

# Is the Sealing of Juvenile Records Working in Your Court?

Sealing and destruction of juvenile records is an important step in rehabilitating a minor so she or he can start their adult life with a clean slate. Failure to seal these records can result in a loss of opportunities as an adult. Studies have shown that a juvenile record can limit an adult's efforts to obtain employment, housing, education, licensing, promotions, and other goals.<sup>1</sup>

Many believe that juvenile records are confidential and are unavailable to others. The United States Supreme Court disagreed with this belief.

*[I]t is frequently said that juveniles are protected by the process from disclosure of their deviant behavior.... This claim of secrecy, however, is more rhetoric than reality.<sup>2</sup>*

Some companies specialize in the collection of justice records and make them available to employers and others who do background checks for applicants.<sup>3</sup>

California has the most effective record sealing legislation in the country.<sup>4</sup> As the California Attorney General has explained referring to Welfare and Institutions Code section 781:

*This Section has been called a clear statement of the legislative policy to grant the errant juvenile a clean slate if he grows into a law-abiding adult.<sup>5</sup>*

Recent statutory additions have improved the record sealing process in California.<sup>6</sup> Many juvenile court judges take time to discuss records when the court dismisses a juvenile's case. Attorneys representing juvenile offenders also take the time to discuss the records created by the juvenile

court, juvenile probation, and law enforcement. They may advise the youth that it is illegal for a prospective employer to ask if the youth has a juvenile record.<sup>7</sup> Some courts have prepared materials explaining the importance of record sealing, and these are distributed at the time the case is dismissed.<sup>8</sup>

A few problems remain – problems that may limit the legislative efforts to give these juveniles a clean start in life. First, some entities will not recognize state court orders to seal records. Federal justice authorities such as the FBI, for example, will not necessarily follow an order from a state court judge to seal records. What these agencies do with the records is unknown. Second, some agencies holding juvenile records significantly delay sealing records even after receiving a court order to seal. The court orders often are ignored for months, some for over a year. The author's investigation of delays included several counties, all of which noted delays.

Juvenile judges may not know of these delays, but juvenile court clerks do. They send out the court orders and receive compliance information. By talking with juvenile court clerks, juvenile court judges will be able to learn whether their orders are being carried out in a timely fashion. If they are not, contact me and together we can address this issue.

The timely sealing of records will ensure that they will not impact a young person's life.

## Endnotes:

- 1 Teigen, A., "The Sometimes Lifelong Consequences of a Juvenile Record," NCSL, 2021.
- 2 *In re Gault*, 387 U.S. 1 (1967). And see *In re Contreras*, 109 Cal. App. 2d 787, 789 (1952), cited in *People v Dotson*, 46 Cal. 2d. 891, 899 (1956).
- 3 See Checkr.com; www.intelius.com; top4backgroundchecks.com; instantcheckmte.com; CheckPeople; Truthfinder.
- 4 Rated by "Failed Policies, Forfeited Futures: Revisiting a National Scorecard on Juvenile Records (2020), Juvenile Law Center, Philadelphia, PA.
- 5 40 Op. Cal. Attorney Gen., 50, 52 (1962).
- 6 Refer to Welfare and Institutions Code sections 786(a) and 786.5.
- 7 California Labor Code section 432.7(a)(2).
- 8 If you would like copies of some of these materials, contact the author. Judgeleonardedwards@gmail.com



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