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FUTURES IN THE BALANCE

Myths and Facts About the Impacts of Juvenile Court

Numerous myths and misconceptions exist about involvement with the juvenile legal system and the effects it can have on a young person's trajectory to success. Many people have misconceptions about the mostly unrealized benefits of juvenile court, thinking juvenile court is a benevolent system of support that does not lead to long-term negative outcomes.

The reality is that involvement with the juvenile court system can put overwhelming hurdles in the way of young people's futures. Youth are regularly saddled with fines and fees, driver license suspensions, suspension or expulsion from school, stigma from electronic monitoring, and many other obstacles.¹ Additionally, youth are often traumatized by legal system practices like shackling, strip searches, isolation, and incarceration.² And health, mental health,

education, and employment outcomes are generally worse for youth who interact with the legal system.³

Compounding all of these problems, records of arrests, charges, and/or adjudications⁴ may be available to the public and appear on background checks run by potential employers, landlords, and colleges.⁵ Additionally, young people are often required to provide information about their involvement with the legal system on applications for employment, housing, and higher education,⁶ which can lead to demoralizing rejections.

Referring young people to the legal system can have a detrimental impact on them, their families, and the community at-large. Below are some myths and facts that illustrate these long-term consequences.

MYTH

Records and information from juvenile court are confidential, not publicly accessible.

Fact: Many juvenile court records or information from those records are available to the public and can appear on background checks.⁷

Fact: A majority of public colleges and universities run background checks as part of their admissions process.⁸

Fact: "About 94% of employers conduct some form of criminal history check" on applicants.⁹

Fact: "[A]bout 90% of landlords run background checks on prospective tenants."¹⁰

MYTH

Records related to juvenile court involvement disappear when the youth turns 18.

Fact: Almost every state requires young people to wait a period of time and/or submit a request before the record can be destroyed (expunged) or otherwise closed and removed from regular access (sealed).¹¹

Fact: The expungement and sealing process for juvenile records is often fraught with long waiting periods, costly filing fees, complex eligibility requirements, and unlimited discretion of the court.¹²

Fact: Some states do not allow for the destruction or sealing of certain juvenile court records at all.¹³



MYTH

Juvenile court involvement does not affect a family's ability to obtain or maintain housing.

Fact: In certain circumstances, local public housing authorities may exclude or evict families with a child who has been involved with the delinquency system.¹⁴

Fact: Some public housing applications ask about residents' arrests, convictions, or time on probation or parole.¹⁵

MYTH

Young people involved in the juvenile court system can easily enlist in the military.

Fact: Anyone with an arrest, charge, or adjudication for certain offenses must request a waiver to enlist in the military.¹⁶ The waiver process requires applicants to provide documentation of all involvement in the legal system, no matter the applicant's age at the time of the alleged actions.

Fact: Applicants must disclose all arrests, charges, and adjudications even if they have been expunged, sealed, or otherwise cleared.¹⁷

MYTH

Having a juvenile record will not prevent someone from obtaining an occupational license.

Fact: Some state licensing boards can access information about applicants' juvenile records and/or ask questions related to applicants' juvenile court involvement. These

agencies take this information into consideration when deciding whether to grant applications for a professional or occupational license.¹⁸

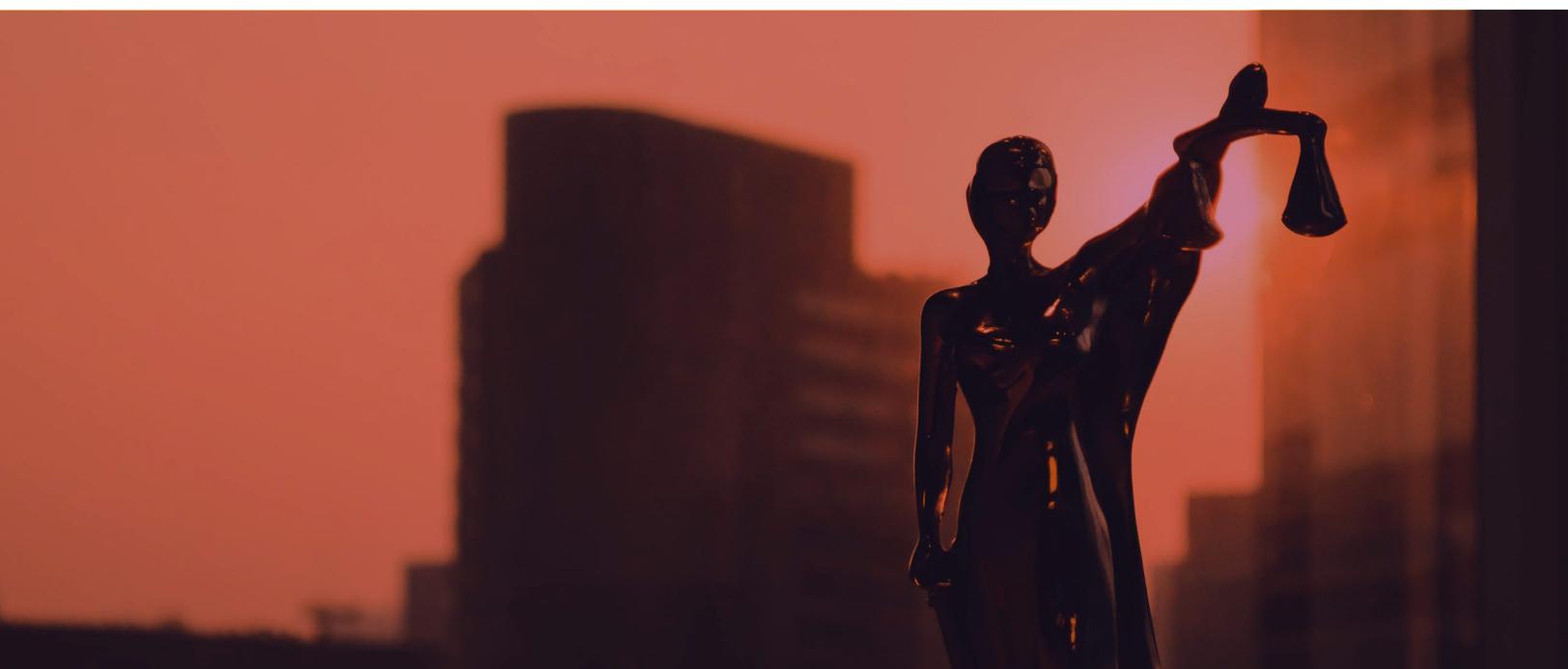
To ensure young people have access to opportunities to succeed in life, the legal system should be avoided whenever possible.

Endnotes

- ¹ See generally *Collateral Consequences*, NAT'L JUV. DEF. CTR., www.njdc.info/collateral-consequences (last visited Jan. 5, 2021) (several publications listed include discussions about the fines and fees, driver's license suspensions, suspension or expulsion from school, and other obstacles young people face because of an arrest, charge, or adjudication); Chaz Arnett, *Virtual Shackles: Electronic Surveillance and the Adultification of Juvenile Courts*, 108 J. CRIM. L. & CRIMINOLOGY 399, 407 (2018) ("For individuals who experience electronic monitoring, it is a virtual extension of prison with real consequences leading to lack of job prospects, strains on familial ties, increases in levels of shame and depression, and disparate treatment from the stigma of criminal justice involvement.").
- ² Christopher Edward Branson et al., *Trauma-informed juvenile justice systems: A systemic review of definitions and core components*, 9 PSYCH. TRAUMA: THEORY, RSCH., PRAC. & POL'Y 635, 636 (2017) ("Youth with prior trauma exposure may be 'triggered' and suffer psychological distress in response to several invasive or coercive practices commonly used in the justice system, including strip searches/pat downs, placement in secure facilities with limited access to loved ones, and use of punitive seclusion or physical restraint in detention or correctional settings.").
- ³ See generally Elizabeth S. Barnert et al., *How Does Incarcerating Young People Affect Their Adult Health Outcomes?*, 139 PEDIATRICS 1 (2017) (discussing the long-term negative impact incarceration has on youth); David S. Kirk & Robert J. Sampson, *Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood*, 86 SOCIO. EDUC. 36, 54 (2013) ("arrest in adolescence hinders the transition to adulthood by undermining pathways to educational attainment"); Jön Gunnar Bernburg & Marvin D. Krohn, *Labeling, Life Chances, and Adult Crime: The Direct and Indirect Effects of Official Intervention in Adolescence on Crime in Early Adulthood*, 41 CRIMINOLOGY 1287, 1302 (2003) ("both police intervention and juvenile justice intervention are positively and significantly related to periods of nonemployment in adulthood.").
- ⁴ "Adjudication," analogous to an adult conviction, is a formal finding by the juvenile court, after an adjudicatory hearing or the entering of a guilty plea/admission, that the youth has committed the act with which they are charged.
- ⁵ Judith G. McMullen, *Invisible Stripes: The Problem of Youth Criminal Records*, 27 S. CAL. REV. L. & SOC. JUST. 1, 21-22 (2018); see, e.g., CAL. WELF. & INST. CODE § 676(a), (c), (d) (2020); CAL. WELF. & INST. CODE § 827.2(c) (2020) (information from adjudications for 707(b) offenses are available to the public); FLA STAT. § 985.04 (2020) (felony records are available to the public); KAN. STAT. ANN. § 38-2309(b) (2020) (juvenile records for those 14 or older at the time of an arrest are open to the public); NEB. REV. STAT. § 43-2,108(3) (2020) (all records are open to the public unless sealed); VA. CODE ANN. § 16.1-305(B1) (2020), VA. CODE ANN. § 16.1-309.1(A) (2020) (felony adjudications of those who were 14 years old or older at the time of offense are public records); WASH. REV. CODE § 13.50.050 (2020) (all records are open to the public unless sealed).
- ⁶ CTR. FOR CMTY. ALTS., *THE USE OF CRIMINAL HISTORY RECORDS IN COLLEGE ADMISSIONS RECONSIDERED* 18 (2010), <http://www.communityalternatives.org/pdf/Reconsidered-criminal-hist-recs-in-college-admissions.pdf>; see, e.g., HOUS. AUTH. OF THE CITY OF JACKSON MISS., *ADMISSION & CONTINUED OCCUPANCY POLICY* 14 (2010), <https://jacksonhousing.org/wp-content/uploads/2016/11/ACOP.pdf>; HOUS. AUTH. OF SNOHOMISH CNTY., *PRE-APPLICATION FOR HOUSING* (2017), https://hasco.org/wp-content/uploads/2017/09/application_8217-1.pdf.
- ⁷ *Supra* note 5.
- ⁸ CTR. FOR CMTY. ALTS., *supra* note 6, at 8; see also ROBERT STEWART & CHRISTOPHER UGGEN, *CRIMINAL RECORDS AND COLLEGE ADMISSIONS: A MODIFIED EXPERIMENTAL AUDIT* 9 (2018) ("Nearly 80 percent of private colleges and 58 percent of public colleges required applicants to answer [criminal history questions] on their applications...").
- ⁹ NAT'L CONSUMER L. CTR., *BROKEN RECORDS REDUX: HOW ERRORS BY CRIMINAL BACKGROUND CHECK COMPANIES CONTINUE TO HARM CONSUMERS SEEKING JOBS AND HOUSING* 8 (2019), <https://www.nclc.org/images/pdf/criminal-justice/report-broken-records-redux.pdf>.
- ¹⁰ *Id.*
- ¹¹ See CLEAN SLATE CLEARINGHOUSE, <https://cleanslateclearinghouse.org/> (last visited Jan. 5, 2021) (provides information about the juvenile record clearance process in all 50 states and six territories); see, e.g., IND. CODE § 31-39-8-2 (2020); OHIO REV. CODE ANN. § 2151.358(A) (2020); OR. REV. STAT. § 419A.260(1)(d)(J) (2020); VA. CODE ANN. § 16.1-306(A) (2020); WASH. REV. CODE § 13.50.260(4)(a), (b) (2021).
- ¹² See CLEAN SLATE CLEARINGHOUSE, <https://cleanslateclearinghouse.org/> (last visited Jan. 5, 2021) (provides information about the juvenile record clearance process in all 50 states and six territories); see, e.g., KAN. STAT. ANN. § 38-2312(d) (2020) (the court will charge a docket fee of \$176 and can charge up to \$19 to "fund the costs of non-judicial personnel"); KAN. STAT. ANN. § 38-2312(e)(1)(C) (2020) (if the judge determines the petitioner has met all eligibility requirements, the judge will then review the petitioner's "circumstances and behavior" in determining whether to grant the expungement); MASS. GEN. LAWS ch. 276, § 100I (2020) (for felony adjudications, the applicant must wait seven years before filing an expungement petition); MINN. STAT. § 260B.198(6)(a) (2020) (court has discretion whether to grant sealing petition); NEB. REV. STAT. § 43-2,108.04(3) (2020) (court has discretion whether to grant sealing petition); OR. REV. STAT. § 21.135(1) (2020) (\$281 filing fee); S.C. CODE ANN. § 17-22-940(A), (G) (2020) (youth must pay a \$250 fee to the Solicitor's Office, \$25 verification fee to the South Carolina State Law Enforcement Division, and a \$35 filing fee to the Clerk of the Court); VA. CODE ANN. § 16.1-306(A) (2020) (records will be expunged after five years have passed since the last hearing in the case and young person is at least 19 years old); WASH. REV. CODE § 13.50.260(4)(a) (2020) (young people must wait five years before they are eligible to file a request to get their juvenile record for a Class A felony sealed).
- ¹³ See, e.g., MD. CODE ANN., CTS. & JUD. PROC. § 3-8A-27.1(c) (2020) (records for the following are not eligible for expungement: felonies, crimes of violence, offenses involving firearms, certain sex offenses, etc.); N.J. REV. STAT. § 2C:52-4.1(b)(3) (2020) (records for the following are not eligible for expungement: criminal homicide, kidnapping, sexual assault, robbery, arson, perjury, etc.); S.C. CODE ANN. § 63-19-2050(C)(2) (2020) (violent crimes are not eligible for expungement); UTAH CODE ANN. § 78A-6-1503(2)(c)(i) (2020) (violent felonies are not eligible for expungement); VA. CODE ANN. § 16.1-306(A), (B) (2020) (felonies are not eligible for expungement).
- ¹⁴ See 24 C.F.R. § 982.553(a)(2)(ii), (b) (2016) (families may be denied admission to public housing or have their eligibility to remain in public housing terminated if the public housing authority believes that any household member has engaged in criminal activity involving drugs, violence, or other criminal activity deemed to "threaten the health, safety, or right to peaceful enjoyment of premises by other residents" or staff); 24 C.F.R. § 960.204(a)(3)-(4) (2001) (families must be denied admission to public housing or have their eligibility to remain in public housing terminated if a household member is convicted of making methamphetamines on public housing grounds or subject to lifetime sex offender registration).
- ¹⁵ See, e.g., HOUS. AUTH. OF THE CITY OF JACKSON MISS., *ADMISSION & CONTINUED OCCUPANCY POLICY* 14 (2010), <https://jacksonhousing.org/wp-content/uploads/2016/11/ACOP.pdf>; HOUS. AUTH. OF SNOHOMISH CNTY., *PRE-APPLICATION FOR HOUSING* (2017), https://hasco.org/wp-content/uploads/2017/09/application_8217-1.pdf.
- ¹⁶ See generally 32 C.F.R. § 66.6 (2016).

¹⁷ See 32 C.F.R. § 66.3 (2016); DEP'T OF THE ARMY, ARMY REGULATION 601-210: PERSONNEL PROCUREMENT: REGULAR ARMY AND RESERVE COMPONENTS ENLISTMENT PROGRAM 14-15 (2016), https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN6642-AR_601-210-001-WEB-1.pdf (providing examples of how the military views sealed or expunged cases).

¹⁸ See, e.g., MINN. STAT. ANN. § 260B.171(4)(b)(2) (2020), MINN. STAT. ANN. § 245C.03(1) (2020) (The Minnesota Department of Human Services and the teacher licensing board will review an applicant's entire juvenile record—both what is privately available and publicly available—and can deny the application for an occupational license based on that record.); OFF. OF PRO. LICENSURE & CERTIFICATION, STATE OF N.H., STATE ADDENDUM (2020), <https://www.oplc.nh.gov/medicine/documents/physician-application-addendum.pdf> (The New Hampshire Board of Medicine physician application asks about drug-related charges, investigations, and warnings by law enforcement. The application does not limit how far back the applicant must provide information.).



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