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Unsealed Fate: The Unintended Consequences of Inadequate Safeguarding of Juvenile Records in Maine

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Unsealed Fate:

THE UNINTENDED CONSEQUENCES OF INADEQUATE SAFEGUARDING OF JUVENILE RECORDS IN MAINE



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Muskie School of Public Service
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EXECUTIVE SUMMARY

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

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

-Juvenile Justice Stakeholder

collateral consequences. Further, there is no system, centralized authority or institutional support for 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.

MYTH: All juvenile records are automatically sealed at age 18.

FACT: No juvenile records are ever automatically sealed.

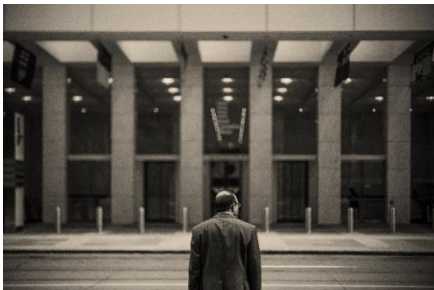
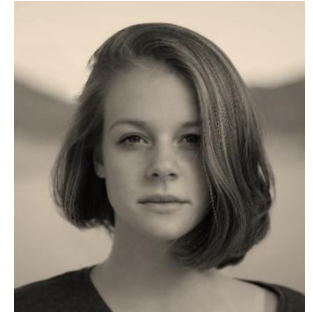
This is what people think happens to a juvenile record when a young person turns 18:

"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

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



"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."

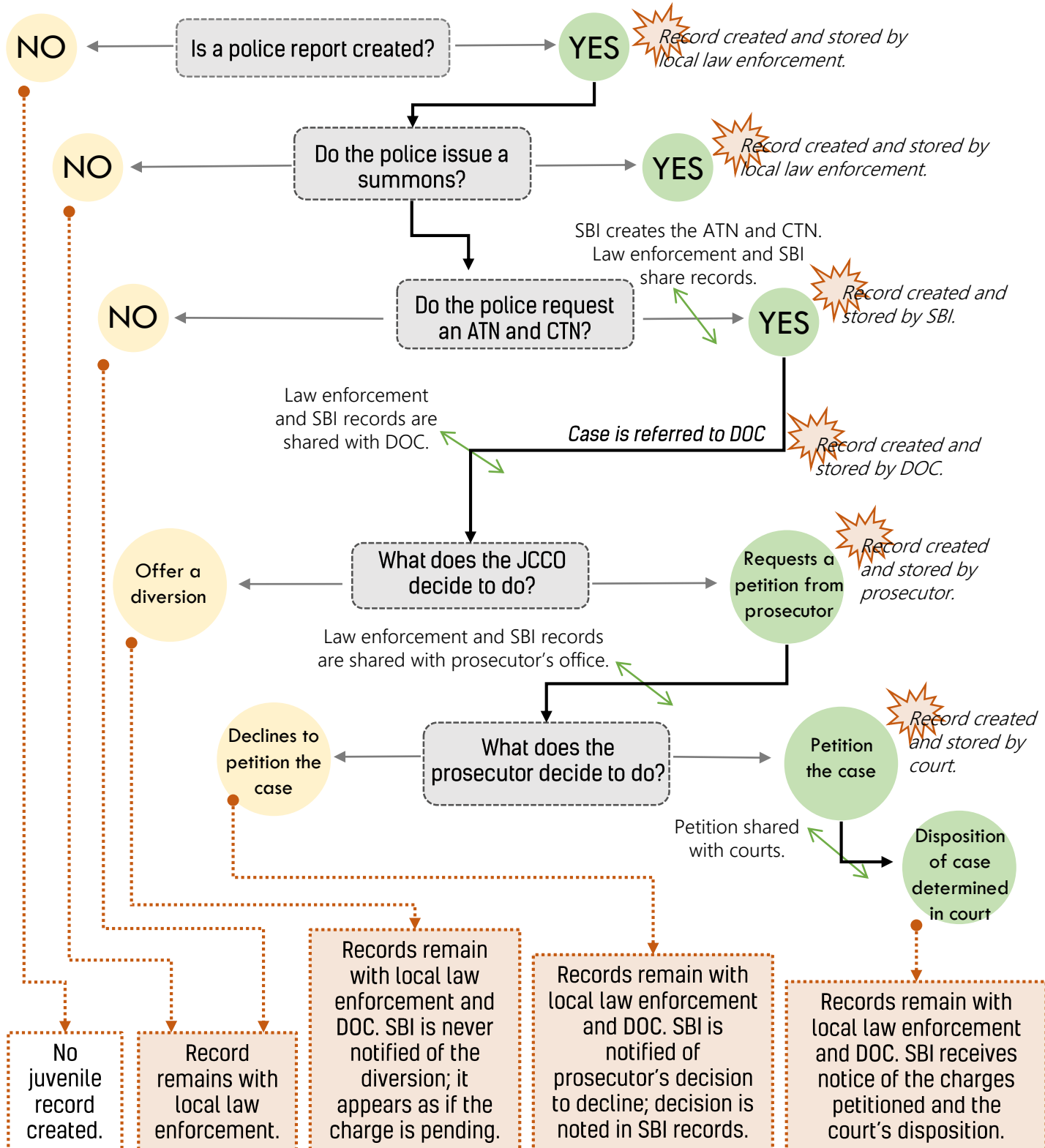
- Defense attorney

"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

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.