Protecting the Confidentiality of Justice-Involved Youth
Hosted by the National Juvenile Justice Network and the Coalition for Juvenile Justice
Wednesday, March 4, 2015, 3:00PM ET
NJJN leads a national movement of state-based juvenile justice coalitions and organizations focused on reforming the juvenile justice system.
Presenters

Riya Shah, Staff Attorney at the Juvenile Law Center

Kirstin Cornnell, Director of Operations at the Delaware Center for Justice
Access to Records, Expungement, and Sealing

Riya Saha Shah
Juvenile Law Center
95% of youth arrests are for nonviolent offenses

Juvenile records create barriers to future opportunities

Myth that juvenile records are confidential and automatically expunged
Why records exist

- Community protection
- Track criminal behavior patterns
- Provide for appropriate levels of supervision
Why records need confidentiality

- Utility diminishes over time
- Incorrect information in records
- Fails to appreciate adolescence is transient
- Collateral Consequences
Limited Accessibility
- Sealing
- Setting aside

No Accessibility
- Expungement
- Destruction
Juvenile records need better protection. A study of each state’s policies on keeping juvenile records confidential and allowing for those records to be expunged shows that the nation limits opportunities for youth by failing to protect them from the harmful effects of their juvenile records.

www.jlc.org/juvenilerecords
- Confidentiality of records prior to sealing and/or expungement eligibility, and;

- The availability and process for obtaining Sealing and/or Expungement.
The Results

0 states ★★★★★
16% of states ★★★★★
55% of states ★★★★★
25% of the states ★★★

State Fact Sheets describing records laws in every state and the District of Columbia (2014)
- State survey of confidentiality, sealing, expungement laws
- Core principles for optimal record protection
- Recommendations for policy reform.
Core Principles

Confidentiality of Juvenile Record Information

Access to Juvenile Record Information

Sanctions for sharing confidential information

Effect of Sealing and Expungement

Notification of Sealing and Expungement rights

Expungement eligibility and process

Sanctions for sharing expunged record information

Fee for sealing and expungement
Confidentiality
Confidentiality of Juvenile Record Information

- List documents in records
- Confidentiality protections for juvenile court AND law enforcement records
- Separate adult and juvenile files
<table>
<thead>
<tr>
<th>State</th>
<th>Score (PTS)</th>
<th>(Why do total points vary?)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>100% (13 OF 13 PTS)</td>
<td>[Reason explained]</td>
</tr>
<tr>
<td>Rhode Island</td>
<td>100% (13 OF 13 PTS)</td>
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<tr>
<td>California</td>
<td>77% (10 OF 13 PTS)</td>
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<td>Wyoming</td>
<td>62% (8 OF 13 PTS)</td>
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<td>Kentucky</td>
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<tr>
<td>Pennsylvania</td>
<td>54% (7 OF 13 PTS)</td>
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<tr>
<td>Alabama</td>
<td>46% (6 OF 13 PTS)</td>
<td>[Reason explained]</td>
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<tr>
<td>Washington</td>
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**National average**: 28% (3.6 OF 13 PTS)
- No public access to juvenile record information
- Limited access:
  - Individuals connected to case
  - Schools
  - Government agencies
  - Research
- Court order exception
### Juvenile records fully protected

- California
- Illinois
- Nebraska
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Rhode Island
- Vermont

### Juvenile records completely available to public

- Arizona
- Idaho
- Iowa
- Michigan
- Montana
- Oregon
- Washington

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<tr>
<td>Wyoming</td>
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</tr>
<tr>
<td>National average</td>
<td>58% (3.5 OF 6 PTS)</td>
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**Grading scale**

- **100%** (6 OF 6 PTS)
- **75%** (4.5 OF 6 PTS)
- **50%** (3.0 OF 6 PTS)

**How scoring works**

Publicly available records can be placed on a searchable online database, or simply made available if an individual requests the record through the state police or the juvenile court. States that make it more difficult for the public to gain access to records received the highest score.
Sanctions for sharing confidential information

Fine individuals or agencies that intentionally disclose confidential juvenile record information

No penalties on youth who share their own confidential information
Sealing and Expungement
## Effect of Sealing and Expungement

<table>
<thead>
<tr>
<th>After sealing:</th>
<th>After expungement:</th>
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<td>- physically or electronically segregated so that only persons or agencies with statutory authority can gain access</td>
<td>- deleted from the files of the court; and</td>
</tr>
<tr>
<td></td>
<td>- respond that no record exists</td>
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</table>
Physical destruction of expunged records

Alabama
Arizona
Florida
Hawaii
Idaho
Indiana
Michigan
Mississippi
Missouri
Montana
North Dakota
Oregon
South Carolina
Tennessee
Texas
Washington
Wisconsin
Expungement of law enforcement AND court records

<table>
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<th>Louisiana</th>
<th>Pennsylvania</th>
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</thead>
<tbody>
<tr>
<td>Connecticut</td>
<td>Maryland</td>
<td>Rhode Island</td>
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<tr>
<td>District of Columbia</td>
<td>Missouri</td>
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<td></td>
</tr>
</tbody>
</table>
by the child’s attorney;
by the Court at the final hearing;
by the juvenile probation department when supervision discharged;
by the child’s attorney and the court at the time the child is eligible to apply for expungement
by the Clerk of Court when the expungement has been completed.
Notification of Sealing and Expungement rights

- consequences of being adjudicated delinquent;
- information about the child’s expungement rights;
- difference between a sealed and expunged record; and
- timeline for automatic expungement or expungement upon application
Web-based notification tools

If you were arrested in Louisiana when you were 16 or younger, you probably have a juvenile record.

Your juvenile record can have long-lasting negative effects. The good news: most juvenile records can be erased through a process called juvenile expungement! Expungement essentially wipes the slate clean – all files and information are destroyed, as if your arrest never happened!

There are many reasons why you don’t want a juvenile record:
- Learn more →

Answer some questions to find out if you’re eligible for juvenile expungement in Louisiana

If you know you’re eligible, apply for juvenile expungement!
- Get Forms →

EXPUNGE PHILADELPHIA

Erase your Illinois juvenile record!

If you were arrested in IL when you were under 18, you probably have a juvenile record.

A juvenile record does not go away on its own, and you’re better off without one. The good news: most juvenile records can be erased through a process called juvenile expungement.

Juvenile Expungement 1-2-3

1. Find out if you’re eligible!
- START

2. Get your arrest information (rap sheet)

3. Apply for expungement
- Get Paperwork →
- Automatic sealing at discharge
- Automatic expungement of diverted and dismissed cases
- Automatic expungement if the person has no subsequent or pending adjudications or convictions for the following five years; or
- Expungement at any time after hearing
Eligibility

- Age
- Offense
- Duration of time since case closure
Sanctions for sharing expunged record information

- Fine for disclosure of confidential information contained in an expunged juvenile court or law enforcement record.
- Fine individuals or agencies that intentionally fail to carry out expungement orders.
- No penalty on youth who share their own expunged juvenile record information.
- No fee to file
- No fee to expunge

Fee for sealing and expungement
Policy recommendations

- Judges
- Juvenile Court Personnel
- Youth-serving agencies
- Defense Attorneys
- State Legislature
REDEEM Act

The Record Expungement Designed to Enhance Employment Act

Senators Cory Booker (D-NJ) and Rand Paul (R-KY)

- automatic expungement of records for kids who commit non-violent crimes before they turn 15
- automatic sealing of records for those who commit non-violent crimes after they turn 15 years old
Youth-serving agencies

- Educational materials
- Trainings
Riya Saha Shah
rshah@jlc.org
www.jlc.org
State Spotlight: Delaware

Kirstin Cornnell
Delaware Center for Justice
The Delaware Center for Justice, Inc. is a non-profit United Way agency, dedicated to creating a safer, more secure Delaware by seeking to achieve and preserve a high quality of justice.

We fulfill our mission through an extensive range of programs and services, public education, research, and advocacy.
Expungement in DE

• As of 2012, expungement no longer involves the destruction of records
• Records are not available to the public, but there are many exceptions to confidentiality
• No automatic expungement
• No formal process to notify youth of expungement process or eligibility
• Restricted opportunity for mandatory and discretionary expungement
Reform Targets

• Prevent convictions for minor offenses from barring expungement; Fuller vs. State of Delaware
• Allow for automatic and immediate expungement for misdemeanors or violations terminated in child’s favor
• Allow for discretionary expungement for multiple misdemeanor or violation adjudications
• Allow for discretionary expungement for a felony adjudication plus a misdemeanor adjudication
• Relieve Financial burden
  - Family Court Filing Fee
  - State Bureau of Investigation (SBI) criminal record fee
• Inclusion of a “catch all” provision
Strategies to Overcome Obstacles

• Engage new administration
• Address educational gaps
  – Control and simplify message
  – Speak to violence in Wilmington
• Develop communication strategy- framing metaphors
• Build community partnerships
• Engage youth and issue leaders
Thank you!

Kirstin Cornnell
Delaware Center for Justice
kcornnell@dcjustice.org
Contact Information

Kirstin Cornell
Delaware Center for Justice
kcornnell@dcjustice.org

Riya Saha Shah
Juvenile Law Center
rshah@jlc.org

Melissa Goemann
National Juvenile Justice Network
goemann@njjn.org