impose other rules that isolate the child from his or her peers
Suicide

“There is no redemption, no forgiveness. You are never done serving your time. I wish I were executed because my life is basically over.”

- 281 youth offenders and 15 family members
- 84.5% reported negative psychological impacts
- 19.6% had attempted suicide
Violent Vigilante Attacks

- 52% experienced violence or threat of violence
Barriers to Education

- Special “plan” or “contract”
- Expulsion
- Applications may ask about adjudications
- Law may require disclosure to higher education institutions
Inability to find work

- Criminal background check
- Laws prohibiting application for licenses and certifications
- Laws prohibiting certain positions or types of employment
Inability to find housing

- Prohibitions on living in close proximity to parks, schools, daycare centers, etc.

- In some counties and cities there is virtually no place to reside, and/or no affordable housing

- Can lose public housing

- Families may be split if the victim (sibling, cousin) resides in the home or if children reside in the home
Inability to find housing

- Kentucky study: 45% reported loss of housing or inability to find housing
- Wisconsin study: 83% had trouble finding and/or maintaining housing
Fees and Costs

- Fees can range from $50-over $1000 per year

“If you don’t pay, they re-arrest you and convict you for failure to register.”
Impact on Family

- Impacts the family as well as the child
- Pay fees
- May lose housing
- May lose employment
- Psychological Impact
Onerous and Confusing Registration Requirements

- Required to register annually (or more often)
- May have to register immediately after a move (In Colorado, five days)
- May have to register in more than one home (joint custody)
- May have more onerous requirements if child is without a permanent home
- May have to register if spending even two weeks in another home
- Logistical problems: transportation, registration fees
Further prosecution

- Registration laws are complex and frequently changing.

- Human Rights Watch concluded that it “may be particularly difficult for youth offenders to meet all the registration requirements for reasons linked to their youth and immaturity as well as the onerous nature of the requirements.”
  - “In many cases, they do not even know that a serious criminal sentence is hanging over their heads should they fail to comply with every particular.”
Further Prosecution

- If youth fail to meet these changing and complicated requirements, they may be charged criminally.

- Failure to Register convictions will appear on public background checks and often cannot be sealed or expunged.
“The crimes committed against the children named in the bill, those not named, and the suffering of their families is a tragedy for all of us, yet this does not release us from the responsibility to legislate on a sound and reasoned basis. I believe the situation is serious and grave enough to warrant a bill that is based on approaches that have been proven to reduce this scourge in our society, not on sound bites that will merely pander to our emotions.”

--Representative Robert Scott (D-VA)
Identifying the wrong people—people who are actually not likely to commit another sexual crime—hurts instead of helping

- False sense of security
- Waste of valuable resources
Consequences without justification

- Children adjudicated of sex offenses are not likely to reoffend.
  - Overall: 40% vs. 13%
  - Dr. Elizabeth LeTourneau: 2 events out of 222 youth
  - Professor Franklin E. Zimring: Over 92% of juveniles adjudicated of a sex offense did not commit another sex offense.
  - Other studies: recidivism rate between 4-10% for youth
“Children are constitutionally different from adults...Juveniles have diminished culpability and greater prospects for reform...”

*Miller v. Alabama*

United States Supreme Court (2012)
Confidentiality and Expungement of Juvenile Records
95% of youth arrests are for nonviolent offenses

Juvenile records create barriers to future opportunities

Myth that juvenile records are confidential and automatically expunged