

# MAINE STATE LEGISLATURE

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# Unsealed Fate:

THE UNINTENDED CONSEQUENCES OF INADEQUATE  
SAFEGUARDING OF JUVENILE RECORDS IN MAINE



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# EXECUTIVE SUMMARY

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## Significance of the Study

Since 1919, when the state’s juvenile delinquency code was enacted, Maine’s justice system has recognized the difference between youth and adults by emphasizing treatment and rehabilitation for young people in the justice system. This approach is supported by a large and growing body of adolescent development and brain science research that finds fundamental, biologically-based differences between youth and adults. If the goal of a separate justice system for youth is to provide the tools and opportunities for young people to change, it is antithetical that the very involvement with the system could create unanticipated, lasting consequences. Unfortunately, studies across the country are finding just that; limited safeguarding of juvenile records stemming from involvement in the juvenile justice system puts individuals at risk of facing collateral consequences, including difficulty obtaining employment and housing or serving in the military. This report explores the extent to which this issue is occurring in Maine by detailing what statutes say, what practices look like and what the implications are for individuals in Maine with a juvenile record. The goal of this report is to provide policy makers, the public and juvenile justice system practitioners with research about what those closest to the system understand about how records are handled and accessed, the impact of juvenile records and what improvements could be made that are consistent with the rehabilitative and public safety goals of the juvenile justice system in Maine.

## Methodology

To determine the extent to which individuals with juvenile records experience collateral consequences, researchers from the University of Southern Maine’s Muskie School of Public Service employed a mixed-methods approach including statute research, practice and policy review and qualitative data collection. Focus groups, interviews and surveys with more than 200 people throughout the State of Maine provided rich, well-grounded and deeply descriptive insights into the juvenile justice system and what is commonly understood about the handling of records related to system involvement. Throughout the report, case studies highlight the stories of young people and adults who have been impacted by their juvenile records.

## Key Findings: Confusion, Inconsistency and Misunderstanding

Results of this research reveal persistent misunderstanding, confusion and inconsistencies surrounding the policies, practices and laws that govern safeguarding and sealing juvenile records. Although Maine’s juvenile code includes a provision for sealing, it is poorly understood and severely underutilized. The notion that records are automatically sealed at age 18 was consistently repeated in interviews across all samples. In fact, juvenile records in Maine are never automatically sealed.

Coupled with limited knowledge around the legal options and processes for sealing juvenile records, the persistent myth that records disappear at age 18 makes it less likely that individuals will seek to have their records sealed and increases the likelihood they will face collateral consequences. Further, there is no system, centralized authority or institutional support for

“We pride ourselves on using precise language in this field, but we use the language around sealing records extremely imprecisely.”

-Juvenile Justice Stakeholder

individuals with juvenile records to protect their confidentiality as they attempt to get their lives back on track. Consequently, individuals with juvenile records face significant barriers in application processes, securing employment, enrolling in the military and to a lesser extent, accessing housing and financial supports. In addition, juvenile records put people at greater risk of facing harsher adult sentencing and individuals with records report experiencing marginalization and stigmatization. Specifically, the interviews and research for this report found:

- Widespread lack of understanding of the procedures intended to safeguard juvenile records and the sealing process, including confusion around the meaning of the term “sealed.”
- Inconsistencies around juvenile record creation and sharing.
- A record sealing process that many believe does not sufficiently meet the rehabilitative goals of Maine’s Juvenile Code or reflect research on adolescent development.
- Many young people accept pleas without understanding the implications of having a record and its subsequent consequences.
- The quality of representation contributes to how well records are safeguarded.

## Opportunities for Reform

There was strong support across divergent stakeholder groups for reform of Maine’s Juvenile Code and improvements around how juvenile records are handled, accessed and safeguarded. Many interviewed share the belief that Maine’s Juvenile Code must be revised to support an easier pathway to juvenile record sealing. Many emphasized that the burden to seal records must be removed from the youth. Others stressed the need to train and educate those who work with young people so they are more knowledgeable about the sealing process. There were differences of opinion about length of time before a record should be eligible to seal, types of adjudications that should be considered in sealing and what the sealing process should look like. What was agreed upon is that clearer processes and practices are needed to better safeguard juvenile records and reduce the collateral consequences associated with juvenile justice system-involvement.

“ [The sealing process is] complex and is in serious need of revamping. It’s a challenge navigating all the different statutes that touch upon the confidentiality of juvenile records. ”

-Prosecutor

The following suggestions are those that were most consistently cited throughout the research and are offered to practitioners and policymakers for consideration in efforts to improve and reform systems, procedures and practice around juvenile records:

- Increase stakeholder training and education.
- Revise, or develop, and formalize system and personnel guidance.
- Raise public awareness around juvenile records and collateral consequences.
- Make changes in law and administrative practice.
- Ensure youth and family access to information.

## Glossary of Terms and Abbreviations

**Adjudication:** In Maine, if a juvenile is found by a court to have committed a criminal act, the juvenile is considered “adjudicated.” An adjudication hearing is the time at which a juvenile’s criminal case is heard by a court. An order of adjudication is issued by the court if the allegations of a petition alleging a juvenile crime are found to be supported by enough evidence.<sup>1</sup>

**Adult:** “Adult” refers to individuals age 18 and older.

**Arrest:** Youth are “arrested” when law enforcement agencies apprehend, stop, or otherwise contact youth under suspicion that they have committed a delinquent act. Throughout this report “arrest” also includes incidences in which youth are cited or summonsed for delinquent acts in lieu of actual physical custody.

**ATN:** Arrest Tracking Number

**Confined:** “Confined” includes individuals who were detained or committed in a secure facility at the time of interview.

**Conviction:** In Maine, adults found by a court to be guilty of criminal acts are “convicted.”

**CTN:** Charge Tracking Number

**Disposition:** Final determination of a case

**Dissemination:** The transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

**Diversion:** A resolution to a criminal investigation that may include no further action, a fine, community service, referral to services and/or a brief period of pre-adjudicatory supervision referred to as informal adjustment.<sup>2</sup>

**DOC:** Department of Corrections

**Expunge:** To “expunge” a record is to make it as though no offense ever occurred. After expungement, a record theoretically cannot be discovered or retrieved by any means or by any entity.

**JCCO:** Juvenile Community Corrections Officer

**Juvenile record:** For the purposes of this report, “juvenile record” refers to all information that has been generated by criminal justice agencies that may lead to collateral consequences later in life.

**Long Creek Youth Development Center (“Long Creek”):** Youth detention facility located in South Portland, Maine, operated by the State of Maine Department of Corrections.

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<sup>1</sup> Some offenses committed by individuals under age 18 result in youth being required to attend adult court and/or being charged with adult offenses, which could result in a criminal conviction. See Appendix A for more information.

<sup>2</sup> Several definitions adapted from Dumont, R., King, E., & Shaler, G. (2015). *Disproportionate Contact: Youth of Color in Maine’s Juvenile Justice System*. University of Southern Maine Muskie School of Public Service. Retrieved from <https://goo.gl/r1hi3V> [from usm.maine.edu].

**Maine Correctional Center (MCC):** A medium- or minimum- security facility located in Windham, Maine, operated by the State of Maine Department of Corrections that houses adult men and women.

**Petition:** A "petition" occurs when a prosecutor determines that a case should be handled formally, through the court.

**Probation:** Court-ordered supervision following a court disposition.

**SBI:** State Bureau of Identification

**Stakeholder:** The term "stakeholder" is used to describe individuals, professionals or practitioners who have experience in the juvenile justice system and/or who support, care about or work with individuals with juvenile records.

**Seal:** Individuals in Maine who have juvenile adjudications and meet a set of criteria may petition the court to "seal" their juvenile records from public inspection. The only way a juvenile record in Maine is sealed is if sealing is requested by a young person and granted by a judge. If an individual has successfully petitioned the court to have their juvenile record sealed, they can respond to inquiries about their criminal history from entities other than the courts and criminal justice agencies as if the adjudication never happened.

**Youth:** "Youth" or "young person" refers to individuals under the age of 18.

# INTRODUCTION

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In 2015, Maine law enforcement agencies made 3,547 youth arrests.<sup>3</sup> Although over half of Maine youth arrests are diverted from further advancing through Maine's juvenile justice system, the initial arrest generates an arrest tracking number that marks the creation of a juvenile record. If not safeguarded, juvenile records, regardless of whether the charges lead to an adjudication, can lead to both immediate and long-term unintended consequences. These consequences can extend far beyond the original contact, adjudication and associated sanction. Although this issue is not unique to Maine, the degree to which those consequences exist for youth who have been involved in Maine's justice system is largely unknown and has been fundamentally unexplored.

In Maine, juvenile records are never automatically sealed or expunged and only some are confidential. Research has found that automatic expungement or sealing of juvenile records is correlated with lower rates of recidivism and higher rates of college success.<sup>4</sup> Although juvenile records are automatically sealed in many states, Maine is one of 24 states in which individuals must initiate the sealing process by filing a petition.<sup>5</sup> Maine's Juvenile Code provides that the following juvenile adjudications are confidential and generally not accessible to the public:<sup>6</sup> civil offenses (e.g., possession of small amounts of marijuana or possession of alcohol), Class E type offenses (e.g., simple shoplifting or disorderly conduct) and the first Class D-type offense (e.g., simple assault or criminal trespass). Juvenile adjudications that are available to the general public and should be reported out on background check inquiries include:<sup>7</sup> every adjudicated murder, every adjudicated class A crime, every adjudicated class B crime, every adjudicated class C crime and every adjudicated class D<sup>8</sup> crime that occurs after a particular youth was adjudicated of a prior class D (or higher class crime not arising from the same underlying transaction).

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<sup>3</sup>Aligned with the 2015 Disproportionate Contact report, for the purposes of this report, youth are considered to be "arrested" when law enforcement agencies apprehend, stop, or otherwise contact youth under suspicion they have committed a delinquent act. Throughout this report "arrest" also includes incidences in which youth are cited or summoned for delinquent acts in lieu of actual physical custody. Data provided by Department of Public Safety to USM. (<http://muskie.usm.maine.edu/justiceresearch/Publications/Juvenile/DMC.FINAL.05.15.2015.pdf>).

<sup>4</sup> Litwok, Daniel. (2014). *Have You Ever Been Convicted of a Crime? The Effects of Juvenile Expungement on Crime, Educational, and Labor Market Outcomes*. Retrieved from <http://econ.msu.edu/seminars/docs/Expungement%20112014.pdf>.

<sup>5</sup>In an additional 15 states, either the youth or a prosecutor or court can initiate the sealing process. No petition is required for records to be sealed in Montana, Nevada, New Hampshire, New Mexico, North Dakota, Ohio and Vermont. In Alaska, Arkansas, Florida, Virginia and Washington no petition is required for juvenile record expungement. (JLC National Report Card. (2016). Juvenile Law Center. Retrieved from <http://juvenilerecords.jlc.org/>).

<sup>6</sup> 15 M.R.S. § 3307 (2)

<sup>7</sup> 15 M.R.S. § 3308(2)

<sup>8</sup> Since there are no class distinctions in juvenile offenses, these classifications refer to crimes if the juvenile involved were an adult.

The rehabilitative purpose of the juvenile code coupled with sound evidence on adolescent brain development<sup>9</sup> elicit the following questions which invite the consideration of policy makers, practitioners and advocates working to balance the parallel goals of rehabilitation, public safety and equality:

- How should we be treating the information that is created as the result of young people coming into contact with the justice system?
- Which offending behaviors should and could conceivably be held against youth indefinitely?
- What do we know about how record of those behaviors restrict or limit access to employment, education, housing and other opportunities that support successful transitions into adulthood?
- As a matter of public policy, who should have access to which records, for what reason, for how long and when?

## Purpose

The purpose of this report is to provide policy makers, the public and other juvenile justice system practitioners (law enforcement, Maine Department of Corrections, attorneys and judges) with information about the impact of juvenile justice involvement on young people who have come into contact with the justice system. In collaboration with the Maine Juvenile Justice Reform Work Group and with the support of the John T. Gorman Foundation, the Louis & Anne Abrons Foundation and the Maine Juvenile Justice Advisory Group, the Muskie School of Public Service at the University of Southern Maine was tasked with researching and reporting on the potential impact of juvenile justice involvement on Maine's youth. Collateral consequences are often referred to as invisible punishments or sanctions that justice-involved people may face long after their juvenile adjudication or adult criminal conviction and the associated sanctions have ended. This report attempts to identify barriers encountered by system-involved youth in Maine and the impact these consequences may have on their future with regard to their ability to access higher education, housing, military service and employment.

More than 200 people were included in this research, including young people with juvenile records, adults with a history of juvenile justice system involvement, prosecutors, juvenile defense attorneys, Department of Corrections staff, teachers, parents and providers. Using interviews, focus groups and analyses of juvenile statutes, findings demonstrate widespread misinformation about what actually happens to juvenile records in Maine. **This report reveals inconsistencies in understanding and application of the law as it applies to juvenile records by both the individuals and families impacted by the law and many of the system stakeholders involved in the process. In an attempt to discover the potential collateral consequences of having a juvenile record, research unearthed an unintended result: a system surrounding juvenile records that has punitive, often unintentional, impacts, and is inconsistently applied and overwhelmingly misunderstood.**

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<sup>9</sup> The areas of the brain that control self-regulation are still maturing between the ages of 14-25. Most young people who commit offenses reduce such activity by the time they reach their early twenties. From Steinberg, L., Cauffman, E., & Monahan, K. (2015). Psychosocial Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders. *Juvenile Justice Bulletin*. Office of Juvenile Justice and Delinquency Prevention. Retrieved from <http://www.ojjdp.gov>.

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**MYTH:** All juvenile records are automatically sealed at age 18.  
**FACT:** No juvenile records are ever automatically sealed.

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**This is what people think happens to a juvenile record when a young person turns 18:**

“My biggest question in court was, ‘Will this affect me later in life?’ The judge clearly said no. He told me my court case would be closed, it would be a sealed case, sealed document.”

- Adult with juvenile record

“Most of the general public understands that records are confidential and that they are not easily disclosed without a court order.”

- Defense attorney



“If you don’t have an adult record, as soon as you turn 18 it’s closed. My lawyer told me that.”

- Young person with juvenile record

“A juvenile’s record is sealed at a certain age. The charges get dropped. It’s automatic.”

- Department of Corrections staff

“His record will be treated like any other juvenile record and will be sealed and no one will have access to it.”

- Parent of young person with juvenile record

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**This is what ACTUALLY happens:  
Juvenile records are never automatically sealed.**

“It’s even confusing to me sometimes as to what is public or sealed and what isn’t. It’s not particularly clearly written. I usually have to go to the statute every time it comes up.”

- Prosecutor



“Kids think their record is sealed, but it’s not, we can find everything. Even if the lawyer says it got dismissed, there is a record we can find. If you’re paying a fine or doing community service, that’s the same as pleading guilty. If it’s before 18 we can still find it.”

- Air Force recruiter

“When a kid is taken into custody, the idea that it is generating a record and the long term consequence of that record is not on their mind... I don’t think they have any idea of what the consequences are. These are the most vulnerable kids already who are lost, least likely to be able to fend for themselves and most heavily impacted by a juvenile record they believe to be sealed.”

- Defense attorney



# METHODOLOGY

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This study was guided by the question: “*To what extent do individuals with juvenile records face later collateral consequences?*” To answer this question, the research staff of the Muskie School employed a mixed-methods approach including statute, practice and policy review, focus groups, key informant and semi-structured interviews and online surveys. Research was conducted from May through September 2016.

Stakeholders and practitioners, including key informant interviewees, were selected intentionally and included a representative range of individuals throughout the State of Maine who work, volunteer or are otherwise invested in Maine’s juvenile justice system. Due to the complexity of randomized and census sampling, these approaches were not used in this research to identify individuals with juvenile records; such approaches were beyond the scope of this research methodology. In addition, obtaining a list of all individuals in Maine with juvenile records would be extremely difficult, if not impossible. Purposeful and snowball<sup>10</sup> sampling were used to identify individuals in Maine with juvenile records. Researchers attempted to capture a diverse cross-section of respondents from around the state. These sampling approaches are fully accepted within the research community. The stories and experiences presented in this report are representative of those individuals included in the research and may not be representative of all individuals with juvenile records in Maine. Key findings shared in this report are consistent with national research on this issue.<sup>11</sup>

## Data Collection Methods

**Statute review:** Review of Maine statutes regarding how juvenile records are generated, stored, shared, retrieved, inspected and sealed.

**Application and policy review:** Review of applications, practices and policies to ascertain the extent to which employment, professional licensing, military, education, financial support and housing entities require applicants to disclose prior juvenile adjudications or system involvement.

**Courthouse clerk practices review:** Interviews with courthouse clerks from 12 of 16 counties to review the extent to which Maine’s record sealing statute provision is utilized.

**Juvenile justice system practitioner, advocate and stakeholder interviews, online surveys and focus groups:** Interviews, surveys and focus groups with 98 professionals with experience in the juvenile justice system or who support or work with individuals with juvenile records. Individuals included:

- Prosecutors, including District Attorneys and Assistant District Attorneys
- Defense attorneys, including private attorneys and those appointed by the Maine Commission on Indigent Legal Services

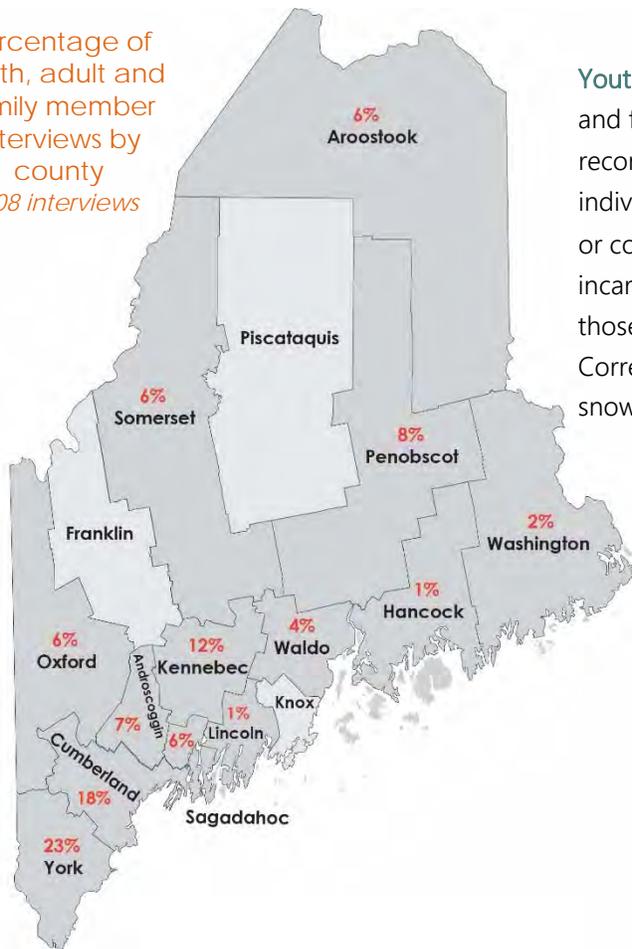
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<sup>10</sup> Snowball sampling is achieved by asking members of the original sample to suggest others who would be appropriate for the study. This method was used most often to identify non-incarcerated adults with juvenile records.

<sup>11</sup> Shah, R., & Strout, J. (2016). *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records*. Juvenile Law Center. Retrieved from <https://goo.gl/atof8l> [from jlc.org].

- Members of the Maine Commission on Indigent Legal Services
- Individuals from the Maine Judicial Branch, including the Administrative Offices of the Courts
- Maine Department of Corrections (DOC) staff, including Regional Correctional Administrators, Regional Correctional Managers, Juvenile Community Corrections Officers (JCCO), probation officers and Long Creek Youth Development Center staff
- Individuals from the Maine State Police
- Members of the Maine Juvenile Justice Advisory Group
- Individuals from the Maine State Bureau of Investigations
- Individuals from the Office of the Attorney General
- Staff and volunteers from social service, non-profit and educational organizations
- Social workers and mental health professionals

Percentage of youth, adult and family member interviews by county  
108 interviews



**Youth and adult interviews and focus groups:** Interviews and focus groups with 78 youth and adults<sup>12</sup> with juvenile records from 13 of 16 counties.<sup>13</sup> The sample included individuals currently involved in the system (on probation or confined<sup>14</sup> to Long Creek Youth Development Center or incarcerated at the Maine Correctional Center) as well as those no longer supervised by the Department of Corrections. Participants were also identified through snowball sampling with local non-profits.

**Family member interviews:** Interviews with 33 family members of adults and youth with juvenile records from 11 of the 16 counties.<sup>15</sup> Family members were identified through snowball sampling or currently have a child confined at Long Creek Youth Development Center. Any names included in the case studies throughout this report are pseudonyms to protect the anonymity of those interviewed.

<sup>12</sup> Throughout this report, “youth” or “young person” refers to individuals under the age of 18. “Adult” refers to individuals age 18 and over.

<sup>13</sup> One individual with a juvenile record did not disclose county.

<sup>14</sup> Confined includes individuals who were detained or committed at the time of interview. Individuals can be supervised in the community by JCCOs and/or confined at Long Creek Youth Development Center up to the age of 21 provided their original adjudication occurred prior to their 18<sup>th</sup> birthday.

<sup>15</sup> Two family members did not disclose county.

## Analysis

This research relies on qualitative data to delve into the experiences, opinions and stories of individuals with juvenile records and the many stakeholders involved in the juvenile justice system. Qualitative data provide rich and well-grounded insights into the juvenile justice system and the potential impacts of a juvenile record. This type of data collection goes beyond the numbers to explore stories, explanations and insights into complex issues such as the juvenile records system in Maine; these insights are full of complexities, commonalities and unique experiences.

The analytic framework for this research was rooted in a two-step process of content and thematic analysis.<sup>16</sup> Researchers employed hypothesis, attribute and axial coding, approaches specific to qualitative data analysis. The researchers systematically reviewed each transcript to identify the presence of particular themes as they related to the specific research questions and emergent themes. Subsequently, axial coding, the disaggregation of core themes, was used to group codes into broader categories. The final step involved identifying the central themes within which the categories were logically related. The coders met regularly over the course of the research to share and compare findings, discuss challenges and interpret results.

Two researchers independently reviewed all the interviews. To ensure inter-rater reliability, the researchers reviewed 25 interviews and then compared the results. This process identified instances in which the codes were applied inconsistently; once reconciled, the researchers continued coding the transcripts independently.

## Sampling Limitation

While the number and geographic scope of the sampling for this study was robust, interviews with both adults and young people with juvenile records were largely focused on individuals currently at Long Creek Youth Development Center or Maine Correctional Center. Because interviewees were confined at the time of the interviews, many had access to free education within the facility and were not attempting to find housing, thus they had not yet experienced related barriers. As will be discussed, access to education, financial supports and housing were not identified as primary common collateral consequences of having a juvenile record. This sampling limitation is important to note when reviewing the findings. To fully understand the degree to which juvenile records are a barrier in these instances, a broader sampling approach that includes more individuals who have desisted from the system would need to be employed.

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<sup>16</sup> Saldana, J. (2009). *The Coding Manual for Qualitative Researchers*. Thousand Oaks, CA: Sage Publications. Retrieved from <https://goo.gl/rHjFmC> [from weebly.com].



# PREFACE:

## JUVENILE JUSTICE SYSTEM EXPLAINED

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The first juvenile court was established in Cook County, Illinois in 1899. It was based on the British doctrine of *parens patriae*, "the state as parent," which gave the state inherent authority to intervene in the interest of the child when parents were not providing appropriate care or supervision. Instead of focusing on punishment, the new juvenile court sought to help young people develop into productive citizens through rehabilitation and treatment. By 1910, 32 states had established separate juvenile courts and/or probation services. By 1925, all but two states had followed suit.<sup>17</sup>

Enacted in 1919, Maine's first juvenile delinquency law also emphasized the inherent difference between children and adults and the responsibility of the state to look out for the welfare of the child in the absence of a parent or guardian. To the degree possible, children and youth were to be treated "not as criminal, but as young persons in need of aid, encouragement and guidance."<sup>18</sup>

Juvenile court was designed to be a place where a concerned judge could help a young person "get back on track." But by the 1950s and 1960s, the broad discretion of juvenile court judges had led to growing disparities in treatment and vastly different sentences, resulting in the 1966 Supreme Court decision in *Kent v United States*. In this case, the court expressed concern that "the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children." That case, along with the landmark *In re Gault* the following year, introduced more due process protections in juvenile proceedings, including the right to be heard, the right to counsel and the right against self-incrimination.

In the 1980s and 1990s, spikes in juvenile crime led to a trend that further blurred the distinction between juveniles and adults; states focused less on rehabilitation and more on punishment in response to youth crime, resulting in an increase of youth being prosecuted in adult court and sent to adult correctional facilities.

*"The purpose of juvenile courts, and laws relating to juvenile delinquency, is to carry out a modern method of dealing with youthful offenders, so that there may be no criminal record against immature youth to cause detrimental local gossip and future handicaps because of childhood errors and indiscretions, and also that the child who is not inclined to follow legal or moral patterns, may be guided or reformed to become, in his mature years, a useful citizen."*  
– Maine Supreme Judicial Court in Wade v Warden of State Prison (1950).<sup>21</sup>

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<sup>17</sup>Sickmund, M., & Puzanchera, C. (eds.). (2014). *Juvenile Offenders and Victims: 2014 National Report*. Pittsburgh, PA: National Center for Juvenile Justice.

<sup>18</sup> Morin, C., Hallisey, M., & Hanson, J. (1997). *A Brief History of Maine's Treatment of Juveniles Prior to the Enactment of the Maine Juvenile Code*. State of Maine Department of the Attorney General.

<sup>19</sup> Wade v Warden of State Prison. (1950). Retrieved from <http://law.justia.com/cases/maine/supreme-court/1950/73-a-2d-128-0.html>

Nearly two decades later, the pendulum has shifted back toward a greater emphasis on treatment and rehabilitation for youth, a trend supported by a large and growing body of adolescent development and brain science research that finds fundamental, biologically-based differences between youth and adults. The human brain is not fully developed at age 18 and, in fact, the areas of the brain that control self-regulation are still maturing between the ages of 14-25. Most young people who commit offenses reduce such activity by the time they reach their early twenties.<sup>20</sup> According to a 2016 study of Maine juvenile recidivism, 93% of diverted youth do not recidivate.<sup>21</sup> A four-year review and analysis of the research on juvenile delinquency shows that youth are less able to regulate their own behavior in emotionally charged contexts, are more sensitive to external influences (e.g., peer pressure) and have less ability to make judgments and decisions about the future. The research also underscores that youth, as they are still growing and developing, have the capacity to change and are capable of rehabilitation.<sup>22</sup>

Fueled by a greater understanding of brain and adolescent development, the U.S. Supreme Court has issued a series of recent decisions that recognize the differences between children and adults and reinforce the need for different responses by the justice system.<sup>23</sup> During this time, state and federal policy has also shifted away from the more punitive approaches of the 1980s and 1990s and returned to community- and evidence-based solutions to reducing adolescent crime.<sup>24</sup>

Today, Maine's Juvenile Code reflects the on-going effort to balance the best interests of the child and public safety, while upholding the central rehabilitative purpose of the original 1919 law. Rehabilitation, with an emphasis on maintaining a connection to home and family, remains the primary goal. Removal from the home is not preferred, but may be done for the protection of the young person or the public. More punitive consequences are to be considered where there are more serious or repeat offenses, but the primary purpose is to assist a young person in becoming a "responsible and productive" member of the community.<sup>25</sup>

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<sup>20</sup> Steinberg, L., Cauffman, E., & Monahan, K. (2015). Psychosocial Maturity and Desistance from Crime in a Sample of Serious Juvenile Offenders. *Juvenile Justice Bulletin*. Office of Juvenile Justice and Delinquency Prevention. Retrieved from <http://www.ojjdp.gov>.

<sup>21</sup> Dumont, R. (2016). *2016 Juvenile Recidivism Report*. University of Southern Maine Muskie School of Public Service. Retrieved from [http://muskie.usm.maine.edu/justiceresearch/Publications/Juvenile/2016\\_Juvenile\\_Recidivism\\_Report.pdf](http://muskie.usm.maine.edu/justiceresearch/Publications/Juvenile/2016_Juvenile_Recidivism_Report.pdf).

<sup>22</sup> National Research Council. (2013) *Reforming Juvenile Justice: A Developmental Approach*. Washington, D.C.: The National Academies Press.

<sup>23</sup> See generally *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *J.D.B. v. North Carolina*, 131 S. Ct. 2394 (2011); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>24</sup> McCarthy, P., Schiraldi, V., & Shark, M. (2016). The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model. *New Thinking in Community Corrections Bulletin*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice. NCJ 250142.

<sup>25</sup> 15 M.R.S. § 3002(1)(D)

# SECTION 1:

## SAFEGUARDING OF JUVENILE RECORDS

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### What is a Juvenile Record in Maine?

Many imagine the term “juvenile record” to refer to a single document or file that is generated and confidentially stored by one entity until it is automatically sealed or destroyed when a young person turns 18. In actuality, a juvenile record is a multifaceted puzzle of information about a young person’s contact with law enforcement that contains information generated and stored by multiple entities throughout the State of Maine. In Maine, although certain records are confidential, juvenile records are never automatically sealed, as will be discussed later in this section. The term “sealed” was consistently misused during interviews conducted for this report. Although seemingly only an issue of semantics, conflating “sealed” and “confidential” can lead to confusion and a proliferation of misinformation regarding the protection of juvenile records in Maine.

No matter how formal or informal a juvenile’s interaction with the legal system is, a record exists.

For purposes of this report, “juvenile record” refers to all information that has been generated by criminal justice agencies that may lead to collateral consequences later in life. Some examples of criminal justice agencies that produce records in the juvenile system are law enforcement agencies, the Department of Corrections, prosecutors, federal and state courts and juvenile correctional facilities.<sup>26</sup> What type of information should be contained within the records produced by criminal justice agencies is not explicitly defined in Maine’s Juvenile Code. It is important to note that no matter how formal or informal a juvenile’s interaction with the legal system is, a record exists. Thus, what is commonly understood as a single entity (a “juvenile record”) is instead multilayered and complex.

Although it may vary, the following is a typical, hypothetical example of how and when juvenile records are created and maintained. It is also important to note that some offenses committed by individuals under age 18 result in youth being required to attend adult court and/or being charged with adult offenses, which could result in a criminal conviction.<sup>27</sup>

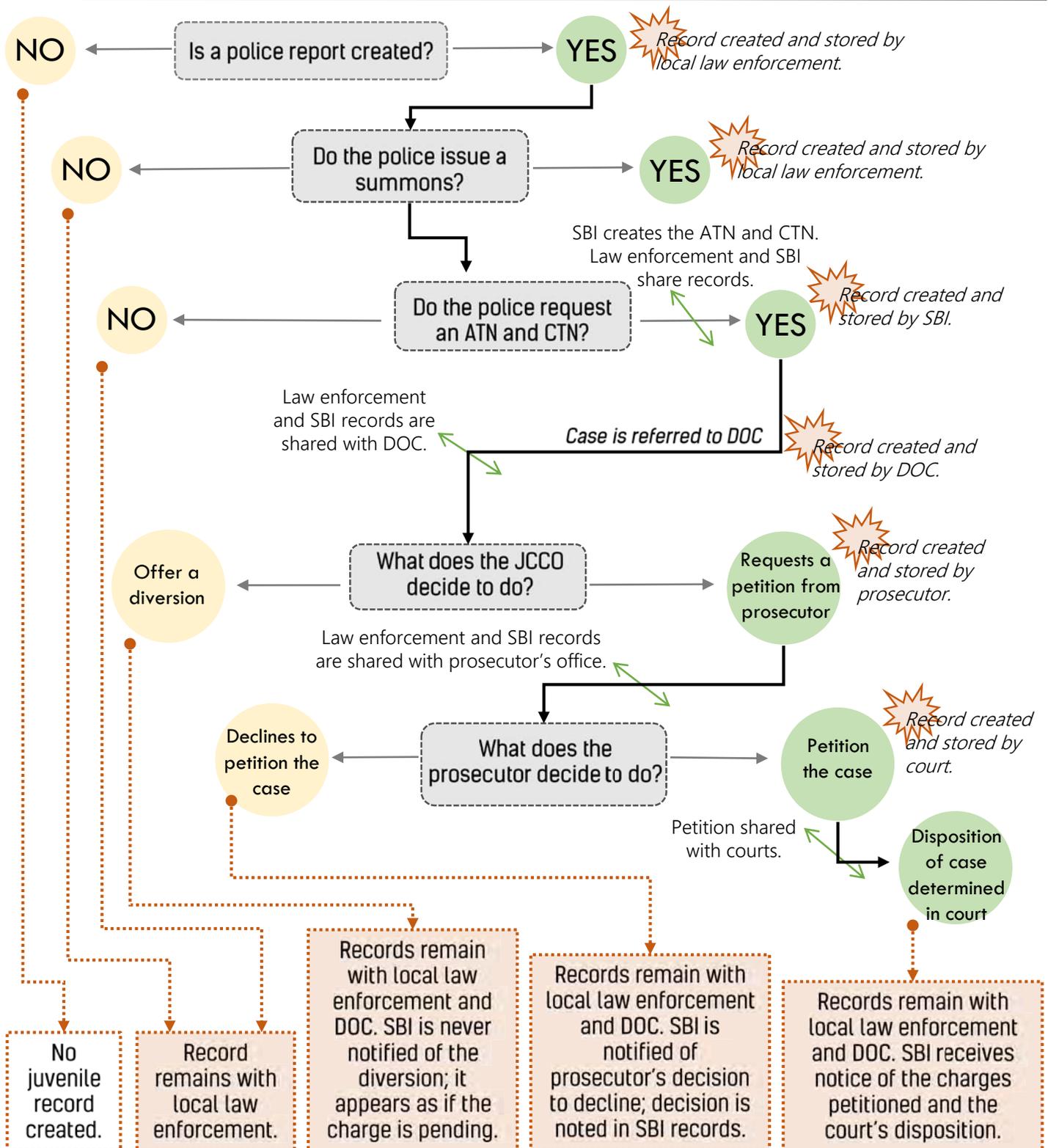
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<sup>26</sup> 16 M.R.S. § 703

<sup>27</sup> See Appendix A.

# Anatomy of a Juvenile Record\*

Follow the path to learn what typically happens when a young person has contact with the police and is accused of a juvenile offense.



\* A juvenile record refers to all information that has been generated by criminal justice agencies that may lead to collateral consequences later in life.

## How and when records are stored and shared.

*“The basic difficulty is the underlying tension between the idea of transparency and the protection of information to protect the individual. It’s the idea that a juvenile’s actions should be known to the community, balanced against the research on brain development... maybe those actions shouldn’t be viewed or exposed in the same light because the brain development process hasn’t stopped.” – Individual with juvenile record*

As reflected in Maine’s Juvenile Code, there is an important tension in the balance between public safety and the best interests of young people to help support the rehabilitative process. This research reveals instances in which the second half of that balance may be unintentionally compromised due to widespread confusion and lack of standardization around the safeguarding of juvenile records. As outlined in the previous graphic, juvenile records are created and stored by multiple agencies. Criminal justice agencies are not precluded from sharing juvenile records and related information with other criminal justice agencies.<sup>28</sup> While the necessity of keeping a young person’s record confidential is reflected in Maine’s Juvenile Code, the statutes are often unclear and scattered throughout the code, making confidentiality restrictions difficult to understand and maintain. Depending upon statutory authority, various records of a youth’s involvement with the juvenile justice system may be inspected, disseminated,<sup>29</sup> and/or shared with individuals, agencies and the public. However, the rights of specified persons or parties to inspect or disseminate the records are not standardized across agencies or among stakeholders. Because the statutes vary as to what may be ‘inspected’ versus what may be ‘disseminated’ or shared, interviewed stakeholders report confusion about how different aspects of juvenile records can be accessed. Interviews suggest it is also not clear that the various personnel who have custody of the records understand the standards and rules that apply to the creation, maintenance and dissemination of such records. The lack of standardization across and within systems contributes to unanswered questions around what is confidential, to whom information may be provided and at what stage of the process. The following pages detail the practices for record storage and access within Maine’s State Bureau of Identification background checks and courthouses.

### Background checks

*“As the central repository for Criminal History Record Information (CHRI), SBI collects and links fingerprint-supported arrest information from law enforcement [sic] agencies, incarceration information from prison systems, and final disposition information from the courts to make a complete record of an individual through the justice process.” – SBI<sup>32</sup>*

The most common way for the public, including potential employers or housing authorities/landlords, to access juvenile records is through a background check. In addition to creating and storing arrest tracking numbers (ATNs) and charge tracking numbers (CTNs), the State Bureau of Identification (SBI) also receives juvenile records that have been generated by local police departments, Department of Corrections, prosecutors and courts. Records maintained by SBI can be accessed by law enforcement agencies, courts and

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<sup>28</sup>15 M.R.S. § 3308(7)(B)

<sup>29</sup> 16 M.R.S. § 803(5): “Dissemination” means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

prisons systems as well as lawyers, licensing agencies, employers and the general public.<sup>30</sup> For \$31, anyone with the name and date of birth of an individual can request a background check. Background checks should contain the charges petitioned and the order of adjudication. According to statute,<sup>31</sup> the following charges are available to the general public and should be reported out on background check inquiries requested through SBI:

- Every adjudicated murder
- Every adjudicated class A crime
- Every adjudicated class B crime
- Every adjudicated class C crime
- Every adjudicated class D<sup>32</sup> crime that happens after a particular youth was adjudicated of a prior class D (or higher class crime not arising from the same underlying transaction)

Before September 2000, SBI did not collect information on juvenile cases. Consequently, SBI background checks do not include juvenile records that were incurred prior to September 2000. Because of the law change that dictated what juvenile record information was contained by SBI, there is a disconnect between what the statute says in regard to inspection of court records and the dissemination of juvenile records as reported by SBI. Although courts are following the same policies and statutes, interviews with stakeholders suggest practices vary. Interviews with staff of SBI reveal that although in 2000 the agency began to collect information on juvenile records, efforts to “clean up” juvenile record information so background checks accurately reflect juvenile adjudications are on-going. Interviews indicate that record reporting remains inconsistent and, at times, practice did not necessarily change with the law. “[Law enforcement] continued the way they always had. It took years, even a decade or more for many cops to change the way they did things,” said an SBI staffer. The practical effort of this suggests that even after 2000, many juvenile adjudications or arrests were not reported to SBI and thus do not show up on background checks.

### ATNs and background checks

*“If the juvenile's record is run for a job they may get a hit on their name even though the case was not adjudicated...Juveniles are told that their juvenile misdemeanor records are sealed and cannot be used against them once they are adults. However, because once a juvenile is summonsed an ATN is created...even though the case should not count against the juvenile it does.” – Department of Corrections staff*

Both arrest tracking numbers (ATNs) and charge tracking numbers (CTNs) are generated by SBI in response to a request by law enforcement when an adult or juvenile is summonsed or arrested. While ATNs are unique to one incident, there may be multiple CTNs stemming from the same incident. The ATN follows a case and the CTN follows a charge from police contact through disposition. SBI gathers information from law enforcement agencies, prosecutors’ offices and courts related to ATNs. If a case is “resolved” there will be a

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<sup>30</sup>State Bureau of Identification. (2016) Retrieved from <http://www.maine.gov/dps/Sbi/>

<sup>31</sup>See *supra* note 29 and accompanying text.

<sup>32</sup> Since there are no class distinctions in juvenile offenses, these classifications refer to crimes if the juvenile involved were an adult.

record of that at SBI. However, if an ATN has been assigned and a juvenile case is diverted,<sup>33</sup> the diversion will not show up in SBI or on the background check; the case will remain pending or open. There is no way to remove or edit information in SBI once an ATN is attached to an individual. The ATN is one way in which a young person's involvement with the juvenile justice system, no matter how small, substantiated or not, can have an impact later in life.

In addition, because of these nuances in the system, there may be inaccuracies of the history of the charge as reported on background checks. For example, if a youth is originally charged with a Class A offense (a felony) that is negotiated down to a Class E (misdemeanor), the ATN generated would remain in association with the Class A offense. If that offense comes up on a background checks, the young person would have to explain the Class A felony even though it was adjudicated to a Class E.

The extent to which ATNs are being accessed by other public entities and how ATNs may cause future collateral consequences is unclear. According to reports from attorneys and stakeholders in law enforcement, ATNs are a troubling aspect of juvenile records in Maine. JCCOs and law enforcement personnel described situations in which ATNs "followed" youth, expressing surprise and concern that ATNs were still a part of juvenile record when cases had been diverted. One JCCO shared this story about a young man: "When he attempted to enter the military a few years later, a background check showed the ATN associated with the summons for the original felony charge even though the charge was essentially dropped; i.e., dealt with informally with the approval of the ADA." A diversion has no fact finding determination or court ruling and thus should not impact an individual later in life. But because the ATN remains open or pending in SBI, even when cases are diverted, young people are at risk of later collateral consequences.

### *Review of court records*

Court records, including disposition orders, conditional release contracts and social and clinical study reports, are managed and maintained by the office of the clerk in the district court in the county where the alleged offense was committed. The release of confidential information and juvenile records by courts is dictated by the State of Maine Judicial Court's Administrative Order JB-05-20 (A. 1-15) titled, "Public Information and Confidentiality" and by the State of Maine Revised Statutes 15 M.R.S. § 3308, titled "Court records: inspection." There is also a section of the clerk manual that discusses confidentiality.<sup>34</sup> With the consent of the court, records of court proceedings excluding the names of the juvenile, his parents, guardian, legal custodian, his attorney or any other parties may be inspected by persons having a legitimate interest in the proceedings or by persons conducting pertinent research studies.

The youth themselves, third parties such as parents or legal guardians of the youth, defense attorneys, prosecutors, school officials, the Department of Health and Human Services and others who are deemed to be providing care for or reporting on the overall well-being of the juvenile<sup>35</sup> may have access to the juvenile's court record. In addition, with the consent of the court, individuals conducting a pertinent research

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<sup>33</sup> "Diversion" may include no further action, a fine, community service, referral to services and/or a brief period of preadjudicatory supervision referred to as informal adjustment.

<sup>34</sup> See Appendix B.

<sup>35</sup> 15 M.R.S. § 3308(7)(B-1)

study and those with “a legitimate interest in the proceedings” can access the juvenile’s court record with the juvenile’s and parents’ names redacted.<sup>36</sup> Maine’s Juvenile Code does not define what constitutes a “pertinent research study” or “legitimate interest.” If a juvenile petition alleges that a juvenile has committed murder or a Class A, Class B, or Class C crime, or if a juvenile is petitioned with a Class D crime after having been previously adjudicated of a Class D crime, the general public cannot be excluded from the juvenile’s court proceedings and can access the juvenile petition, records of the court proceedings and order of adjudication.<sup>37</sup> Courts must also release the name of a juvenile to an alleged victim upon the victim’s request.<sup>38</sup> The victim can inspect the petitions, the record of court proceedings and the order of adjudication pertaining to the juvenile who allegedly committed a crime against them.<sup>39</sup>

According to the judicial court’s administrative order, “confidential information<sup>40</sup> within the confidential juvenile file is kept in a sealed envelope marked confidential.”<sup>41</sup> Clerks are instructed to remove this confidential envelope prior to public inspection. If an individual’s request to inspect a juvenile file is granted, that individual may not remove the file from the court and cannot make copies or take photos.<sup>42</sup> If dissemination of the record is approved, portions of the record may be duplicated and released.

In the past, clerks received additional information regarding practices related to access of juvenile records; they were instructed to respond to requests for access with the following: “Current juvenile statutes prohibit courts from releasing juvenile records except for inspection at the clerk’s offices by the juvenile, their parent or guardian, their attorney, or the victim in the case.”<sup>43</sup> However, this direction is not part of any formal, written policy, making it unclear how or whether this information is uniformly accessible to clerks, particularly as new clerks are hired.

Based on the Administrative Order, statute, and clerk manual referenced above, there should be uniform practices across courthouses and clerks throughout the State of Maine that dictate inspection, dissemination and sharing of juvenile records. However, undefined terms regarding access to juvenile records, such as “pertinent research study” or “legitimate interest,” allow for interpretation. What is not reflected in written policy leaves room for subjectivity when clerks and judicial officers of individual courts are determining whether the release of juvenile records is appropriate under different circumstances. Without specific, documented and uniform rules and procedures governing the confidentiality, inspection and dissemination of records within various state and county systems, including courthouses, safeguarding such records is subject to interpretation.

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<sup>36</sup> 15 M.R.S. § 3308(4)

<sup>37</sup> 15 M.R.S. § 3308(2)

<sup>38</sup> 15 M.R.S. § 3308(3-A)

<sup>39</sup> 15 M.R.S. § 3308(2)

<sup>40</sup> JB-05-20 II(H) defines “confidential information”.

<sup>41</sup> JB-05-20 III(A)(2)

<sup>42</sup> Stakeholder interview.

<sup>43</sup> Stakeholder interview.

## REVIEW OF SBI RECORDS

To determine what SBI background checks reveal and how accurate they are, the SBI records of 21 individuals with juvenile adjudications were reviewed.<sup>44</sup> The intent of this review was to determine: 1) what background checks on individuals with juvenile records reveal, 2) if the information revealed is consistent across the sampling of records and, 3) if the information that is revealed is correct according to what the statute says about juvenile record confidentiality. The sample for this analysis included:

- o 16 records that reflected the presence of a felony adjudication
- o Four records that reflected the presence of a felony dismissal or acquittal (not accompanied by a felony adjudication)
- o One record that reflected a felony with a deferred disposition
- o Two records that reflected the presence of additional (multiple) charge dates
- o Ten records that reflected multiple charges

### The following are key findings from this review:

- o **Juvenile adjudications are not differentiated from adult convictions on the background check in any way that would be identifiable to a lay person, such as an employer.** The only distinction between a juvenile and adult crime is in the court case number: juvenile adjudications include a "JV" in the 16 digit code and adult convictions do not. Without using the date of birth and date of original offense to calculate the age of the individual at the time of the offense, there is no way to differentiate between adult and juvenile offenses. This has enormous implications when considering the extent to which background checks are used to inform decision making in housing, employment, professional licensing or military enlistment.
- o **When juvenile record requests to seal are granted, sealing works to safeguard confidentiality.** Juvenile adjudications were not reported back on SBI when the attorney noted the record was sealed.
- o **The SBI inquiry system has flaws and yields inconsistent results.** In this sample, unsealed felony adjudications were not consistently reported on the SBI inquiry. **Conversely, on a smaller scale, felonies were incorrectly reported to the detriment of the individual; individuals had been adjudicated of a misdemeanor but the SBI inquiry returned a felony charge.** Neither the date of the offense, type of offense, nor the offense class consistently predict whether the offense would be returned on an inquiry. There is room for human error in the process of entering information about records. Reporting mistakes have potential implications for both public safety (e.g., if serious felony adjudications are not being reported) and the collateral consequences that could be incurred by individuals whose records are inaccurately reported by SBI.

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<sup>44</sup>This review was conducted by working closely with a defense attorney who provided a de-identified summary report comparing the final adjudication(s) to the results of an SBI inquiry. In some cases, the attorney had petitioned the court to seal a record.

## What Do Maine's Statutes Say?

*"[The sealing process is] complex and is in serious need of revamping. It's a challenge navigating all the different statutes that touch upon the confidentiality of juvenile records." – Prosecutor*

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[ 2013, c. 267, Pt. B, §6 (AMD) .]

**8. Juvenile records sealed.** This subsection governs the sealing of records of a person adjudicated to have committed a juvenile crime.

A. A person adjudicated to have committed a juvenile crime may petition the court to seal from public inspection all records pertaining to the juvenile crime and its disposition, and to any prior juvenile records and their dispositions if:

- (1) At least 3 years have passed since the person's discharge from the disposition ordered for that juvenile crime;
- (2) Since the date of disposition, the person has not been adjudicated to have committed a juvenile crime and has not been convicted of committing a crime; and
- (3) There are no current adjudicatory proceedings pending for a juvenile or other crime. [1989, c. 744, §5 (NEW) .]

B. The court may grant the petition if it finds that the requirements of paragraph A are satisfied, unless it finds that the general public's right to information substantially outweighs the juvenile's interest in privacy. [1989, c. 744, §5 (NEW) .]

C. Notwithstanding subsections 3, 3-A, 4 and 5, the court order sealing the records permits only the following persons to have access to the sealed records:

- (1) The courts and criminal justice agencies as provided by this section; and
- (2) The person whose juvenile records are sealed or that person's designee. [1989, c. 744, §5 (NEW) .]

D. If the petition is granted, the person may respond to inquiries from other than the courts and criminal justice agencies about that person's juvenile crimes, the records of which have been sealed, as if the juvenile crimes had never occurred, without being subject to any sanctions. [1989, c. 744, §5 (NEW) .]

[ 1989, c. 744, §5 (NEW) .]

**9. Records of Juvenile Court.** Notwithstanding any other provision of this section, records of Juvenile Court proceedings and the police records and other records described in subsection 5 must be open to inspection by the Victims' Compensation Board at any time if a juvenile is alleged to have committed an offense upon which an application to the board is based.

[ 1997, c. 378, §13 (NEW) .]

*Maine's Juvenile Code 15 M.R.S. § 3308(8)(9) dictates the juvenile record sealing process.*

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In the State of Maine, juvenile records are never automatically sealed. Maine does not have an option for expunging juvenile records. Records will never go away by themselves. Individuals in Maine who have a juvenile record must petition the court to have their juvenile records sealed. “Sealing” a record means it is kept private from most. If a juvenile record is sealed by the court, individuals can legally respond to inquiries and questions about juvenile criminal history as if their juvenile adjudication had never occurred. Courts and criminal justice agencies can still access the sealed record.<sup>45</sup> The initial requirements for sealing a juvenile record are:

1. The individual must file a formal petition in the district court in the same county where their juvenile case took place.
2. All fines must be paid in full and restitution obligations must be complete.
3. Three years must have passed from the time the individual completed the disposition ordered in the original case, after all of the probation or aftercare time has been completed.

Even if an individual meets all of these requirements, the court is not required to approve the petition to seal the records. The petition will be denied if the individual has:

- Been adjudicated of any other juvenile offense after the original offense
- Been convicted of any adult crime after the original offense
- Any current criminal or juvenile matters pending

In making the final determination, the judge will consider both the individual’s right to privacy, the general public’s right to access the information and whether or not the public’s right to the information substantially outweighs the juvenile’s privacy interests.<sup>46</sup> If the petition is granted, sealing the records with SBI is dependent upon individual courts submitting the request to SBI. If the petition is denied, individuals have no ability to appeal the decision.

## Maine’s sealing process in practice

The vast majority of individuals included in this research, including many professionals, believe all juvenile records are automatically sealed or even expunged at age 18. Consequently, individuals with juvenile records do not know the record sealing process exists in Maine. There is no system in place to remind or educate young people or their families once they are eligible to apply to have their records sealed. Multiple interviews with individuals with juvenile records reveal that if the process is too onerous or cost-prohibitive it will not be utilized.

Individuals who are eligible to seal their juvenile records and attempt to do so are responsible for any associated costs. Unpaid fines or restitution could impede an individual’s ability to seal a juvenile record. Additionally, attorneys are not paid to stay in touch with their clients and do not have any obligation

*“Maine doesn’t have a sealing process. Once you turn 18, your record is sealed. I’ve never heard of a sealing process.”*  
– Individual with juvenile record

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<sup>45</sup> 15 M.R.S. § 3308(8)(C)(D)

<sup>46</sup> 15 M.R.S. § 3008(8)(B)

to check in with them three years post-adjudication. An estimate provided by two Maine defense attorneys put the cost of hiring private counsel for assistance in sealing a juvenile record between \$1,500 and \$4,000 for between 12 to 15 hours of work.

Trial and district court judges have no legal guidelines dictating if and under what circumstances they should grant a request to seal a juvenile record, assuming an individual has met all the statutory criteria required. In considering the extent to which “the general public’s right to information substantially outweighs the juvenile’s interest in privacy”<sup>47</sup> judges have wide discretion in the matter. An individual could meet all the criteria for sealing and have their petition denied, with no opportunity to appeal the decision. One defense attorney provided an example of a young person who had been adjudicated of a Class B crime. Five years after she completed her aftercare, her defense attorney filed a Motion to Seal Records, as she has had a clean record, had graduated from college and wanted to go to nursing school. The court denied the motion to seal the record, indicating the licensing board of the Maine State Board of Nursing should have access to her juvenile record.

### Review of processes with courthouse clerks

To help determine the extent to which the juvenile records sealing process is used, a random selection of clerks at District courthouses and consolidated clerks offices across the state were called and asked a series of questions regarding record sealing. This review revealed two findings:

1. Maine does not have a system to track sealing requests, document how often the sealing process is being used, or conduct quality control measures to ensure accountability and assess effectiveness of the sealing statute.
2. The terms “sealed” and “confidential” were used interchangeably by some clerks. “Sealed” has a very particular legal meaning in regard to records. The clerks’ use of this term may be contributing to confusion regarding public access of juvenile records.

When asked how many requests the court had received to seal juvenile records since 2010, 10 of the 17 clerks interviewed reported that all juvenile records in Maine are automatically sealed. When prompted again to respond to how many requests to seal records had been submitted to the court, two repeated the statement that all juvenile records are sealed: “I cannot give you a number because juvenile records are all sealed.” **Juvenile records in Maine are never automatically sealed.** Responses from 11 clerks revealed there is no

system in place to track the number of juvenile records that are requested to be sealed. The seven who reported numbers relied solely on their memories, recalling a total of 28 requests to seal juvenile records in the last six years. In the words of one clerk, “In the past year, since 2015 we have had 2. I believe both were denied.” Another reported, “It’s near impossible to tell...None in the last year. In the [more than 20] years I’ve been here, 5, 6 tops.”

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The total number of requests to seal juvenile records in the last six years, as reported by courthouse clerks included in this study.

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<sup>47</sup> 15 M.R.S. § 3308(8)(B)

Further investigation and interviews with staff of the Maine Administrative Offices of the Courts indicate that the term “sealed” has a specific meaning to courthouse clerks. Maine is in the process of replacing its current case management system, the Maine Judicial Information System (MEJIS). MEJIS was developed in 1998 and is the means by which clerks find information about cases. Administrative Offices of the Courts staff suggest that because of limitations with MEJIS, confidential case types such as juvenile cases are marked as “sealed” in the system. For this reason, staff of the Administrative Offices of the Courts believe clerks who were interviewed may not have understood the questions that were posed to them. While this classification of “sealed” gives court personnel guidance as to what they are authorized to disclose to the public, these same juvenile records can be and are accessed by the public in other ways. What clerks may consider a sealed record in their database is not the same as records being legally sealed.

Although this is an issue of semantics, it could have major implications for individuals with juvenile records. If clerks are receiving calls from youth, families or attorneys for classification or questions about juvenile records, their use of the term sealed could lead to an incorrect belief that all juvenile records are automatically “sealed.” In reality, records held by the courts (which may be different than records held and reported by SBI) may only be confidential and not disclosable by the clerk.

## No Central Authority

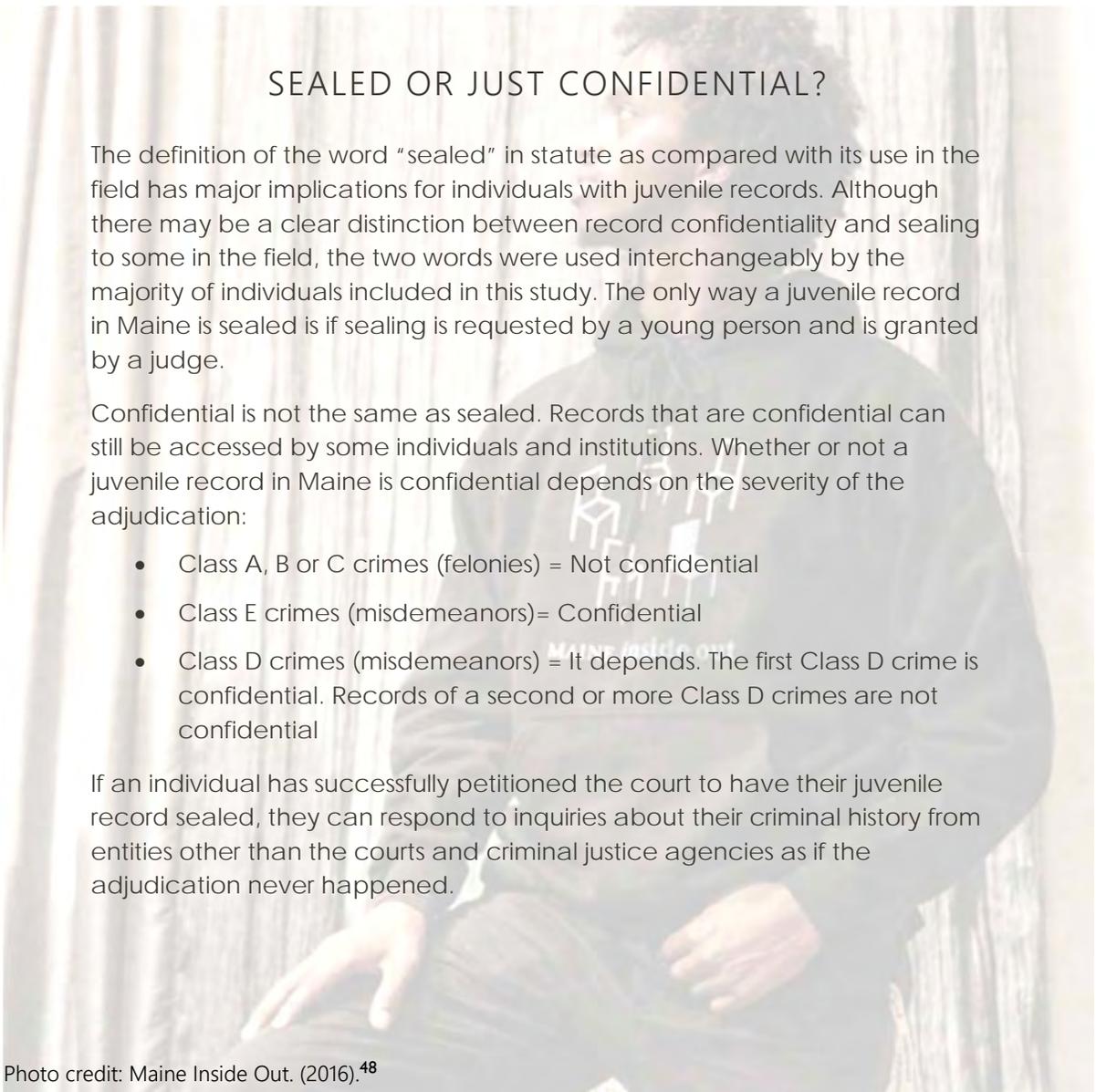
*“The department needs to be educated. What are the records that we thought were sealed or protected but are not? We are supposed to be counseling the kids but we don’t even have the right answers. The big unknown is what is or is not definitely sealed. There isn’t anyone in our department who knows when to answer yes or no. We know a felony travels, they never change. But we need to know from whoever sets that rule so we can train our staff.”*  
– Department of Corrections leadership

Beyond what is written in statute, there is no central authority on juvenile records sealing and confidentiality. Conversations with individuals with records, courthouse clerks, prosecutors, defense attorneys and JCCOs across the state reveal that all are moving through the juvenile justice system with different understandings about the process and what is accurate or legal. The ambiguity of the system, reflected in part in the lack of clarity in the law, can lead to unintentional consequences for those with juvenile records in Maine.

Even after interviewing professionals who are advising youth with juvenile records, Maine’s laws around juvenile record confidentiality remained obscure. There is no point in the process where all individuals involved in the case learn what types of information are being generated and stored, who can have access to each piece of the record and how to attempt to seal the record. In many conversations, there were more questions than answers:

- What can be sealed?
- What is truly confidential?
- What will come up on a background check?
- What can be accessed by some people with the right waiver or request?

*“Anybody that I’ve worked with doesn’t know what is sealed, what’s not sealed. That goes for most employers as well. I don’t think it’s very clear. I don’t think people are given enough information about it.”*  
– Social service stakeholder



## SEALED OR JUST CONFIDENTIAL?

The definition of the word “sealed” in statute as compared with its use in the field has major implications for individuals with juvenile records. Although there may be a clear distinction between record confidentiality and sealing to some in the field, the two words were used interchangeably by the majority of individuals included in this study. The only way a juvenile record in Maine is sealed is if sealing is requested by a young person and is granted by a judge.

Confidential is not the same as sealed. Records that are confidential can still be accessed by some individuals and institutions. Whether or not a juvenile record in Maine is confidential depends on the severity of the adjudication:

- Class A, B or C crimes (felonies) = Not confidential
- Class E crimes (misdemeanors)= Confidential
- Class D crimes (misdemeanors) = It depends. The first Class D crime is confidential. Records of a second or more Class D crimes are not confidential

If an individual has successfully petitioned the court to have their juvenile record sealed, they can respond to inquiries about their criminal history from entities other than the courts and criminal justice agencies as if the adjudication never happened.

Photo credit: Maine Inside Out. (2016).<sup>48</sup>

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<sup>48</sup> Maine Inside Out. (2016). [Online image]. Retrieved from <https://www.facebook.com/Maine-Inside-Out-164511913661459/>.

## SECTION 2:

# COLLATERAL CONSEQUENCES OF JUVENILE RECORDS

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*"Their term of probation is done, but that doesn't mean the experience is over."  
– Department of Corrections leadership*

This section details the ways in which having a juvenile record may be tied to a set of collateral consequences, or invisible punishments, in the areas of employment, professional licensing, military enlistment, access to education, financial supports and housing. These consequences that justice-involved people face long after their adjudication or conviction and justice system involvement have been well researched and documented in many states.<sup>49,50,51</sup> Although the ways in which juvenile records impact individuals vary drastically, it is clear juvenile records have a lasting impression. While reviewing the findings detailed in this section, it is important to keep in mind that since many of the individuals with records who were included in this study were confined at the time of the interview, some may not have yet directly experienced the impact their juvenile record may have on their future.

## Completing an Application with a Juvenile Record

For individuals with a juvenile record, completing an application that asks about criminal history can be a major barrier, potentially limiting opportunities to secure housing or employment, for example. The following findings are key concerns related to the application process:

- Language on criminal background questions is inconsistent and unclear.
- What will be returned on background checks is generally unknown to the applicant and unclear to the recipient.
- Advice from stakeholders and practitioners on what individuals with juvenile records should or are legally required to disclose is inconsistent and unclear.

## Criminal history questions

Applications for employment, professional licensing and housing very often contain questions about criminal history. Some applications include a general "criminal background" question which does not specify whether the applicant should disclose juvenile adjudications. Language on these questions is inconsistent, unclear and often misused because of the distinction between juvenile adjudications and criminal convictions. *Why is it confusing?* If an individual applying to a job has a juvenile adjudication but no adult criminal convictions they can legally answer *no* to the question, "Have you ever been convicted of a crime?" because a juvenile

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<sup>49</sup>PA Juvenile Indigent Defense Action Network. (2010). *Pennsylvania Juvenile Collateral Consequences Checklist*. Models for Change.

<sup>50</sup> Burrell, S., & Stacy, R. (Eds.). (2011). *Collateral Consequences of Juvenile Delinquency Proceedings in California: A Handbook for Juvenile Law Professionals*. Pacific Juvenile Defender Center.

<sup>51</sup> Marsh, J. (2011). *Juvenile Delinquency Adjudication, Collateral Consequences, and Expungement of Juvenile Records*. UNC Center for Civil Rights.

adjudication is not a conviction.<sup>52</sup> However, if they check *no* and the juvenile adjudication was a Class C, it would likely show up on an employer-run background check and the applicant may be accused of lying on the application and, in the experience of those interviewed for this report, be denied the job. In reviewing the range of questions listed on applications and considering the stories of individuals with records who have completed applications and been denied, **it is difficult if not impossible to accurately advise individuals with juvenile records on how best to answer these questions in a way that will follow the law and avoid future problems.** The difficulty of advising young people on how best to answer such questions is further compounded by the fact that some criminal acts committed by young people are not juvenile crimes and therefore do result in criminal convictions if the young person is found guilty of the criminal conduct (e.g., operating a motor vehicle without a license).<sup>53</sup>

The following table provides examples of questions pulled directly from applications reviewed for this study mirrored against legal issues with the questions. Each of these questions would likely cause confusion for individuals with juvenile records who are attempting to answer them.

### No right answer

*Legally, individuals with juvenile adjudications could answer 'no' to each of these questions.*

*However, depending on the class of the crime, juvenile adjudications may be reported on background checks and applicants could be accused of lying.*

Question on application	Issues with these questions as pertaining to Maine law
"Have you ever been convicted of a crime?"	Use of the term "convicted" means individuals who have only juvenile adjudications can legally answer no. An adjudication in the juvenile court is not a conviction of a crime, regardless of the seriousness of the juvenile crime.
"Have you been convicted or received deferred adjudication for a felony under any state or federal law?"	A deferred disposition does not include an adjudication unless there is a violation of the agreement. "Deferred adjudication" could be understood to include juvenile deferred disposition agreements which may or may not result in an adjudication.
"Is there a criminal action pending against you?"	There are no "crimes" in Maine juvenile court. Although in court, an adjudication may be referred to as a "juvenile crime," in Maine, only adults can commit a crime.
"Have you ever been convicted or pled guilty or no contest to committing any crime?"	There are no juvenile convictions and no guilty plea in juvenile court.
"During the past 5 years, have you ever been convicted of, pled guilty to or pled no contest to, a crime, excluding misdemeanors and traffic violations?"	This question combines all of the legal issues discussed above.

<sup>52</sup> 15 M.R.S. § 3310(6)

<sup>53</sup> See Appendix A.

The image below, pulled from the State of Maine Board of Dental Examiners' application for licensure for dental hygienists,<sup>54</sup> reveals the extent to which some professional licensing boards ask applicants to disclose contact with the law enforcement.

CRIMINAL BACKGROUND DISCLOSURE	
<i>NOTE: Failure to disclose criminal convictions may result in denial, fines, suspension and/or revocation of a license.</i>	
<b>1. Have you ever been charged, summonsed, indicted, arrested or convicted of any criminal offense, including when those events have been deferred, set aside, dismissed, expunged or issued a stay of execution?</b>	
(circle one)	<b>NO                      YES</b>
If yes, enclose a detailed description of what happened (including dates), police report and a copy of the court judgment.	
By my signature, I hereby certify that the information provided on this application is true and accurate to the best of my knowledge and belief. By submitting this application, I affirm that the Maine Board of Dental Examiners will rely upon this information for issuance of my license and that this information is truthful and factual. I also understand that sanctions may be imposed including denial, fines, suspension or revocation of my license if this information is found to be false.	
<b>SIGNATURE</b>	<b>DATE</b>

*State of Maine Board of Dental Examiners' application for licensure for dental hygienists criminal background disclosure question reveals the extent to which some professional licensing boards ask applicants to disclose regarding contact with law enforcement.*

One Maine housing application reviewed for this study asks applicants to "list any and all criminal convictions of any and all members of your household." Adjudications in the juvenile court are not criminal convictions. However, the company also reports it conducts background checks for all people in the household age 15 and older. If an individual's juvenile adjudication was not listed on this form but came up on a background check, it is possible they would be denied housing for withholding information, when in fact they had followed the law.

Another housing application asks, "Have you or anyone in your household been arrested for any violent or drug related activity within the past (5) three years?" The mistake on this application ("the past (5) three years") could cause confusion for how people should respond. Additionally, although not explicitly stating it, by including "you or anyone in your household" this question presumes applicants should include young people in the household who had been arrested. Finally, in only asking about arrests, rather than specifying adjudications or convictions, individuals would be required to report arrests that led to a dismissal, whether juvenile or adult.

<sup>54</sup> State of Maine Board of Dental Examiners. (2016). Application for Licensure. Retrieved from <https://goo.gl/J5ZRdy> [from maine.gov].

## What will be returned on background checks is unclear

*“Our clients often believe their juvenile records are sealed. They start the process of looking for work with that assumption. They also assume employers should be able to tell that it’s a juvenile record and that that shouldn’t matter to employers.” – Social Service Stakeholder*

Both individuals with records and stakeholders report being surprised and confused when juvenile records come up on background checks. As discussed, certain classes of juvenile adjudications can be returned on background checks and with some applications any criminal history is cause for immediate denial.

Some stakeholders who work with individuals with records report they routinely advise young people that when filling out applications for employment or college they can answer *no* when asked if they have been “convicted” of any crimes. But even when youth are given proper guidance with respect to the law, they can still be inadvertently harmed. “Until I figured it out, I would say *no* [to questions] on applications [about criminal history] and then they would do a background check and think I’m a liar because I said *no*, but I thought it was sealed,” one individual with a juvenile record shared.

*“Kids who are adjudicated with a felony, I advise them that legally they can say no but I encourage them to say yes and be open because if the employer runs the check they will see something and employers won’t know what they are seeing and will say no right away and say ‘He would have made it through if he had been honest.’” – Stakeholder*

Many individuals with juvenile records assume their records are sealed, check *no* and only learn otherwise when their juvenile record is returned on a background check. According to a stakeholder who works with employers who intentionally hire individuals with criminal histories, employers are also confused by what will or will not be returned on background checks for young people because returns on criminal history inquiries appear inconsistent. He explained that **employers are often not trained in reading background checks and confuse or equate juvenile adjudications with adult criminal convictions and deny the applicant** either because they believe the applicant lied or withheld information or did not

want someone with any type of criminal history.

Moreover, background check companies that provide data to employers do not always specify or explain when “a hit” is returned about an applicant’s criminal history. As one employer explained, “I don’t see the actual record that comes back. I just get a pass/fail from the background check company.” Applications can be denied without employers ever seeing a history of any offenses.

## Advice on what individuals with juvenile records should disclose is unclear and inconsistent

*“In the approximately 18 years I have worked [for the DOC], I can only tell juveniles and their parents that I cannot tell them for sure how even the civil violations will impact them in years to come.” – Department of Corrections staff*

Due to the confusion around what will be returned on background checks and the conflation of the terms adjudication and conviction, there is no clear recommendation for when or how much to disclose on applications. Individuals with juvenile records report having no way to predict in what instances their adjudication, arrest or contact with law enforcement will be shared. While some stakeholders and practitioners routinely advise applicants to check *no*, others report being unsure about how to advise individuals with juvenile records on how to respond to application questions about criminal history. Attorneys generally report advising individuals to follow the letter of the law when answering questions on applications and answer *no* if the employer asks about being convicted of a crime. Some stakeholders tell clients to be honest. Others suggest carefully reading the language on each application and talking to an attorney with questions. Still others tell clients to write “will discuss in interview” (an issue since many applications are now completed online and structured so applicants are required to check either *yes* or *no* before moving to the next section, leaving no room for further explanation).

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### *Case Studies: Application confusion*

Individuals with records consistently spoke to the difficulty of trying to interpret the wording and expectations on applications and the consequences of misinterpreting. Stemming from the lack of clarity about what juvenile offenses will be shared on background checks, individuals are often unsure how to respond. The following three examples provide insights into the confusion of the application process for those with juvenile records and the collateral consequences incurred.

#### **1. Alex in Washington County**

Before Alex<sup>55</sup> had turned 18, he was charged with theft by unauthorized taking or transfer. His biggest question in court was if this charge would affect him later in life. As he remembers, “The judge clearly said no. He told me my court case would be closed, it would be a sealed case, sealed document.” Several years later, Alex, in his late 20’s, started a new job. After nine months he was brought into the office and questioned about a criminal record about which the Human Resources department had just been informed. Alex was told his job was on the line. On his original application, Alex had not disclosed his juvenile charges because, as he explained to his employer, the judge had told him his case was sealed and unavailable to the public. His employer asked him to provide proof that the charges were juvenile charges. Alex returned to the courthouse where his original adjudication occurred to request a copy of the court case, but was told they could not give it to him because it was a sealed document. He was told to

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<sup>55</sup>Any names included in this report are pseudonyms to protect the anonymity of those interviewed.

submit a written request to the judge to get access to the file. "All this after I was told my juvenile record would have no effect on my future employment. But somehow my place of employment finds out and then I can't even have access to my own case file?" In the end, Alex did not lose his job but feels, in his words, harmed and wronged by the judicial system. "It takes one day to ruin a reputation and half a lifetime to rebuild it."

## 2. Darnell in Androscoggin County

A JCCO and a support worker in the community told the story of Darnell, a young man to whom they had both been connected. Darnell had previously been confined at Long Creek. When he was released, he worked with his JCCO to find a job. Darnell applied to and was offered a job at Walmart. Soon after, he was fired, accused of lying on his application when his juvenile adjudication was returned on his background check. "It asked if he had a conviction, but he doesn't. He has a juvenile adjudication. They didn't care about that distinction. Case closed," reports the JCCO. This was a turning point on a path of significant progress Darnell had made. According to the stakeholder, "You can't equate these things necessarily, but he lost his job and then within a couple of weeks he went and got arrested for something else."

## 3. Emily in Aroostook County

When Emily applied for a job, the application asked about criminal charges but did not specifically ask about juvenile criminal history. She disclosed two minor adult charges and had the opportunity to explain what had happened to the employer. The employer was fine with those charges and Emily was hired. On the second day of work, the employer called Emily into the office and questioned her about her juvenile history which had just come up on a background check. Emily responded, "That's not supposed to be on my record because I was under 18! I was so upset...It made them second guess hiring me. They said, 'We don't know what to think. You have such a sweet face and say you only have these two little charges but then we do a background check and all this comes up.'" Emily explained and talked to the employer about the progress she had made including anger management therapy. She had her therapist write a letter of recommendation. The employer decided to retain Emily, keeping the letter from her therapist in her file.

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## Employment

*"My brother also got into a lot of trouble stealing and he's having a hard time as an adult. He wants to make more money and he wants to get a real job. They won't hire him. He doesn't know what his future is going to be." – Family member of individual with record*

Individuals with juvenile records in Maine are often either denied employment outright or are discouraged by the high-barrier process of defending their history of law enforcement contact. They report facing multiple roadblocks, from tackling the initial application process to explaining juvenile records that are returned on background checks to facing stigma within the workplace because of their criminal history. The majority of stakeholders interviewed cited the inability to secure employment as one of the most prevalent

consequences of having a juvenile record. These roadblocks consistently adversely impact the employment prospects for individuals with juvenile records.

Stakeholders discussed the different ways in which a record impacts obtaining employment. According to a social service provider who works with employers to secure job placement for individuals with criminal backgrounds, many employers make blanket statements that they do not consider any individual with a criminal history, including juvenile criminal histories. Another stakeholder with experience assisting individuals with juvenile records to find employment stated, "It's the one thing that an employer can legally discriminate with...there's nothing in place to protect people with a record."

Individuals who are denied employment due to their juvenile record often report turning instead to "under the table" jobs or work for family members where a criminal history will not be questioned. A number of individuals and stakeholders shared how continual rejection for employment because of juvenile records causes some to return to illegal activities: "I'm a drug dealer because I can't get a regular job! I have a college degree. I can't put it to use. I've spent thousands of dollars earning a college degree that I can't use," shared one woman who was unable to obtain employment due to her juvenile record.

### Beyond the background check: the shame of a juvenile record

In addition to the challenge of applying, interviewing and competing for jobs, individuals with juvenile records who have spent time incarcerated have difficulty talking about their experience with the juvenile justice system because of the shame that comes along with having a juvenile record. In addition, many possess emotional and job skills deficits that can further impede their employment prospects.

Individuals who have spent any significant amount of time confined in a juvenile correctional facility often have to use contacts at the Department of Corrections as references and list Long Creek as their last mailing address, breaking any seal of confidentiality around their system involvement. DOC staff share they feel uncomfortable when employers call for references for young people who have been committed. "It is awkward because they ask how I know them. They ask who I am and where I work," reports one DOC staff member.

*“ I work with young men and women who are incarcerated for long periods of time – often years – during their adolescence. At a time when most kids are re-imagining their relationships with their families, and figuring out how to negotiate as adults in the world, these young people are not doing either. It has to be a handicap to be turned out into the world at 18 or 19, having had no experience or even models of experience from which to learn about what life will be like once they are released. ”*

*– Department of Corrections staff*

Some stakeholders report that individuals coming out of Long Creek have learned behaviors that may have served them well inside the correctional facility, but are a disservice in the process of successfully reentering the community or obtaining employment. Stakeholders cite individuals' inability to make eye contact and difficulty in presenting with self-confidence and capability as barriers to securing employment. The concern expressed by these stakeholders is that if individuals are leaving Long Creek with these maladaptive skills and have difficulty obtaining employment, it is more likely they will fall into old habits and possibly reoffend.

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### *Case Study: Nine years of consequences*

When she was between 11 and 14 years old, Michelle used to get into trouble, everything from getting caught drinking to fist fighting. Eventually, she was committed to Long Creek. She is now 24 years old and has not incurred any criminal charges since she left Long Creek at age 14.

**Employment:** Like many individuals with juvenile adjudications, Michelle used to check *no* on applications when asked if she had any criminal conviction because, as she understood it, adult convictions are not the same as juvenile adjudications. However, she soon realized her juvenile record was being returned on background checks. In one instance, a few weeks into a new job, her employer asked to speak with her. Michelle's juvenile adjudications from when she was 14 years old had come back as a "hit" on the background check. Although in this instance she was able to keep the job, this wasn't always the case: "Another job I thought for sure I had it and I got all amped up! As I am walking out of the interview they said, 'As long as you pass your background check and everything is all set, you have the job!' but then my heart dropped because I knew I wouldn't pass."

**Housing:** Michelle's record came up again when looking for housing. After applying to live in an apartment in southern Maine, everything seemed to be all set until the landlord ran the background check and her juvenile adjudications showed up on her record. "She couldn't give it to me and I had to settle for a cheaper apartment in a worse spot where I didn't feel safe...She felt bad and said she would have rented to me, but through her company she said she couldn't give it to me. It had nothing to do with the money I made or who I was as a person – I couldn't get accepted because of charges from nine years ago."

**Sealing her record:** "I've been told my whole life when you turn 18 [your juvenile record] will go away, but that's not necessarily the case. I'm 24 now and it was just a year or year and a half ago that I realized, 'What the heck!?! It's not sealed!' I just realized a year or year and a half ago that they could see anything on my record and it really makes me wonder how many jobs and apartments have I not gotten?" When she looked into sealing her record, Michelle realized she would have to pay to hire a lawyer and take a day off work to go to the district courthouse where her original adjudication occurred. "It should not be so complicated. It shouldn't have to cost you money. After a certain amount of time if you prove yourself and you don't get in trouble and you do what you are supposed to do, it should be more simple. I'm saying you have to be held accountable, but forgiveness also needs to come into play, especially when you are young. I knew what I was doing but I didn't know how big a part it would play in my life."

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## Professional Licensing

The State of Maine Professional and Financial Regulation's website<sup>56</sup> lists 63 professions and occupations for which they oversee licensing. Many of the professions and occupations have individual boards that manage licensing. There is no consistency or standardization across agencies on how juvenile adjudications are factored in the determination of an individual's ability to obtain a professional license in Maine. When licensing divisions do not have consistent and transparent policies around professional licensing for individuals with juvenile records, people may be less likely to make an attempt to enter a certain career field.

Licensing agencies can consider misdemeanor convictions for dishonesty or false statements, convictions that are directly related to the trade for which the license is being pursued and all felony convictions. Licensing agencies can only look at the last three years of criminal activity, or the last 10 years if the job involves health care or law enforcement.<sup>57</sup> Though juvenile adjudications in Maine are not equivalent to convictions, many if not all licensing boards require individuals applying for licensing to undergo and pay for a background check which may return juvenile adjudications. There are no clear provisions in the law related to how juvenile adjudications may or may not be included in decision making around professional licensing. According to representatives we spoke to from various licensing divisions, these decisions are made individually on a case-by-case basis. "I've never denied a license because of a [criminal] background," reports a representative who handles licensing for both the Plumber and Propane and Natural Gas boards. These two boards do not have set standards around exclusion criteria based on backgrounds. If a background check comes back with a record that the applicant failed to disclose, the boards have a process in place which requires the applicant to explain the difference between their response on the licensing application and what is reported on their background check. The applicant is given a preliminary denial with an offer of consent agreement which comes with a \$250 fine. If the applicant consents to pay the fine, they are granted the license. If they refuse to pay, they are denied licensure.

In addition to the confusion around how a juvenile record will be treated if discovered through a routine background check, some boards do not provide the inclusion or exclusion criteria pertaining to juvenile records. This means people cannot make educated decisions about pursuing a career knowing with confidence they will be able to enter the field. The following image from the Maine State Board of Nursing<sup>58</sup> website is an example of the lack of clarity those with juvenile records face as they consider opportunities for the future.

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<sup>56</sup> State of Maine Professional and Financial Regulation. (2016). Retrieved from <http://www.maine.gov/pfr/index.shtml>.

<sup>57</sup> Mallon, D. (2012). "Be Aware of the Long-term Consequences of Criminal Activity." Pine Tree Legal Assistance. Retrieved from <http://ptla.org/wabanaki/be-aware-long-term-consequences-criminal-activity#>.

<sup>58</sup> Department of Professional and Financial Regulation. (2016). Criminal Conviction Question. Retrieved October 25, 2016 from <https://www.maine.gov/boardofnursing/>.

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### Can I be licensed if I have a criminal conviction?

The question is often asked if an individual with a criminal conviction may become a nurse.

The answer is....possibly...

According to the law (5 M.R.S.A. Sections 5301, 5302), the appropriate state licensing agency may take into consideration criminal history record from Maine or elsewhere...but the existence of information shall not operate as an automatic bar to being licensed...

This means that you are not automatically disqualified from becoming a nurse because of the criminal conviction, but the Board may consider whether or not you have been sufficiently rehabilitated to warrant the public trust. The applicant shall bear the burden of proof.

The decision to enter a nursing program is yours. The basic answer to the question as to whether **a particular conviction** precludes nursing licensure is that there is no crime listed in the law that automatically precludes licensure in nursing. However, the Board of Nursing **may** certainly consider the conviction when making the determination to license an individual or not.

However, the Board of Nursing will not make the determination before a person has even entered a nursing program.

*The extent to which a juvenile record may impact an individual's ability to obtain a professional license in the State of Maine is often unclear, as depicted in this screenshot from the Maine State Board of Nursing.*

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### *Case Study: Dreams deferred*

Chris was adjudicated as a juvenile in Penobscot County when he was in his teens. It was his only interaction with the justice system. After completing high school, Chris pursued his passion and trained to become a Certified Nursing Assistant (CNA). "I knew it was my calling." Chris passed the state test, but when he went to get his license through the State of Maine he was denied because of his juvenile adjudication. "When my teacher pulled me in and said I wasn't getting my CNA that was the most heartbreaking moment for me...I was starting my life with what I really wanted to do only to be shot down. Because of my background I couldn't do what I wanted." Chris continued with schooling in a different field. He is now \$15,000 in debt as he works toward completing his degree.

Chris is now 23 years old, living outside of Maine and continually trying to move forward from the stress, depression, financial and employment hardships he has experienced because of his juvenile record. Although he reports he has a good job, he is unhappy and feels the weight of his record daily. "I am trying to move forward, but it's followed me. When the word 'background' comes up I get anxious...This background is a black cloud that is over me all the time." Chris' mother reports he is constantly afraid that if he goes to apply for a job or housing his juvenile adjudication will show up on background checks and he will lose more opportunities. "He struggles. I wish there was some way I could help him so he could make his dream something he can do."

According to both Chris and his mother, Chris' inability to earn his CNA has affected his mental health most significantly. The impact of his juvenile record has caused long-lasting mental health issues. The jobs Chris is able to get do not pay him enough to keep up with his bills, let alone adding a monthly health insurance premium. Because he does not have health insurance, he cannot get counseling for his mental health needs. Chris reports having been at risk for being homeless three times because of his inability to keep up with his bills.

Chris has attempted to seal his record. He contacted the State about a pardon and has also called three lawyers, including his original state-appointed attorney. Two lawyers told him they do not handle cases like his for record sealing. Another simply said he could not help.

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## Military

*“Kids think their record is sealed, but it's not. We can find everything. Even if the lawyer says it got dismissed, there is a record we can find. If you are paying a fine or doing community service, that is the same as pleading guilty. If it's before 18, we can still find it.” – Air Force recruiter*

As this quote from an Air Force recruiter demonstrates, any interaction with the juvenile justice system may be a barrier to enlisting in the military. Stakeholders, practitioners and representatives from various branches of the military frequently discussed the ways in which juvenile records impact military enlistment. As compared to employment or housing, less than half as many individuals with juvenile records personally cited their juvenile records as a barrier to military enlistment. In addition to the previously discussed sampling limitation, while everyone needs somewhere to live, not everyone will attempt to join the military. It is clear the military considers and evaluates all aspects of an applicant's contact with the juvenile justice system. It is unclear to what extent individuals with records are denied entry into the military because of their records.

Juvenile records that are not open to the public are obtainable by anyone with a voluntary release signed by the individual applying and/or the individual's parents. According to research for this report, the military is the most common organization that uses signed releases to access juvenile records. With such a release,

*“A record might be dismissed or expunged, but it's still is a guilty verdict.”  
– Marine Corps recruiter*

military agencies are generally able to access any history of law enforcement contact. This includes information that has been sealed and goes beyond what is available to employers through background checks.

It is unclear to what extent individuals with juvenile records understand exactly what information they are consenting to release. Those who believe their juvenile records are automatically sealed at age 18 may not understand that signing a release allows organizations such as the military to access all juvenile records.

Military agencies report the majority of individuals self-report law enforcement contact on their application. Even if they do not, agencies report they are able to discover it anyway. A recruitment officer from the Army reported that even if an applicant does not disclose juvenile justice involvement, “there are required clearances down the road.” He described a process called “reach-backs,” in which family members and police precincts are asked for information about an applicant. “Some stations will disclose. It depends,” reports an Army recruiter.

A number of young people interviewed reported that presentations by military personnel warning of the impact of juvenile records on enlistment had dissuaded them from attempting to enlist. As one young man said, “A recruiter came to school and talked about if you have charges, depending on what they are, it can affect you. I wanted to go into some branch of the military and now I can't and that sucks.” Multiple individuals with juvenile records included in this study who were denied entry into the military report the denial was a turning point in their life. In the words of one man now incarcerated at the Maine Correctional Center, “I think if my juvenile record hadn't been brought up to the recruiter, I think I would have been in the military. If I had been accepted into the military it would have changed my future. If my records had been sealed or I hadn't have had to answer that question to him, it would have changed the whole outcome of my life.”

DOC staff and leadership cited the military as the most common collateral consequence for young people with records. This may reflect the inquiries they respond to; the majority of DOC staff interviewed report receiving regular contact from military recruiters inquiring about specific juvenile cases. In addition, the majority of DOC staff report knowing of at least one individual who has been denied entry to the military because of their previous juvenile justice system involvement.

DOC staff report recruiters are “persistent” in trying to ascertain information about any and all contact with law enforcement. Although one DOC staffer reports that he tells individuals he works with who have informal adjustments to tell the military that they were not adjudicated (which the DOC staffer originally assumed would nullify any criminal record for the military to check into), it became clear to him that the military would attempt to and likely find access to the individual’s record regardless. Similarly, the majority of prosecutors and defense attorneys who have received calls from military recruiters made clear the military looks beyond the resolution of the charges. As long as the applicant has signed a release for the military to access information, attorneys share content of their juvenile cases.

### Uniform Code of Military Justice

All military agencies are governed by the Uniform Code of Military Justice, the foundation of military law in the United States. This code defines the military justice system and details criminal offenses under military law. Although the Uniform Code of Military Justice was not mentioned in any interviews for this report, it is important to note that under the Uniform Code of Military Justice, some crimes that are considered misdemeanors according to state law may be considered felonies. Beyond these regulations, as federal agencies, the various branches of the military have their own policies and procedures surrounding juvenile records.<sup>61</sup>

### Waiver process

“Four years ago we wouldn't have touched anyone with a juvenile record. But times are constantly changing. Everyone is hurting for people...Used to be so much more strict.”  
– U.S. Coast Guard recruiter

If the military discovers an applicant has past involvement with the justice system at any level, the process can go several ways depending on the agency and the type of interaction with the system. A representative from the Air Force explained that if an applicant does not disclose contact with law enforcement and a violation is later discovered, the process may stop immediately. In other situations, charges could be overlooked, or an applicant may be sent through a review or waiver process. The severity and number of charges eligible for a review or waiver varies across agencies and sometimes even within agencies. The following table outlines general ways in which a juvenile record could impact an individual’s successful enlistment in different branches of the military. Responses have been provided by recruitment officers from

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<sup>60</sup> Military Justice Fact Sheets. (2016). Retrieved from <https://goo.gl/6ypZgV> [from marines.mil]

offices throughout the state. Recruitment officers would not disclose the details of the waiver or review processes or which adjudications determine which processes.

Military branch	Potential impact of juvenile record
<b>U.S. Air Force</b>	<ul style="list-style-type: none"> <li>○ Set guidelines about which types of juvenile law enforcement contact can be waived and which cannot.</li> <li>○ Case-by-case review for final determination of acceptance.</li> </ul>
<b>U.S. Air National Guard</b>	<ul style="list-style-type: none"> <li>○ Recruitment officers provided with discretion in how they handle applicants with a history of law enforcement contact.</li> </ul>
<b>U.S. Army</b>	<ul style="list-style-type: none"> <li>○ Regulations and guidelines dictate waiver processes based on type of contact.</li> </ul>
<b>U.S. Army National Guard</b>	<ul style="list-style-type: none"> <li>○ All juvenile law enforcement contact considered.</li> <li>○ Regulations and guidelines dictate waiver processes based on type of contact.</li> </ul>
<b>U.S. Coast Guard</b>	<ul style="list-style-type: none"> <li>○ Any juvenile law enforcement contact must go through wavier process.</li> <li>○ Case-by-case review for final determination of acceptance.</li> </ul>
<b>U.S. Marine Corps</b>	<ul style="list-style-type: none"> <li>○ Applicants with misdemeanor adjudications are considered. Felony adjudications are automatically denied.</li> <li>○ Case-by-case review for final determination of acceptance.</li> </ul>
<b>U.S. Navy</b>	<ul style="list-style-type: none"> <li>○ Applicants with misdemeanor adjudications are considered. One felony adjudication may be considered.</li> <li>○ Case-by-case review for final determination of acceptance.</li> </ul>

## Education

Accessing education was not cited by those interviewed as a common barrier faced due to a juvenile record. However, the majority of post-secondary admissions offices are not blind to past juvenile charges or adjudications, when they are disclosed by the applicant. As discussed previously, a broader sample that includes more individuals with records who are not currently or have not previously been incarcerated would provide a more comprehensive view of the extent to which access to education may be impacted by juvenile records.

In a review of applications of 22<sup>61</sup> of Maine's private and public colleges, universities and community colleges, three institutions do not ask applicants any questions about criminal background as a part of the application process. Several other colleges do not ask in the application, but check the criminal background history of applicants either as a requirement for enrollment in certain programs or before admission decisions are made.

Half the colleges and universities included in this analysis use The Common Application. In the past, this widely used application required applicants to check *yes* or *no* to whether they have been convicted of a crime or faced serious disciplinary action in school. It was unclear whether this question pertained only to adult crimes or both juvenile offenses and adult crimes. In May 2016, it was announced that The Common Application would change the question related to student criminal records on the 2016-2017 application to, according to a spokeswoman from The Common Application, "remove part of the question asking about any other crimes."<sup>62</sup> The spokeswoman was further quoted: "We realized that was a place of ambiguity and so that could cause some angst for students." The following are the revised questions pertaining to disciplinary history, as printed in a sample 2016-2017 Common Application.<sup>63</sup> Applicants must check *yes* or *no*.

1. Have you ever been found responsible for a disciplinary violation at any educational institution you have attended from the 9<sup>th</sup> grade (or the international equivalent) forward, whether related to academic misconduct or behavioral misconduct that resulted in a disciplinary action? These actions could include, but are not limited to: probation, suspension, removal, dismissal or expulsion from the institution.
2. Have you ever been adjudicated guilty or convicted of a misdemeanor or felony? Note that you are not required to answer "yes" to this question, or provide an explanation, if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be kept confidential.

Although the new language on The Common Application removes ambiguity, it also clarifies that individuals must disclose juvenile adjudications. In addition, because juvenile records in Maine are not automatically sealed, most young people from Maine with juvenile adjudications applying to college through The Common Application would not benefit from the provision that they are not required to check *yes* if records have been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be kept confidential.

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<sup>61</sup> This count does not include the seven distinct universities within the University of Maine System. The University of Maine System is counted as one of the 22 universities. The University of Maine System uses The Common Application.

<sup>62</sup> Armario, C. (2016, May 9). The Common Application used for college admissions at more than 600 institutions is changing a question it asks about student criminal records, as the U.S. Department of Education urges schools to drop the question altogether. *U.S. News and World Report*. Retrieved from <https://goo.gl/fkjuu0> [from usnews.com].

<sup>63</sup> See Appendix C.

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### *A closer look inside the college admission process – acceptance or rejection?*

*The following is from a key informant interview with an individual who works in the admissions office at an institute of higher education in Maine.*

Included in this school's application is the question, "Have you ever been adjudicated guilty or convicted of a misdemeanor or felony?" If an applicant responds *yes*, the application goes to a special case admission review committee. The applicant is required to submit court dockets if the incident(s) occurred within the last 10 years. If the incident(s) occurred outside the 10 year timeline, they are asked to submit a written statement about the charge or adjudication and outcomes or sentence. At that point, the committee reviews the documents and decides if the student can safely be a member of the community at the school. "The answer is most often *yes*," reports the stakeholder. A very small number of students are admitted with stipulations, he shared, and provided the example of an applicant who was charged with bank fraud, who was admitted to the school but prohibited from any school-based jobs that involved handling funds.

Although the school has the capacity to conduct background checks, they do not do so on a regular basis. The only way they would know about a juvenile adjudication is if the applicant self-discloses. However, the stakeholder reports the application is a legally binding contract. "If the applicant checks *no* and we find out it was actually a *yes*, [the school] can revoke the admission status because that is a breach of the contract."

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## Financial Support

In addition to accessing education, research was also conducted around how individuals with juvenile records may face barriers to accessing financial supports, including bank loans and federal student aid. Although the processes around completing applications for financial supports suggest the potential for collateral consequences, individuals with records and stakeholders included in this study do not report accessing financial supports to be a major barrier. That said, confusion around the application process for federal student aid may cause individuals with juvenile records to accidentally disclose an adjudication they were not required to and potentially face additional scrutiny because of it.

Banks included in this analysis do not perform criminal background checks on consumers, but in order to assess credit worthiness they run credit checks and review employment and residence history. One banker talked through a scenario in which an individual's involvement in the juvenile justice system could potentially impact the ability to secure banking products. She discussed how length of employment and residency are important when reviewing loan applications. If an individual had recently been released from jail, prison or a juvenile detention facility, a limited or sporadic employment and residency history might be a deterrent to the bank. The banker reiterated that no background checks are conducted with loan applications and that it "depends on the feel of the application how in-depth the questions go."

## Confusion on the FAFSA

A number of individuals with records and stakeholders, including attorneys, incorrectly believed that applicants would be denied access to federal student aid if they had past drug-related convictions or adjudications. To qualify for federal student grants, applicants must complete the Free Application for Federal Student Aid (FAFSA). The online application on the federal student aid website<sup>64</sup> specifies that individuals can answer *no* to the question, “Have you been convicted for the possession or sale of illegal drugs for an offense that occurred while you were receiving federal student aid (grants, work-study, and/or loans)?” if the conviction occurred before the applicant was 18 and they were not tried as an adult, or if the conviction was removed from their record. Additionally, drug convictions would only affect federal student aid if they occur while an individual is receiving aid or after they have submitted their FAFSA. Even with these clarifications in the applications, there was a small contingent of people who reported that having a juvenile record was a personal barrier to receiving federal student aid.

## Housing

When attempting to obtain housing in Maine, both individuals with juvenile records and families who have a family member with a juvenile record may face additional scrutiny and barriers because of a history of law enforcement contact. In addition to the barriers faced by the general application process, as discussed previously, more detailed research into housing policies revealed other ways in which a juvenile record could impact an individual or family’s ability to successfully obtain housing. There is a lack of consistency and standardization around how the results of background checks are and can be used in making a decision about housing. In addition, much like with access to financial supports, the confusion around the application processes for housing may cause individuals with juvenile records to inadvertently disclose an adjudication they were not required to and potentially face additional scrutiny because of it.

Interviews with individuals with juvenile records were mixed in determining the extent to which having a juvenile record was a barrier to accessing housing. Additional research with individuals who have had prior juvenile justice system involvement and are not currently incarcerated would help to ascertain with more certainty the degree to which those with juvenile records face barriers in accessing housing. In multiple interviews, it was not until interviewees began to think critically about how their record may have impacted them that they realized the historical implications – jobs lost and housing they had been denied without explanation. Of those who had been denied housing because of a juvenile record, many had not realized their record was the reason for the denial because they believed their juvenile record was sealed.

Reports from DOC staff suggest that individuals with juvenile adjudications being denied housing is not uncommon. Multiple reports were given of families being denied housing or asked to leave because of a young person’s juvenile record. “I have worked with a juvenile whose family had their public housing application denied based on a misdemeanor assault that was handled informally,” shared one DOC staff member. Beyond the concern of landlords or property management companies accessing background

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<sup>64</sup>Federal Student Aid. (2016). Students with Criminal Convictions. Retrieved from <https://studentaid.ed.gov/sa/eligibility/criminal-convictions>.

checks that return juvenile adjudications, stakeholders who work with individuals coming out of Long Creek report experiencing or hearing about the following additional barriers:

- Lack of savings or financial support from family for a down payment or security deposit and first and last month's rent, which is often required by landlords.
- Difficulty finding a co-signer for a housing loan.
- Lack of credit history.
- Gaps in rental history when incarcerated, resulting in limited landlord references. When landlords ask about the gap in housing, applicants have to either disclose they were incarcerated or lie.
- Lack of independent living skills or placements to support the transition to independent living.

### Review of housing options

In Maine, those who qualify may apply for housing vouchers or subsidies that are operated by state or local agencies. According to the Maine Centralized Section 8/HCV Waiting List website,<sup>65</sup> federal housing regulations under the United States Department of Housing and Urban Development (HUD) dictate three mandatory denials of assistance for housing vouchers and subsidies. Individuals will be automatically denied if any of the following are true:

- Any member of the household owes money to any housing authority;
- Any member of the household has been convicted of manufacturing or distributing methamphetamines in public housing; or,
- Any member of the household is subject to a lifetime registration on any sex offender list.

In addition, each housing authority may have their own eligibility standards. Although there are federal regulations that must be adhered to, the decision of whom to rent to is ultimately in the hands of the landlord, housing authority and property management company. Each of these entities can check the background of all adult applicants. Individual landlords, housing authorities and property management companies have their own policies and procedures around how to handle the criminal background of applicants. There is a lack of consistency and standardization of how the results of background checks are and can be used in making a decision about housing. Housing authority and property management company representatives included in this study report juvenile records are not of interest and do not come up in background checks. However, these same agencies report using SBI for background checks, which supplies data on some juvenile adjudications.<sup>66</sup>

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<sup>65</sup> Maine Centralized Section 8/HCV Waiting List. (2016). Retrieved from <https://goo.gl/120VZ6> [from mainesection8centralwaitlist.org].

<sup>66</sup> Maine Criminal History Record and Juvenile Crime Information Request Service. (2016). Retrieved from <https://www5.informe.org/online/pcr/faq.htm>.

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### *Case Study: No vacancy*

Less than two months before her 18<sup>th</sup> birthday, Jeanette was adjudicated of three Class B juvenile charges. Over two years later, she was charged and convicted of an adult misdemeanor. When Jeanette went out to find a job and somewhere to live, she had a very difficult time. She ended up homeless, “couch-surfing” and bouncing around with friends. Eventually, Jeanette and her boyfriend applied to live at an Avesta Housing property using their Stability Through Engagement Program<sup>67</sup> (STEP) voucher. Her boyfriend was approved, but when Avesta conducted a background check on Jeanette the process came to a halt. According to a letter from Avesta, Jeanette’s background check “uncovered information that raises questions about your proposed household’s suitability to reside at a property managed by Avesta Housing.” Both her adult misdemeanor and juvenile felony adjudications showed up on the background check.

The letter went on to say that Jeanette’s criminal background may ultimately prevent her from being approved for housing. She was given 14 days to respond in writing with information that she would like Avesta Housing to consider in reviewing her application. Jeanette was so discouraged that her first instinct was to just give up, but her support network encouraged her to try. Several staff members of a program she is a part of submitted letters of support and Jeanette wrote her own letter explaining her record and what her life looked like now. Jeanette was denied housing with Avesta and with a number of other housing agencies. Eventually, she and her boyfriend found a place to live together. Because of her adult charge, Jeanette is ineligible to seal her juvenile record.

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<sup>67</sup> Maine State Housing Authority. (2016). Home to Stay. Retrieved from <http://www.mainehousing.org/programs-services/homeless/homelessdetail/HomeToStay>.



## SECTION 3: KEY FINDINGS: CONFUSION, INCONSISTENCY AND MISUNDERSTANDING

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### Systemic Implications

*"I have no understanding whatsoever about it. I assume that when she is no longer a minor [her juvenile record] gets null and void. A friend of mine just told her daughter, 'Oh, don't worry. That's your juvenile record. Don't worry about that.' I have no idea who would see it."  
– Parent of young person with juvenile record*

1. Coupled with confusion around the term “sealing,” there is widespread lack of understanding of the procedures intended to safeguard juvenile records and the sealing process

Data collected through interviews and focus groups reveal that individuals with juvenile records face substantial collateral consequences. This report uncovered a lack of clarity and perpetual proliferation of misinformation regarding the confidentiality of juvenile records in Maine. There is a widely held belief that all juvenile records are automatically sealed and unavailable to the general public after age 18. This myth was repeated consistently in interviews across all samples. The confusion and lack of clarity, coupled with limited knowledge around the legal options and processes for sealing juvenile records, increases the likelihood that individuals with juvenile records will face collateral consequences and decreases the probability that they will attempt to seal their records.

***The majority of young people with records and their family members believe records are automatically sealed at age 18.***

To system-involved youth and their parents, the truth about what happens with juvenile records is misconstrued. Young people interviewed who were confined, pre-adjudication or post-adjudication, as well as those on probation, had no knowledge of the sealing process described in the statute and consistently stated they believed all juvenile records were automatically sealed at age 18. Both young people with juvenile records and their family members reported that their misunderstanding of the law came from multiple sources in the justice system. One parent shared, “I am under the impression that when he checks out [of Long Creek], there is no felony criminal record and no further record. The judge said that in the courtroom. We were told that there would be no record after Long Creek but it seems bizarre...Juvenile records do pop up when you do background checks. I know that already, but that is not what we heard in court or what my kid understands will happen.” While some parents and young people were given misinformation from stakeholders like DOC staff, attorneys and judges, others reported no one had talked with them about their record or steps they could take to later seal their record. Of the 26 parents interviewed who had a child confined at Long Creek at the time of the interview, only two said that someone had explicitly talked with

them about what will happen to their child’s record. For many, this interview was the first time they had thought about the existence of a juvenile record and the potential consequences it may cause.

Some young people and their parents spoke to the difference between felony and misdemeanor adjudications. In particular, young people with juvenile records reported that felonies are more likely to show up on a background check but that misdemeanors would be cleared. “It sticks with you until you are 18, unless you have a bad enough charge. Then it sticks with you forever,” a young man reported.

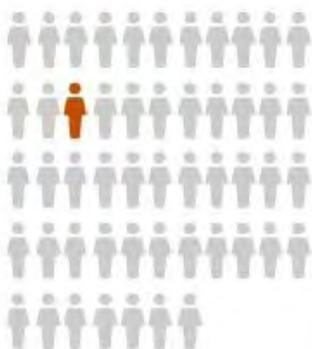
“The judge said, ‘If you plead this way and he does okay this whole record gets expunged’... No one ever, ever told me I need to hire an attorney to ask for the record to be sealed. They used the words, ‘It will be wiped clean.’”  
– Parent of youth with juvenile record

**Adults with juvenile records also overwhelmingly believe that juvenile records are automatically sealed.**

*“If you don’t have an adult record, as soon as you turn 18 it’s closed. My lawyer told me that. But I’m 20. I’ve never really understood it because if you’re 20 and doing time for juvenile charges then when does it get taken off?...When you finish [at Long Creek] or when you turn 18? I don’t really understand.” – Individual at Long Creek*

Although the situations, adjudications, judges, lawyers and supports were different, interviews with adults with juvenile records reveal the same erroneous message that juvenile records are sealed or disappear entirely at age 18. As with young people, adults report hearing this from prosecutors, attorneys and judges. “My DA told me before I was 18...if I followed everything then everything would disappear. But you can still look up my case to this day and see that it was an aggravated assault that dropped to a simple. You can still

Only **1** of the **51** individuals interviewed at Maine Correctional Center knew about the possibility of sealing a juvenile record.



see it.” One woman whose juvenile charges were ultimately dismissed remembered hearing from her attorney and the judge in her case that there would be no record of her arrest: “It was presented that when I turned 18 it would all be gone. I was told, ‘You are very lucky it is happening now because in the long term, as long as you stay on this good path, it won’t count’...I just envisioned [my record] as a blank piece of paper.”

Because people believe their records are automatically sealed or expunged, they do not know about the sealing process and thus never attempt to seal their records. Only one of the 51 men and women currently incarcerated at Maine Correctional Center with whom we spoke reported knowing about the possibility of sealing their juvenile records. The one woman who said she knew about the sealing process reports she was told she would have to make a \$50 donation to have her record sealed. The majority believed they were automatically sealed or had been specifically told by a judge in court their record would be sealed.

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## Case Study: Courthouse confusion

Joel's son, Ryan, was 18 years old when his juvenile Class C adjudication was settled. The family was told that part of the settlement deal was that Ryan's juvenile record would be sealed. They were aware of potential collateral consequences, had discussed the importance of a sealed record with their attorney and, by including sealing as a part of the settlement, had tried to take steps to limit such consequences. For five years following the adjudication, Joel and his son assumed the juvenile record was sealed. But for five years Ryan was not able to get permanent work and could not figure out why. Eventually, Ryan was hired to do computer repair for the State of Maine, but later, a background check returned his juvenile adjudication and Ryan was let go. If sealing his record was included in the settlement, why was it coming up on background checks? "We started looking into it and realized it was not sealed." Joel called the court clerk, who told him that the record was sealed. Joel countered that it wasn't, and after looking into it she returned to the call and told Joel he was right. "It was part of the settlement that it would be sealed so we assumed...it would be sealed. We didn't realize we had to go submit to have it sealed." Joel and Ryan are taking an active role in working to get his record sealed. Their lawyer told them it would cost \$1000 to seal the record.

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### *Stakeholders across the juvenile justice system do not understand Maine's system for safeguarding records.*

Examples like Ryan's shed light on the range of misinformation that is being given to individuals regarding their juvenile records. Interviews with stakeholders who support, advise, defend or prosecute those with juvenile records show that a lack of knowledge or an inability to clearly and succinctly explain the process to clients contributes to the confusion and the myth of automatic sealing.

There is no central authority with which to consult on juvenile records. Even some professionals who work on juvenile cases do not understand the difference between juvenile record confidentiality and sealing. "Most of the general public understands that juvenile records are confidential and that they are not easily disclosed without a court order," incorrectly stated one defense attorney. Multiple interviews showed stakeholders who do not have a complete or entirely accurate understanding of the law and the process; defense attorneys and prosecutors are admittedly confused by the juvenile records system. "It's even confusing to me sometimes as to what is public or sealed and what isn't. It's not particularly clearly written. I usually have to go to the statute every time it comes up," shared one prosecutor. (It is important to note that in this quote, the prosecutor misused the term "sealed"; since no juvenile records are automatically sealed in Maine he likely was referring to records that were either public or confidential.) Attorneys report lingering questions about which records are open, when and to whom, and what happens when the juvenile's case starts with a felony and is open and then ends in a plea to a misdemeanor. "Judges and lawyers have different views on this," reports one prosecutor. "No one understands the juvenile code, whether it is attorneys, clerks or judges. Attorneys are frequently telling juveniles to plead guilty and not to worry because it's going to go away at age 18...Part of the reason that attorneys don't know the code is because it's not all in one place – you can't just open to one section and read it."

A Department of Corrections staff reports, "The misconception that juvenile offenses disappear when they reach adulthood is quite common amongst the general public (clients, families, providers, etc.) ...For juveniles charged with felony-level offenses, a critical component of our work involves explaining to the juvenile, family, victim (and even the charging agency and/or DA's office) that everything that happens related to that offense, should it reach court, is public knowledge." However, although not representative of all DOC staff, some of those included in this research discussed their own lack of understanding and inability to advise or

*“ In my experience it does not impact them because a juvenile's record is sealed at a certain age. The charges get dropped. It's automatic. ”*  
– Social Service Stakeholder

simply discuss the future possibility of record sealing with individuals with whom they worked. Of concern is that stakeholders may be unintentionally sharing inaccurate information. "I don't know what the sealing process is. I know that a record can be expunged, but don't know that process either," said one stakeholder. Juvenile records in Maine cannot be expunged.

Stakeholders in the field who are looking for accurate information to share with youth report being at a loss: "Five or so years ago, when youth were diverted at the JCCO level, the JCCO would say, 'You go do this program and your slate is wiped clean.' I used to say that to kids. Then I started hearing things about records popping up." This stakeholder reached out to a prosecutor she was in contact with to get the correct language to use with youth. She reports the response was just as vague as her own understanding. "[The prosecutor] said 'It's incredibly complicated. You can't even begin to give people the right information because it is so incredibly unclear.'" Even those who know that all juvenile records are not automatically sealed lack a clear explanation of what is confidential to whom and under what specific circumstances.

Leaders within the Department of Corrections spoke to their own struggle in accurately advising their staff in what to say to youth moving through the system: "Kids don't understand a lot of it. We tell them what we believe but things are changing so we aren't sure about what, at the end of the day, is confidential." A DOC staff member reports, "Most residents I work with [at Long Creek] think that their files are sealed and yet sometimes when an employer does a background check, things pop up. I have never gotten a clear answer for any resident regarding what to expect on a background check, I think because so many aspects come into play." He does not know what to tell youth he works with about what could come up on background checks: "I never have a clear answer for them."

## WHY AREN'T PEOPLE SEALING RECORDS?

Maine's juvenile record sealing process is relatively unused; in all of the interviews conducted with individuals with records, we did not speak with one person who had successfully gone through the juvenile record sealing process. Why?

### 1. Misinformation:

Individuals with juvenile records believe their records are automatically sealed or expunged. Since the language of sealing is used so indiscriminately, individuals do not have the motivation or see the need to go through this process when they had been told time and again by stakeholders their records were sealed at age 18.

### 2. Cost-prohibitive process:

It was estimated that to hire private counsel for assistance in sealing a juvenile record it would cost between \$1,500 and \$4,000 for between 12 to 15 hours of work.

Photo credit: Maine Inside Out. (2016)<sup>68</sup>

## 2. There are inconsistencies in when juvenile records are created and shared

Because policies and practices differ across organizations and entities around the state, interview themes suggest that the creation and sharing of juvenile records is inconsistent. Stakeholders who work with high schools around behavior and disciplinary action shared that school districts have different policies around engaging School Resource Officers (SROs) and JCCOs, and that individual schools define these policies differently. Whether or not a summons is issued and an ATN is assigned determines if a record is created for high schoolers who get in trouble at school. If a SRO decides to send a student to a diversion program instead of moving forward with the summons, a record may not be created. If school officials, through the SRO or direct complaint to law enforcement, involve the JCCO, the JCCO could issue a summons which marks the creation of a record. Some schools deal with all school-based incidents internally and do not involve the SRO, while others always involve the SRO.

According to another stakeholder, the discrepancy in how records are created extends beyond processes in schools and into police interactions with youth: "...Records are generated differently for kids in different social classes; a wealthy, white kid might get driven home by a cop from a party and have no record generated but a kid from poverty gets brought to the station." If such processes lack consistency, young people in Maine who are accused of the same crime could incur very different juvenile records and the later consequences

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<sup>68</sup> Maine Inside Out. (2016). [Online image]. Retrieved from <https://www.facebook.com/Maine-Inside-Out-164511913661459/>.

associated with such records.<sup>69</sup> Multiple stakeholders shared instances in which juvenile confidentiality has been breached, including:

- Juvenile offenses that were committed outside of school being shared with school staff
- Police departments sharing information with potential employers about juvenile records without proper releases
- Juvenile criminal history information being shared with the military without proper releases

Although these are anecdotal accounts, they suggest that juvenile records are being shared beyond what is allowable in statute and raise the question of whether those who are sharing information about juvenile records understand the potential collateral consequences or the laws around confidentiality.

### 3. Many believe the opaque process for sealing records does not sufficiently meet the rehabilitative goals of Maine’s Juvenile Code or reflect research on adolescent development

*“It’s not like when you hit 18 you make much better decisions, but...brain science-wise we aren’t making great decisions at these ages...So does it make sense that that many kids enter the system and literally never come out of it?” – Individual with record*

In law and practice, Maine has recognized that youth are different from adults in ways that require different responses from the justice system. When they make mistakes, youth are to be given a second chance to choose a more productive path. Even so, many interviewed do not feel the policy around sealing juvenile records reflects the purposes of the juvenile code or the needs and limitations of youth involved in the juvenile justice system. The majority of individuals interviewed shared a common belief that if a person is adjudicated of a delinquent act they should be held accountable for their action, but also that they should not have to face the lifelong collateral consequences of that crime. Research on adolescent brain development suggests that most young people act in the moment and only consider the short-term consequences of their actions. In conversations with young people and their parents, the possibility of collateral consequences or barriers beyond being incarcerated seemed like a distant concern that many had not considered. One stakeholder explains: “When a kid is taken into custody, the idea that it is generating a record and the long-term consequence of that record is not on their mind. They are thinking about the short-term sentence, disposition. I don’t think they have any idea of what the consequences are or

*“ Juveniles think in the here and now. Being told they need to maintain a clean record for five years plus other conditions and criteria is hard for many to fully comprehend. ”  
– Department of Corrections staff*

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<sup>69</sup> For more information on research examining racial disparities in Maine’s juvenile justice system, see the following report: Disproportionate Contact: Youth of Color in Maine’s Juvenile Justice System. <http://muskie.usm.maine.edu/justiceresearch/Publications/Juvenile/DMC.FINAL.05.15.2015.pdf>

who has access to that information.” This thinking was supported by an adult with a juvenile record who said the only thing he wanted to know during court proceedings was, “Am I going to jail or not?”

For many, involvement in the juvenile justice system is one of many moments of trauma and adversity. As a DOC leader shared, “Unfortunately, many of the juveniles we are working with lack the foresight to understand how a criminal record could impact their adult lives. Quite frankly, for a youth who doesn't know where he will be sleeping tomorrow or getting his next meal from, it is often the furthest thing from their thoughts.” He went on to explain how, because youth lack foresight, it is even more important that both defense and prosecuting attorneys fully understand the potential ramifications of juvenile records.

“ I just don't see many youth [sealing their records] when they are trying to manage the rest of their lives at 21.”  
– Social Service Stakeholder

Many stakeholders report the myth of record sealing may contribute to youth holding a shortsighted view of their future. If individuals are navigating the system with a lack of understanding about their records and the impact they may have, they are less likely to later attempt to seal their juvenile records. These findings raise important considerations regarding when, how, how often and by whom accurate information about the long-term consequences of juvenile records is shared with young people and their families involved in the juvenile justice system. As this report has laid out, this short-term focus can have long-term implications.

## Implications for Young People and Adults

### 1. Adults report juvenile records are used to justify harsher adult sentencing

The majority of individuals interviewed whose involvement with the criminal justice system continued beyond their original juvenile adjudication report their juvenile record was later used against them in sentencing on adult convictions. Several individuals report being surprised and confused when their juvenile record was brought up in court rooms. **While the law is clear that only specific classes of juvenile offenses should be used to inform adult sentencing, a number of individuals cited examples of misdemeanors being used to demonstrate a historical behavior pattern and justify harsher sentences.** A number of those interviewed report remembering clearly the words used by judges and prosecutors. “[On] one of my first adult charges they used my juvenile record to show a pattern...They don't talk about the drug rehab programs I've done. They just talk about the charge,” shared one man at Maine Correctional Center. This individual went on to say his juvenile charge had been dismissed because he successfully completed an informal adjustment where he was asked to pay a fine and complete specific programming while under DOC supervision. He was confused how and why during his adult sentencing they brought up this juvenile charge for which he was not adjudicated.

“ More and more at sentencing I hear about their juvenile record. The cat's out of the bag at that point. The juvenile record is what the DA has access to.”  
– Defense attorney

Others discussed the ways in which their juvenile record was used to classify them in prison as adults and lead them to be housed in higher custody environments. They talked about how their initial placement was due in part to their juvenile record because, in the words of

men and women at Maine Correctional Center, it “added points” to the classification system. One individual reports he was kept in “high risk super-max” longer than he would have been if his juvenile adjudications had not been taken into consideration. Another reports although he was never adjudicated as a juvenile, the charge was used against him anyway. In these situations, individuals’ juvenile adjudications or contact with law enforcement follow them directly into prison.

## 2. Many young people accept pleas without understanding the implications of having a record and its subsequent consequences

“I consider protecting the record to be the most important part of any negotiation. I think kids may not even know who is looking at their record or how that impacts their prospects. Kids will often not be willing to take a more serious punishment (lots of community service, longer probation) in exchange for a reduction in the nature of the offense they admit to.  
– Defense attorney

Because so many young people and their family members are under the misconception that juvenile records are sealed at 18, many accept plea deals without fully understanding the implications of the adjudication. One DOC staff said: “I know of judges and attorneys advising juveniles and their parents that their records are sealed. It is a widely held notion. This is extremely harmful as many juveniles will plea not understanding fully the long term consequences.”

Individuals at Long Creek consistently report being encouraged to accept plea deals to lower their felonies to misdemeanors and, in exchange, agree to a commitment to Long Creek for an indeterminate sentence. There is currently no policy at the Maine DOC that connects length of stay to the charge or evidence to suggest that young people with misdemeanors have a shorter length of stay than those with felonies. The reduction of the charge, in theory, reduces young peoples’ chances of incurring collateral consequence but may actually increase the likelihood they will reoffend.<sup>70,71,72,73</sup> Therefore, the incentives created are at odds with both the rehabilitative and public safety goals of the juvenile code.

Interviews with individuals who have gone through this process reveal they are not fully informed or do not completely understand the various implications of long-term incarceration. In addition, it is unclear if the

“The attorney says, ‘Accept the plea,’ but they don’t explain this will affect you for the rest of your life and it will be on your record forever.”  
– Individual with juvenile record

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<sup>70</sup> The Annie E. Casey Foundation. (2011). *No Place for Kids: The Case for Reducing Juvenile Incarceration*. Baltimore, MD: Richard A. Mendel.

<sup>71</sup> Bureau of Data and Research. (1999). *National comparisons from state recidivism studies*. Tallahassee, FL: Florida Department of Juvenile Justice.

<sup>72</sup> Krisberg, B. and Howell, J. (1998). The impact of the juvenile justice system and prospects for graduated sanctions in a comprehensive strategy. In R. Loeber & D. P. Farrington (Eds.), *Serious and violent juvenile offenders: Risk factors and successful interventions*. Thousand Oaks, CA: Sage Publishing.

<sup>73</sup> Krisberg, B., Austin, J., and Steele, P. (1991). *Unlocking Juvenile Corrections*. San Francisco, CA: National Council on Crime and Delinquency.

information they are receiving is accurate since individuals interviewed report judges, defense attorneys and prosecutors told them their record would be sealed if they accepted certain plea deals. In the words of one young person, “Lawyers are so quick to get you to plea out to something and don’t take into consideration how that can affect you later in life and I don’t think that’s right. I pled out to stuff I didn’t even do because that’s what I was being advised to do and my parents didn’t know any better – they weren’t lawyers.”

### 3. The quality of representation contributes to how well records are safeguarded

Extending beyond conversations about the confusion of the system was an emphasis on the importance of quality representation for young people moving through the juvenile justice system. According to individuals who have gone through the system, as well as reports from attorneys representing them, the quality of representation varies across the state. When taking into consideration the widely held belief that records are sealed at age 18, defense attorneys’ ability to understand and explain the juvenile record sealing process and the potential future implications of a juvenile record is extremely important. According to one attorney, “There are attorneys who are good and know what they are doing and are instrumental and there are those who don’t do juvenile cases often [and] will do these kids a great disservice... [Young people] need to be given better information and know that there is a potential impact of having a juvenile record.”

“ [A juvenile record] creates a trail of information that follows a kid that does not reflect any changes they have worked on in their lives. ”  
– Stakeholder

When young people are assigned a court appointed attorney who does not have substantial experience in juvenile matters and may not appreciate the differences between the adult and juvenile justice systems or understand the potential long term collateral consequences of a juvenile record, they may be at greater risk of incurring such consequences. As one stakeholder said, “You can

always tell who had a good lawyer and who didn’t when you do background checks. I can think of two individuals that received felony convictions...and are now still in low-wage service positions as a result.” In addition, court-appointed attorneys are unlikely to take on sealing cases pro-bono, and free legal services only have so much capacity.

### 4. Individuals overwhelmingly report being marginalized and stigmatized due to their juvenile records

*“It is already hard for a youth who has had difficulties in school, or who is unable to attain a secondary level of education, to find employment which pays a living wage. Being stigmatized and labeled as a criminal for poor decisions as an adolescent can impair a young person’s ability to live independently or raise a family of his/her own. The result is either more generational poverty or a return to criminal behaviors for the sake of survival.”*  
– Department of Corrections staff

Individuals in the juvenile justice system often get caught in a cycle from which it is difficult to escape. Young people are at risk if they are not being rehabilitated following involvement with the juvenile justice system. This rehabilitation is crucial to ensuring they become productive, working members of society who are able

to successful transition into adulthood and thrive. According to those interviewed, individuals leaving the juvenile justice system in Maine are consistently marginalized and stigmatized, consequences that, for some, are as debilitating as being denied entry into the military or employment. This stigma causes harm both to internal social-emotional development as well as more external factors like reintegrating into the community. When individuals' criminal histories are tied into their identity and exposed in public, the issue of confidentiality becomes even more confusing and important, as it can threaten their livelihood and self-efficacy and compromise their sense of fairness and justice.

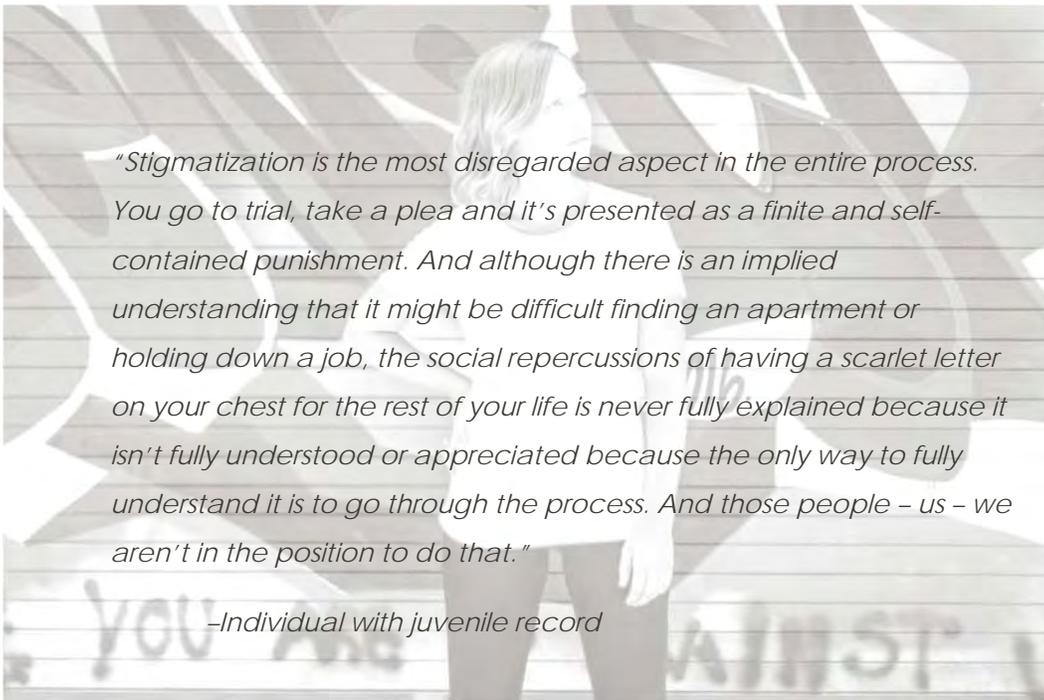
*“It’s a self-fulfilling prophecy. If we are continually judged to be unsafe and untrustworthy, we are presented with less opportunities for advancement. Some of the few options that remain are criminal and we resort to those to survive and as you go down that path the less likely you are to be able to stay on track. In attempting to punish or redirect them, as society believes they are doing, it intentionally or unintentionally further punishes them.”* –Individual with juvenile record

Rooted in the issue of stigma and marginalization is identity. The initial juvenile justice system involvement becomes “the primary defining factor for their existence” reports one stakeholder who works with young people with records. Interviews support the view that youth involved in the juvenile justice system are at risk of falling into the identity that is being prescribed to them, an identity that negatively impacts their ability to move forward in life and successfully desist from the system.

**Individuals with records share that the feelings of being labeled, judged and “branded” dominate many social interactions.** “People know us. They know our background, our family, our town. They know us...It just follows you everywhere.” One stakeholder spoke to a “circle of self-

deprecation.” A number of individuals reported being arrested in their high school and the negative impact that type of public attention had on their school identity, role and view of themselves as a student and peer. Stigma, embarrassment and shame are intimately tied to these public arrests. “I was arrested at school the day after everything happened. They took me out in handcuffs and everything. That was literally the most embarrassing day of my life.” Another individual reported a similar experience. “It’s dehumanizing,” he said. “It’s awful.” One parent shared that the backlash her son faced when returning to school after his juvenile adjudication was so severe he attempted suicide. Due to the stigma, individuals with records are trapped under a label as a criminal even when they have “paid their debt” and made intentional choices to move beyond their delinquent behavior. This weight causes significant mental health and self-esteem issues, according to interviewees, as many individuals begin to internalize the label.

Young people additionally consistently report being labeled and targeted by the police in their communities when they return after being detained or committed or after an arrest, even if there was no charge. Two individuals with juvenile records together shared this story: “Sometimes police officers will see us working...and say, ‘Hi Mary. Hi Sean. How’s it going? Staying out of trouble? Makin’ my coffee good? Am I gonna have to send you to jail?’ joking like haha.” Many others report they are “watched more closely” by police.



*"Stigmatization is the most disregarded aspect in the entire process. You go to trial, take a plea and it's presented as a finite and self-contained punishment. And although there is an implied understanding that it might be difficult finding an apartment or holding down a job, the social repercussions of having a scarlet letter on your chest for the rest of your life is never fully explained because it isn't fully understood or appreciated because the only way to fully understand it is to go through the process. And those people – us – we aren't in the position to do that."*

*–Individual with juvenile record*

## 5. A greater focus on restorative policies and practices that reflect the rehabilitative goals of the juvenile code is needed

*"Research shows that most adults have done things that would have landed them in the justice system a number of times, but most of them have avoided that involvement and the consequences that go with it. Probably many of them are well situated now. But had they been picked up, arrested, adjudicated etc., would they have been as effective? Maine is behind the eight-ball on this one. It is time to give this issue which is outlined in the code the attention that it deserves." –Defense attorney*

Stakeholders and individuals with records discussed the importance of a juvenile code that values accountability, restorative practices and rehabilitation. These individuals see the misunderstood juvenile records and sealing system as failing Maine's most at-risk youth by not reflecting the rehabilitative goals the code aims to meet. Although the use of restorative justice diversions prior to adjudication and disposition will eliminate certain collateral consequences, records related to charges, such as ATNs and summonses, can remain if not addressed by statute and procedural change. In interviews, individuals with records discussed opportunities to use juvenile records as a way to systematically identify rehabilitative and restorative supports while simultaneously limiting later collateral consequences. Interviewees spoke to the need for targeted treatment and rehabilitation that is determined, in part, by the history of delinquent behavior. One man, whose juvenile criminal history is all drug related, wondered why time and again he was put in prison rather than a rehabilitation facility: "You think they would look and say, 'He's been in trouble with stuff for drugs since 14 years old. Maybe he should get some help.'"

Conversations around rehabilitative goals and practices raised concerns about how much young people understand what is happening as they move through the juvenile justice system and what options, like engaging in restorative approaches, might mean for them in both the short- and long-term. One stakeholder who worked with young people with juvenile records shared: "...the kids said to us, 'No one told me what was going on. There was no communication. I was just this puppet and stuff was happening to me.'" His concern, beyond an issue of fairness, was that people must understand what they have done wrong in order to act differently in the future – the foundation of restorative justice practices. He continued, "They don't know who they harmed. [Restorative justice] puts a face to that harm and allows interaction in a safe way." In January 2017, the Maine Juvenile Justice Advisory Group (JJAG) released a report entitled An Initiative to Develop a Sustainable Restorative Justice System<sup>74</sup> which states the JJAG's support of enhancing restorative justice practices for young people involved in the juvenile justice system in Maine.

A cover letter to the report states: "The JJAG believes that by building a statewide restorative justice system that works in partnership with the criminal justice system we can better serve both our juveniles, our citizens/victims and alleviate our overburdened criminal justice system from a magnitude of cases best suited for the domain of a restorative justice. It is our vision and mission to build a parallel system of restorative justice that interfaces seamlessly with our current criminal justice system and that can be used as a viable, affordable and meaningful alternative to the existing system now solely in place." A clearer understanding of the potential impacts of juvenile records may be influential in identifying the most appropriate ways to address the need for both rehabilitation and accountability.

“ Accountability is at the core of healing and that does not mean violence or a prison sentence, but internalizing the impact that your actions have...If [a restorative justice approach was] applied to my case, it would have made a huge difference...it would have had a deeper, more sustainable impact and helped me see at a younger age the impact I was having. ”  
– Individual with juvenile record

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<sup>74</sup> Juvenile Justice Advisory Group. (2017). *An Initiative to Develop a Sustainable Restorative Justice System*. Retrieved from <http://www.maine.gov/corrections/jjag/rj/sustainable-restorative-justice-maine.htm>.

## SECTION 4: OPPORTUNITIES FOR REFORM

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*“We are failing in the restorative approach if young adults are ultimately having negative implications based solely on the record itself.” –Stakeholder/Defense Attorney*

The juvenile records sealing and confidentiality system in Maine is multilayered, complex and misunderstood. There is no singular, shared definition of what a record is, what it contains, and who has access to it, at what level or for how long. In addition, because individuals believe juvenile records are automatically sealed at age 18, many do not attempt to have their record legally sealed until it has already negatively affected them. These confusions exacerbate the collateral consequences faced by individuals with juvenile justice system involvement.

As this report demonstrates, the looming collateral consequences faced by those with juvenile records and the confusion surrounding the system intended to safeguard such records threatens to undermine the rehabilitative purpose of Maine’s Juvenile Code. Safeguarding confidentiality and preserving the ability of individuals with juvenile records to move past delinquent acts is at the heart of the code, and yet, when the sealing process is misunderstood, unused or unavailable, juvenile records follow youth well into adulthood and become barriers to future opportunities.

The fact that individuals in Maine with juvenile records face collateral consequences is not the fault of any one person; it is the culmination of inconsistent policies and practices, the lack of a central authority to govern the handling of juvenile records and insufficient or incorrect understanding of the law by those involved in or impacted by the justice system. Similarly, any solution will require a multi-stakeholder, state-wide response that considers the results of this research to determine how Maine can ensure that the juvenile code and, more importantly, surrounding practices, balance the parallel goals of rehabilitation, public safety and equality.

*“There needs to be a point of pardon – to transcend beyond those mistakes and allow children who become adults to have a new opportunity and not continually be focused in the past history, because we don’t live in the past...And all people, regardless of what they’ve done, should have the privilege and opportunity to grow out of errors. And society should look into how to assist kids who are faced with challenges, in life and emotional destruction, to be able to grow out it.”*  
– Parent of young person with juvenile record

## Voices from the Field: Where Do We Go from Here?

There was strong support across diverse stakeholder groups for reform of the Maine Juvenile Code and improvements around how juvenile records are treated, protected and safeguarded. Among many interviewed is the shared belief that Maine's Juvenile Code must be revised to support an easier pathway to seal a juvenile record. Many emphasized that within the revisions, the burden to seal must be removed from the youth. Others emphasized the need to train and educate those who work with young people so they are more knowledgeable about the sealing process. There were differences of opinion about length of time before a record should be eligible to seal, types of adjudications that would be considered in sealing, what the sealing process should look like and who should be responsible. What is agreed upon is that a clearer sealing process would make individuals more motivated and likely to succeed. In the words of a DOC staff member, "They would feel that they can truly put their mistakes behind them and have a fresh start."

This section outlines suggestions that were raised throughout the course of the study. These suggestions were not unanimously supported by all the respondents and stakeholders but represent the recommendations that were most consistently cited. They are offered to policymakers and practitioners for future consideration.

### Increase Stakeholder Training and Education

- Department of Corrections staff, law enforcement, social service agencies and others who work with individuals with records should understand the confidentiality laws around juvenile records, including who can access which records when, and what information can be shared and/or disseminated to others and under what circumstances. They should also understand the law with respect to sealing juvenile records so they can accurately inform youth about what happens to their record and provide guidance around the sealing process.
  - Incentivize use of the sealing process by connecting it to DOC supervision; offer the possibility of sealing at the point of discharge as a way for youth with records to stay on track.
- Juvenile defense attorneys and prosecutors should understand confidentiality laws around the handling of juvenile records, the potential collateral consequences associated with having a juvenile record, what it means to waive access to a record and the legal process required to seal a juvenile record.
  - Develop a standard resource to provide information to clients about how to answer criminal history questions on applications, as specific to their adjudications.
  - Establish a pro bono program to assist youth with the sealing process.
- Develop a mechanism to ensure ongoing quality and fidelity in the implementation of training and education.

## Revise, or Develop, and Formalize System and Personnel Guidance

- Develop or update written guidance or manuals for law enforcement agencies, court personnel and others that pertain to the policy and practice of handling, accessing and disclosing juvenile records. Make clear distinctions around the use of the terms “confidential” and “sealed” in communicating with individuals with records, their families and the general public.
- Ensure that the modernization of records systems reflects the goals of the juvenile justice system and the juvenile code around confidentiality and rehabilitation.
  - Establish a computerized system that automatically files sealing motions for individuals at a certain point after their adjudication or sentencing, provided they meet the criteria of incurring no further charges.
  - Include an automatic process that notifies individuals when their juvenile record is being requested, much like notifications around credit checks.

## Raise Public Awareness around Juvenile Records and Collateral Consequences

- Provide education and resources for stakeholders, including employers, educational institutions, social service agencies, housing agencies, licensing divisions and others who advise or make decisions about individuals with juvenile records to ensure they fully understand the terms “adjudication” and “conviction.”
- Provide education and training on how to read a background check to distinguish between juvenile and adult charges.
- Encourage employers to “Ban the Box” on employment applications and only use criminal history records to inform decision-making if the criminal charge is directly linked to the job.

## Make Changes in Law and Administrative Practice

- Revise current law to allow for expungement or automatic sealing of juvenile records after a term of years or upon discharge with judicial discretion and/or with certain offenses.
- Link expungement or sealing to the successful completion of rehabilitation, treatment or educational programs.
- Establish a central authority on the handling of juvenile records with clear guidance on confidentiality and access, including repercussions for unauthorized sharing of juvenile information.
- Streamline the Maine Juvenile Code as it relates to maintaining confidentiality of juvenile records to provide clarity and consistency around questions of access and dissemination across system stakeholders.
- Ensure practices reflect the central rehabilitative purpose of the juvenile justice system as it relates to the processing, handling and retention of juvenile records.

## Ensure Youth and Family Access to Information

- Provide youth and families with information at their court appearance explaining the potential collateral consequences associated with records, what is and is not confidential based on their specific adjudication and the juvenile court record sealing process.
- Incorporate time into every dispositional hearing for judges to explain, or require judges to ask young people if their lawyer has reviewed the following issues with them:
  - The potential collateral consequences associated with juvenile records
  - The juvenile record sealing process
  - What record information is and is not confidential based on their specific adjudication
  - How their juvenile record could be used against them in future sentencing
- Contact individuals as they are discharged from any disposition imposed to inform them of record confidentiality and sealing procedures.
- Provide community trainings for youth with juvenile records to inform them about their rights to seal, the process for sealing their juvenile record and how they should be responding to criminal history questions on applications.
- Ensure that individuals with juvenile records can access their own juvenile records, have mechanisms to challenge erroneous entries and are notified when their record is requested by others.

## Potential Areas of Future Research

The findings outlined in this report could be used as the catalyst for future research in a range of topics. While this report discussed several collateral consequences of having a juvenile record, a larger sample could investigate more closely the extent to which these and other barriers exist. Additional research could address the following questions and topics:

- What is the economic impact of collateral consequences in Maine?
- Since Maine does not include juveniles who have been adjudicated of sex offenses on the state sex offender registry, to what extent are individuals with juvenile sex offense adjudications impacted if they move to a state that does require juvenile sex offenders to register?
- How and to what extent do juvenile records impact immigrants, refugees or asylees?
- If Maine's constitution does not allow for expungement of juvenile records, what are the differences in constitutions and statutes between Maine and those states with automatic or selective expungement of juvenile records? Are there lessons that could inform any processes within Maine for reform?
- How may research into desistance, procedural justice and judicial socialization for individuals who have had involvement with the Maine criminal justice system inform practice and policy?

- Stakeholders, parents and individuals with records spoke to a lack of supportive mental health facilities for youth in the State of Maine, and a growing concern that some young people are confined because their mental health issues become so severe that they are a threat to safety. The decision to charge a youth results in a pathway to services and access to a system of support from which they had otherwise been denied. Although not directly related to the collateral consequences of juvenile records, the prominence of these findings makes them important to include, and further study is warranted in this area.

## Additional Resources and Reports

American Bar Association Model Code:

<http://www.americanbar.org/content/dam/aba/images/abanews/2015annualresolutions/103a.pdf>

Illinois Juvenile Justice Commission: Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois: <http://ijjc.illinois.gov/publications/burdened-life-myth-juvenile-record-confidentiality-and-expungement-illinois>

Juvenile Law Center: <http://jlc.org/>

Checklist for Safeguarding the Confidentiality of Youth in the Justice System:<sup>75</sup>

<http://www.njjn.org/uploads/digital-library/Confid%20and%20Exp%20Checklist%20for%20NJN%20%20FINAL-1.docx>

Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records:

<http://jlc.org/future-interrupted>

Models for Change: The Pennsylvania Juvenile Collateral Consequences Checklist:

<http://www.modelsforchange.net/publications/427>

National Juvenile Defense Center: <http://njdc.info/>

Pacific Juvenile Defender Center: Collateral consequences of juvenile delinquency proceedings in California A Handbook for Juvenile Law Professionals: <http://www.pjdc.org/projects/collateral-consequences-handbook/>

UNC Center for Civil Rights: Juvenile Delinquency Adjudication, Collateral Consequences, and Expungement of Juvenile Records: A Survey of Law and Policy in Delaware, Virginia, North Carolina and Florida:

<http://www.law.unc.edu/documents/civilrights/centerforcivilrightsexpungementreport.pdf>

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<sup>75</sup> See Appendix D for a Checklist completed for Maine.



## Appendix A: Juvenile Crimes under Maine's Juvenile Code

The following constitute juvenile crimes under Maine's Juvenile Code:

- Offenses, if committed by an adult, would be defined as criminal by Maine's Criminal Code or other criminal statutes, except Titles 12 and 29-A
- Possession of a usable amount of marijuana
- Possession or use of drug paraphernalia
- Illegal transportation of drugs by a minor
- Possession or consumption of liquor by a minor
- Illegal transportation of liquor by a minor
- Refusal to provide proper identification as specified in Title 28-A section 2087
- Hunting, operation, or attempting to operate a watercraft, ATV or snowmobile while under the influence of intoxicating liquor or drugs
- Failing to aid an injured person or to report a hunting accident
- Operating a motor vehicle while under the influence of intoxicating liquor or drugs
- Offenses contained in Maine's Motor Vehicle statutes (Title 29-A) defined as Class B or Class C crimes
- Possession of a firearm by a prohibited person
- Willful refusal to pay a fine or willful violation of the terms of a resulting administrative release or willful failure to comply with the terms of a court order issued when a juvenile has been convicted of a crime for a violation of a provision of Title 12 or Title 29-A that is not a juvenile crime.<sup>1</sup>

Many crimes contained in Maine's Motor Vehicle statutes, (Title 29-A) and Maine's Conservation statutes (Title 12) are not defined as juvenile crimes. Juveniles alleged to have committed these crimes must appear in the Unified Criminal Court in the same manner as an adult and may be convicted of a criminal offense. The following are examples of crimes that are not juvenile crimes and for which a juvenile may receive a criminal conviction:

- Operating a motor vehicle without a license, Class E crime<sup>2</sup>
- Refusal to sign a citation or Uniform Summons and Complaint<sup>3</sup> pursuant to Title 29-A M.R.S. section 2061, subsection 10, Class E crime<sup>4</sup>
- Operating while license is suspended or revoked,<sup>5</sup>
- Failure to Stop for a Police Officer, Class E crime<sup>6</sup>
- Criminal Speeding, Class E crime<sup>7</sup>
- Overtaking or Passing a School Bus, Class E crime<sup>8</sup>
- Hunting during closed season, Class D or Class E crime<sup>9</sup>

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<sup>1</sup> Title 15 M.R.S. § 3103

<sup>2</sup> Title 29-A M.R.S. § 1251

<sup>3</sup> There are two Class E crimes for refusing to sign a summons: one is in Title 17-A, which is a juvenile crime and the second is in Title 29-A which is not a juvenile crime. If the summons is for a motor vehicle violation, refusing to sign is not a juvenile crime.

<sup>4</sup> Title 29-A M.R.S. § 2061(10)

<sup>5</sup> Title 19-A M.R.S. § 2412-A

<sup>6</sup> Title 12 M.R.S. § 10651, Title 29-A M.R.S. § 2414 (2)

<sup>7</sup> Title 29-A M.R.S. § 2074(3)

<sup>8</sup> Title 29-A M.R.S. § 2308(6)

<sup>9</sup> Title 12 M.R.S. § 11201

- Fishing without a license, Class E crime<sup>10</sup>

There are also a number of civil violations, traffic infractions and violations of local ordinances that require juveniles to appear in the Unified Criminal Court. All of these offenses can result in youth receiving significant fines and permanent, public records. Examples of some of these civil offenses and the fines associated with them are as follows:

- Operating a motor vehicle on an intermediate license between the hours of 12 a.m. and 5 p.m. \$370 fine.<sup>11</sup>
- Carrying passengers other than family members in a motor vehicle, on an intermediate license. \$370 fine.<sup>12</sup>
- Throwing or discarding litter from a moving vehicle. \$165 fine.<sup>13</sup>
- Possession and use of cigarettes, cigarette papers or tobacco products. First offense \$100-\$300 fine, second offense \$200-\$500 fine, and third offense \$500.<sup>14</sup>
- Violation of a local ordinance's curfew for minors. Fines vary by jurisdiction.

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<sup>10</sup> Title 12 M.R.S. § 12501

<sup>11</sup> Title 29-A M.R.S. § 1311(B), *Schedule of Amounts Due for Traffic Violations*, Maine Judicial Branch Violations Bureau, available at [http://courts.maine.gov/maine\\_courts/traffic/schedule.pdf](http://courts.maine.gov/maine_courts/traffic/schedule.pdf). (Last visited January 23, 2017).

<sup>12</sup> Title 29-A M.R.S. § 1311(A), *Schedule of Amounts Due for Traffic Violations*, Maine Judicial Branch Violations Bureau.

<sup>13</sup> Title 17 M.R.S. § 2263-A, *Schedule of Amounts Due for Traffic Violations*, Maine Judicial Branch Violations Bureau.

<sup>14</sup> Title 22 M.R.S. § 1555-B (5-A) and (8)(B)

**MAINE JUDICIAL BRANCH PROCEDURES MANUAL  
DISTRICT COURT JUVENILE**

**Confidentiality**

**Number: DC-JV-03**

**Eff. Date:**

**Rev. Date: 12/15/16**

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**Confidentiality**

15 M.R.S. § 3307(1-A)

The name of a juvenile, regardless of the charge, may not be released to the public until a juvenile petition has been filed, even if a detention hearing has been held.

15 M.R.S. § 3307(2)

If the juvenile is charged with murder or a class A, B or C offense, all hearings in the case are open to the public. If the juvenile is charged with a class E offense, the hearing is closed to the public. If the juvenile is charged with a class D offense, the hearing is closed, unless the juvenile has been adjudicated previously of a class D offense. If the juvenile is charged with both a class D or E offense and a class A, B or C offense or murder, the hearings are open to the public. For example, if a juvenile is charged with both burglary (class B) and theft (class E), both offenses are public.

15 M.R.S. § 3308

All records in a juvenile case, including the petition, are confidential and not available for inspection by the public except as follows: (1) If the case is one that is open to the public, the petition, the transcript if any, and the order of adjudication can be inspected by the public. (2) The records excluding the names of the juvenile, the juvenile's parents, guardian, legal custodian, attorney or any other parties can be inspected by others having any interest in the proceeding or by persons conducting pertinent research studies with the consent of the court. The petition, the record of the hearing and the order of adjudication are open to inspection by the victim regardless of whether the hearing is open to the general public.

15 M.R.S. § 3308(8)

A person adjudicated to have committed a juvenile crime may petition the court to seal from public inspection all records pertaining to the juvenile crime and its disposition, and to any prior juvenile records and their disposition under certain circumstances listed in the statute.

If the petition is granted the person may respond to inquiries from other than the courts and criminal justice agencies about that person's juvenile crimes, the records of which have been sealed, as if the juvenile crimes had never occurred without being subject to any sanctions.

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Attested copies of orders granting 15 M.R.S. § 3308(8) petitions **must** be sent via regular mail to the State Bureau of Investigation (SBI) immediately as listed below.

***Docketing Information:*** Keep a stamped confidential envelope on the left hand side of the folder for items not available for inspection regardless of case type, such as financial statements, judge's notes, and other filings designated as confidential.

Clerks Bulletin Vol 6 Issue 2 **Note:** If a judge signs an impoundment order granting a 15 M.R.S. § 3308(8) petition on a juvenile case, docket the order and send an attested copy to Director of the State Bureau of Identification, 42 State House Station, Augusta, Maine 04333-0042. At this time, when an impoundment order is docketed it is not electronically transmitted to the State Bureau of Identification.

# FIRST-YEAR APPLICATION

## APPLICANT

Legal Name \_\_\_\_\_  
Last/Family/Sur (Enter name **exactly** as it appears on official documents.) First/Given Middle (complete) Jr., etc.

Preferred name, if not first name (only one) \_\_\_\_\_ Former last name(s) \_\_\_\_\_

Birth Date \_\_\_\_\_  
mm/dd/yyyy

Sex assigned at birth  Male  Female

If you would like the opportunity, we invite you to share more about your gender identity \_\_\_\_\_

US Social Security Number, if any \_\_\_\_\_  
Required for US Citizens and Permanent Residents applying for financial aid via FAFSA

E-mail Address \_\_\_\_\_

Preferred Telephone  Home  Mobile Home (\_\_\_\_\_) \_\_\_\_\_ Mobile (\_\_\_\_\_) \_\_\_\_\_  
Area/Country/City Code Area/Country/City Code

Permanent home address \_\_\_\_\_  
Number & Street Apartment #

\_\_\_\_\_  
City/Town County or Parish State/Province Country ZIP/Postal Code

**If different from above, please give your current mailing address for all admission correspondence.** (from \_\_\_\_\_ to \_\_\_\_\_)  
(mm/dd/yyyy) (mm/dd/yyyy)

Current mailing address \_\_\_\_\_  
Number & Street Apartment #

\_\_\_\_\_  
City/Town County or Parish State/Province Country ZIP/Postal Code

If your current mailing address is a boarding school, include name of school here: \_\_\_\_\_

## FUTURE PLANS

Your answers to these questions will vary for different colleges. If the online system did not ask you to answer some of the questions you see in this section, this college chose not to ask that question of its applicants.

College \_\_\_\_\_ Deadline \_\_\_\_\_  
mm/dd/yyyy

Entry Term:  Fall (Jul-Dec)  Spring (Jan-Jun)

Do you intend to apply for need-based financial aid?  Yes  No

Decision Plan \_\_\_\_\_ Do you intend to apply for merit-based scholarships?  Yes  No

Academic Interests \_\_\_\_\_ Do you intend to be a full-time student?  Yes  No

\_\_\_\_\_ Do you intend to enroll in a degree program your first year?  Yes  No

\_\_\_\_\_ Do you intend to live in college housing? \_\_\_\_\_

Career Interest \_\_\_\_\_ What is the highest degree you intend to earn? \_\_\_\_\_

## DEMOGRAPHICS

Citizenship Status \_\_\_\_\_

Non-US Citizenship(s) \_\_\_\_\_

US Visa Status \_\_\_\_\_

Birthplace \_\_\_\_\_  
City/Town State/Province Country

Years lived in the US? \_\_\_\_\_ Years lived outside the US? \_\_\_\_\_

Language Proficiency (Check all that apply.)  
S(Speak) R(Read) W(Write) F(First Language) H(Spoken at Home)

	S	R	W	F	H
_____	<input type="checkbox"/>				
_____	<input type="checkbox"/>				
_____	<input type="checkbox"/>				

**Optional** The items with a gray background are optional. No information you provide will be used in a discriminatory manner.

Religious Preference \_\_\_\_\_

US Armed Services veteran status \_\_\_\_\_

1. Are you Hispanic/Latino?  
 Yes, Hispanic or Latino (including Spain)  No If yes, please describe your background.  
 \_\_\_\_\_

2. Regardless of your answer to the prior question, please indicate how you identify yourself. (Check one or more and describe your background.)

American Indian or Alaska Native (including all Original Peoples of the Americas)  
 Are you Enrolled?  Yes  No If yes, please enter Tribal Enrollment Number \_\_\_\_\_

Asian (including Indian subcontinent and Philippines)  
 \_\_\_\_\_

Black or African American (including Africa and Caribbean)  
 \_\_\_\_\_

Native Hawaiian or Other Pacific Islander (Original Peoples)  
 \_\_\_\_\_

White (including Middle Eastern)  
 \_\_\_\_\_

## FAMILY

Please list both parents below, even if one or more is deceased or no longer has legal responsibilities toward you. Many colleges collect this information for demographic purposes even if you are an adult or an emancipated minor. If you are a minor with a legal guardian (an individual or government entity), then please list that information below as well. If you wish, you may list step-parents and/or other adults with whom you reside, or who otherwise care for you, in the Additional Information section.

### Household

Parents' marital status (relative to each other):  Never Married  Married  Civil Union/Domestic Partners  Widowed  Separated  Divorced (date \_\_\_\_\_)

With whom do you make your permanent home?  Parent 1  Parent 2  Both  Legal Guardian  Ward of the Court/State  Other yyyy

If you have children, how many? \_\_\_\_\_

### Parent 1

Mother  Father  I have limited information about this parent

Is Parent 1 living?  Yes  No (Date Deceased \_\_\_\_\_)  
mm/yyyy

\_\_\_\_\_  
*Last/Family/Sur                      First/Given                      Middle*

Former last name(s) \_\_\_\_\_

Country of birth \_\_\_\_\_

Home address **if different** from yours

\_\_\_\_\_

Preferred Telephone:  Home  Mobile  Work (\_\_\_\_\_) \_\_\_\_\_  
Area/Country/City Code

E-mail \_\_\_\_\_

Occupation (former occupation, if retired) \_\_\_\_\_

\_\_\_\_\_

College (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

Graduate School (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

### Parent 2 (optional)

Mother  Father  I have limited information about this parent

Is Parent 2 living?  Yes  No (Date Deceased \_\_\_\_\_)  
mm/yyyy

\_\_\_\_\_  
*Last/Family/Sur                      First/Given                      Middle*

Former last name(s) \_\_\_\_\_

Country of birth \_\_\_\_\_

Home address **if different** from yours

\_\_\_\_\_

Preferred Telephone:  Home  Mobile  Work (\_\_\_\_\_) \_\_\_\_\_  
Area/Country/City Code

E-mail \_\_\_\_\_

Occupation (former occupation, if retired) \_\_\_\_\_

\_\_\_\_\_

College (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

Graduate School (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

### Legal Guardian (if other than a parent)

Relationship to you \_\_\_\_\_

\_\_\_\_\_  
*Last/Family/Sur                      First/Given                      Middle*

Home address **if different** from yours

\_\_\_\_\_

Preferred Telephone:  Home  Mobile  Work (\_\_\_\_\_) \_\_\_\_\_  
Area/Country/City Code

E-mail \_\_\_\_\_

Occupation (former occupation, if retired) \_\_\_\_\_

\_\_\_\_\_

College (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

Graduate School (if any) \_\_\_\_\_ CEEB \_\_\_\_\_

Degree \_\_\_\_\_ Year \_\_\_\_\_

### Siblings

Please give names and ages of your brothers or sisters. If they are enrolled in grades K-12 (or international equivalent), list their grade levels. If they have attended or are currently attending college, give the names of the undergraduate institution, degree earned, and approximate dates of attendance. If more than three siblings, please list them in the Additional Information section.

\_\_\_\_\_  
*Name    Age & Grade    Relationship*

College Attended \_\_\_\_\_ CEEB \_\_\_\_\_

Degree earned \_\_\_\_\_ Dates \_\_\_\_\_  
or expected mm/yyyy – mm/yyyy

\_\_\_\_\_  
*Name    Age & Grade    Relationship*

College Attended \_\_\_\_\_ CEEB \_\_\_\_\_

Degree earned \_\_\_\_\_ Dates \_\_\_\_\_  
or expected mm/yyyy – mm/yyyy

\_\_\_\_\_  
*Name    Age & Grade    Relationship*

College Attended \_\_\_\_\_ CEEB \_\_\_\_\_

Degree earned \_\_\_\_\_ Dates \_\_\_\_\_  
or expected mm/yyyy – mm/yyyy

# EDUCATION

## Secondary Schools

Most recent secondary school attended \_\_\_\_\_

Entry Date \_\_\_\_\_ Graduation Date \_\_\_\_\_ School Type:  Public  Charter  Independent  Religious  Home School

Address \_\_\_\_\_ CEEB/ACT Code \_\_\_\_\_  
Number & Street

City/Town \_\_\_\_\_ State/Province \_\_\_\_\_ Country \_\_\_\_\_ ZIP/Postal Code \_\_\_\_\_

Counselor's Name \_\_\_\_\_ Counselor's Title \_\_\_\_\_

E-mail \_\_\_\_\_ Telephone (\_\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_\_) \_\_\_\_\_  
Area/Country/City Code Number Ext. Area/Country/City Code Number

List all other secondary schools you have attended since 9<sup>th</sup> grade, including academic summer schools or enrichment programs hosted on a secondary school campus:

School Name & CEEB/ACT Code	Location (City, State/Province, ZIP/Postal Code, Country)	Dates Attended (mm/yyyy)

Please list any community program/organization that has provided free assistance with your application process: \_\_\_\_\_

If your education was or will be interrupted, please indicate so here and provide details in the Additional Information section: \_\_\_\_\_

**Colleges & Universities** List all college/university affiliated courses you have taken since 9th grade and mark all that apply: taught on college campus (CO); taught on high school campus, excluding AP/IB (HS); taught online (ON); college credit awarded (CR); transcript available (TR); degree candidate (DC).

College/University Name & CEEB/ACT Code	Location (City, State/Province, ZIP/Postal Code, Country)	CO	HS	ON	CR	TR	DC	Dates Attended mm/yyyy – mm/yyyy	Degree Earned
		<input type="checkbox"/>							
		<input type="checkbox"/>							
		<input type="checkbox"/>							

If you indicated that a transcript is available, please have an official copy sent to your colleges as soon as possible.

# ACADEMICS

The self-reported information in this section is not intended to take the place of your official records. Please note the requirements of each institution to which you are applying and arrange for official transcripts and score reports to be sent from your secondary school and the appropriate testing agencies. Where "Best Scores" are requested, please report the highest individual scores you have earned so far, even if those scores are from different test dates.

**Grades** Class Rank \_\_\_\_\_ Class Size \_\_\_\_\_ Weighted?  Yes  No GPA \_\_\_\_\_ Scale \_\_\_\_\_ Weighted?  Yes  No  
(if available)

**ACT** Exam Dates: \_\_\_\_\_ Best Scores: \_\_\_\_\_  
(past & future) mm/dd/yyyy mm/dd/yyyy mm/dd/yyyy  
(so far) COMP mm/dd/yyyy English mm/dd/yyyy Math mm/dd/yyyy  
 Reading mm/dd/yyyy Science mm/dd/yyyy Writing mm/dd/yyyy

**SAT** Exam Dates: \_\_\_\_\_ Best Scores: \_\_\_\_\_  
(past & future) mm/dd/yyyy mm/dd/yyyy (so far)  
 Critical Reading/ Evidence-based Reading and Writing mm/dd/yyyy Math mm/dd/yyyy

**TOEFL/IELTS** Exam Dates: \_\_\_\_\_ Best Score: \_\_\_\_\_  
(past & future) mm/yyyy mm/yyyy mm/yyyy  
(so far) Test Score mm/yyyy

**AP/IB/SAT Subjects** Best Scores: \_\_\_\_\_

(per subject, so far)	mm/yyyy	Type & Subject	Score	mm/yyyy	Type & Subject	Score

**Current Courses** Please list all courses you are taking this year and indicate level (AP, IB, advanced, honors, etc.) and credit value. Indicate quarter classes taken in the same semester on the appropriate semester line.

Full Year/First Semester/First Trimester	Second Semester/Second Trimester	Third Trimester <small>or additional first/second term courses if more space is needed</small>

**Honors** Briefly list any academic distinctions or honors you have received since the 9<sup>th</sup> grade or international equivalent (e.g., National Merit, Cum Laude Society).

*S(School) S/R(State or Regional) N(National) I(International)*

Grade level or post-graduate (PG)	Honor	Highest Level of Recognition			
		S	S/R	N	I
9 10 11 12 PG		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## EXTRACURRICULAR ACTIVITIES & WORK EXPERIENCE

**Extracurricular** Please list your **principal** extracurricular, volunteer, and work activities **in their order of importance to you**. Feel free to group your activities and paid work experience separately if you prefer. Use the space available to provide details of your activities and accomplishments (specific events, varsity letter, musical instrument, employer, etc.). **To allow us to focus on the highlights of your activities, please complete this section even if you plan to attach a résumé.**

Grade level or post-graduate (PG)	Approximate time spent		When did you participate in the activity?		Positions held, honors won, letters earned, or employer	If applicable, do you plan to participate in college?		
	9	10	11	12			PG	Hours per week
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Activity _____								

## WRITING

### Personal Essay

**Note:** Some colleges require a personal essay. You may submit a personal essay to any college, even if it is not required by that college.

**Instructions.** The essay demonstrates your ability to write clearly and concisely on a selected topic and helps you distinguish yourself in your own voice. *What do you want the readers of your application to know about you apart from courses, grades, and test scores?* Choose the option that best helps you answer that question and write an essay of no more than 650 words, using the prompt to inspire and structure your response. Remember: 650 words is your limit, not your goal. Use the full range if you need it, but don't feel obligated to do so.

- Some students have a background, identity, interest, or talent that is so meaningful they believe their application would be incomplete without it. If this sounds like you, then please share your story.
- The lessons we take from failure can be fundamental to later success. Recount an incident or time when you experienced failure. How did it affect you, and what did you learn from the experience?
- Reflect on a time when you challenged a belief or idea. What prompted you to act? Would you make the same decision again?
- Describe a problem you've solved or a problem you'd like to solve. It can be an intellectual challenge, a research query, an ethical dilemma—anything that is of personal importance, no matter the scale. Explain its significance to you and what steps you took or could be taken to identify a solution.
- Discuss an accomplishment or event, formal or informal, that marked your transition from childhood to adulthood within your culture, community, or family.

### Additional Information

Please attach a separate sheet if you wish to provide details of circumstances or qualifications not reflected in the application.

### Disciplinary History

- ① Have you ever been found responsible for a disciplinary violation at any educational institution you have attended from the 9<sup>th</sup> grade (or the international equivalent) forward, whether related to academic misconduct or behavioral misconduct, that resulted in a disciplinary action? These actions could include, but are not limited to: probation, suspension, removal, dismissal, or expulsion from the institution.  Yes  No
- ② Have you ever been adjudicated guilty or convicted of a misdemeanor or felony?  Yes  No  
[Note that you are not required to answer “yes” to this question, or provide an explanation, if the criminal adjudication or conviction has been expunged, sealed, annulled, pardoned, destroyed, erased, impounded, or otherwise required by law or ordered by a court to be kept confidential.]

If you answered “yes” to either or both questions, please attach a separate sheet of paper that gives the approximate date of each incident, explains the circumstances, and reflects on what you learned from the experience.

**Note:** Applicants are expected to immediately notify the institutions to which they are applying should there be any changes to the information requested in this application, including disciplinary history.

## SIGNATURE

**Application Fee Payment** If this college requires an application fee, how will you be paying it?

- Online Payment  Will Mail Payment  Fee Waiver Request

### Required Signature

- I certify that all information submitted in the admission process—including this application and any other supporting materials—is my own work, factually true, and honestly presented, and that these documents will become the property of the institution to which I am applying and will not be returned to me. I understand that I may be subject to a range of possible disciplinary actions, including admission revocation, expulsion, or revocation of course credit, grades, and degree should the information I have certified be false.
- I agree to notify the institutions to which I am applying immediately should there be any change to the information requested in this application, including disciplinary history.
- I understand that once my application has been submitted it may not be altered in any way; I will need to contact the institution directly if I wish to provide additional information.
- I acknowledge that I have reviewed the application instructions for the college receiving this application. I understand that all offers of admission are conditional, pending receipt of final transcripts showing work comparable in quality to that upon which the offer was based, as well as honorable dismissal from the school.
- I affirm that I will send an enrollment deposit (or equivalent) to only one institution; sending multiple deposits (or equivalent) may result in the withdrawal of my admission offers from all institutions. [Note: students may send an enrollment deposit (or equivalent) to a second institution where they have been admitted from the waitlist, provided that they inform the first institution that they will no longer be enrolling.]

Signature \_\_\_\_\_ Date \_\_\_\_\_  
mm/dd/yyyy

Common Application member institution admission offices do not discriminate on the basis of race, color, ethnicity, national origin, religion, creed, sex, age, marital status, parental status, physical disability, learning disability, political affiliation, veteran status, or sexual orientation.

## Appendix D: CHECKLIST FOR SAFEGUARDING THE CONFIDENTIALITY OF YOUTH IN THE JUSTICE SYSTEM

*Prepared by the Juvenile Law Center and the National Juvenile Justice Network – July 2011  
Completed for Maine by student attorneys at  
The Cumberland Legal Aid Clinic at the University of Maine School of Law  
March 2017*

indicates Maine follows the recommendation

### LAW ENFORCEMENT RECORDS AND COURT RECORDS AND PROCEEDINGS

#### *Scope and contents*

- The statute defines “record” to include law enforcement records and court records, probation files, DNA information, fingerprints, and other information collected throughout the court process
- Confidentiality protections are applied to both law enforcement *and* court records.
- Ensures any juvenile records are filed separately from adult law enforcement or court records

#### *Access to record information*

- Prohibits inspection by the public of juvenile court records and law enforcement records pertaining to juvenile cases.
- Ensures that access to juvenile record information is limited to individuals connected to the case.
- Provides for limited access to juvenile record information to specified individuals conducting research
- Any other exceptions to confidentiality can only be by court order

#### *School Notification*

- Law enforcement and courts are not required or permitted to notify schools of youth arrests or juvenile justice system involvement.
- Law enforcement and court records are only released to schools when they concern the youth’s educational needs.

#### *Releasing juvenile record information*

- Safeguards juvenile record information released to government agencies and schools by restricting who can view the information and limiting how the information can be used.
- Requires courts to impose a fine (but not incarceration) on individuals or agencies that intentionally disseminate, share, or otherwise disclose confidential information contained in a juvenile court or law enforcement record.
- Prohibits imposing a penalty on youth who share their own confidential information.

#### *Court Proceedings*

- Juvenile court proceedings are presumptively closed to the public.
- Judges can only open proceedings to a limited group of individuals with a bona fide interest in the workings of the court, such as researchers, and with the youth’s express permission and after hearing from counsel for youth.
- Even when court proceedings are opened to limited individuals, the names and other identifying information of the youth and families in question are kept confidential.

**\*Maine does not offer record expungement.**

## EXPUNGEMENT OF JUVENILE RECORDS

### *Effect of expungement*

- All references to the juvenile's arrest, detention, adjudication, disposition, and probation are physically or electronically segregated so that only persons or agencies with statutory authority can gain access.
- All references to the juvenile's arrest, detention, adjudication, disposition, and probation are deleted from the files of the court, law enforcement, and of any other person or agency that has provided services to a child under a court order; and
- When asked about the individual, any representative of the court, law enforcement, or related governmental departments responds that no record exists.

### *Notification of expungement eligibility and information*

Youth are notified of the following:

- The consequences of being adjudicated delinquent;
- Information about the child's expungement rights;
- The difference between a sealed and expunged record; and
- The timeline for automatic expungement or expungement upon application by the child's attorney throughout the course of the representation;

Youth are notified by the following parties at the following times:

- by the Court at the final hearing (e.g., at the time of dismissal of the case, at disposition, or at discharge from supervision);
- by the juvenile probation department or its equivalent when juvenile court supervision is 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 or its equivalent via mail (or email or text message) when the expungement has been completed.

### *Expungement eligibility*

- Juvenile court and law enforcement records are automatically expunged if the person has no subsequent or pending adjudications or convictions for five years.\*
- Juvenile court and law enforcement records are expunged if the juvenile applies and after a hearing a court grants the expungement prior to the passage of not more than five years.
- Automatic expungement of juvenile court and law enforcement records in dismissed cases, unsubstantiated cases, cases where the youth was found to be not involved, and informal adjustments.

### *Release of expunged information*

- Courts are required to impose a fine (but not incarceration) on individuals or agencies that intentionally disseminate, share, or otherwise disclose confidential information contained in an expunged juvenile court or law enforcement record.
- Courts are required to impose a fine on individuals or agencies that intentionally fail to carry out expungement orders.

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\* We recommend that a time period no longer than 5 years be required with shorter time periods preferred.

- Prohibits imposing a penalty on youth who share their own expunged juvenile record information
- There are no fees or costs associated with sealing and expungement.

#### **SEX OFFENDER REGISTRIES**

- Youth and adults who committed sexual offenses as youth are not placed on registries for people who have committed sex offenses.
- Youth and adults who committed sexual offenses as youth are not subject to any public notification of their offense.

#### **DNA RECORDS**

- DNA is not collected from youth at arrest.
- DNA is not collected from youth at conviction.
- If collected, DNA records are only stored locally – not sent to a state or federal database.
- If collected, DNA records are expunged and sealed when a youth's other juvenile records are expunged and sealed.

#### **FINGERPRINT RECORDS**

- Fingerprints are not collected from youth at arrest.
- Fingerprints are not collected from youth at conviction.
- If collected, fingerprint records are only stored locally – not sent to a state or federal database.
- If collected, fingerprint records are expunged and sealed when a youth's other juvenile records are expunged and sealed.

#### **GANG DATABASES**

- Youth are not placed on gang databases.
- If youth are placed on gang databases, they are only placed on local databases and not statewide or federal databases.
- Strong penalties are provided for sharing this information outside the law enforcement community.
- Youth are notified that they are on a gang database and provided with information on how they can petition to be removed and provided legal counsel to assist if needed.

## About the Muskie School of Public Service



The Muskie School of Public Service is Maine's distinguished public policy school, combining an extensive applied research and technical assistance portfolio with rigorous undergraduate and graduate degree programs in geography-anthropology; tourism and hospitality; policy, planning, and management (MPPM); and public health (MPH). The school is nationally recognized for applying innovative knowledge to critical issues in the fields of sustainable development and health and human service policy and management, and is home to the Cutler Institute for Health and Social Policy.

Hawes, S., King, E., Sanchez, M., & Shaler, G. (2017, March 16). *Unsealed Fate: The Unintended Consequences of Inadequate Safeguarding of Juvenile Records in Maine*. Retrieved from: <http://muskie.usm.maine.edu/justiceresearch/unsealedfate.html>

This report is available on the Maine Statistical Analysis Center Website at:

<http://muskie.usm.maine.edu/justiceresearch/unsealedfate.html>

or by calling 207.780.4418

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# USM Muskie School of Public Service



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