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Criminal Justice Information Policy

Juvenile Records and Recordkeeping Systems

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U.S. Department of Justice
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EXECUTIVE SUMMARY

Faced with the growing public demand for accountability from the juvenile justice system, policymakers and decisionmakers are developing recommendations, strategies, and program initiatives to modify the juvenile justice system and recordkeeping practices. As practitioners face pressures to lift the traditional confidentiality protections governing juvenile records, the practices surrounding the maintenance and use of the juvenile record will come under closer scrutiny.

This report describes a baseline study of juvenile records and recordkeeping systems. The emphasis of the study is on juvenile records and recordkeeping systems maintained by law enforcement agencies; additional information regarding juvenile court records and records maintained by state central repositories is included.

This study presents information about the basic nature and content of juvenile records and recordkeeping systems. A national survey was sent to 500 randomly selected law enforcement agencies in three population categories. In addition, surveys were sent to the state central criminal history repositories of the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands. A third survey instrument was sent to the members of the Metropolitan Judges Association, who are the presiding judges of the 45 largest juvenile court jurisdictions in the nation.

The law enforcement survey addressed several areas, including fingerprinting practices, written reports of contacts with juveniles, the content of law enforcement records, sealing and expungement of juvenile records, tracking juvenile histories, access to and dissemination of juvenile records, audits of juvenile records, and automated recordkeeping systems. The repository and judicial surveys addressed similar areas of concern.

The results of the study revealed that the usefulness of juvenile records maintained by law enforcement agencies may be seriously limited by the quality of the records. Fewer than one quarter of the agencies have policies that require that all contacts with juveniles be reported in writing. Still fewer have audit procedures for ensuring the accuracy of the records which are created. Court dispositions are frequently lacking. Only about half of the agencies have procedures for obtaining either court or prosecutor dispositions, and procedures for review by the record subject or his legal representative exist in only about half of the agencies.

The study also showed that complete juvenile history records are available in relatively few cases. Although approximately one-third of the law enforcement agencies forward arrest records to a central repository, less than half have the ability to obtain a full juvenile history record. In cases where full histories are available, they are obtained by procedures ranging from requesting the records from a state central repository to compiling a history based on informal telephone calls to other agencies.

Fingerprinting of juveniles is considered one of the most intrusive procedures in the juvenile justice process, and as a result, remains subject to a number of restrictions in most jurisdictions. Approximately one quarter of the law enforcement agencies fingerprint juveniles, and many of these are subsequently sealed or expunged, typically pursuant to statutory mandate or a court order.

Sealing and expungement, the two methods of ensuring confidentiality of records, continue to be widespread practices throughout the juvenile justice system. Three-quarters of the law enforcement agencies have sealing and/or expungement policies. Records which are generally

sealed or expunged include the arrest records, fingerprints, photographs, investigative or incident reports, and name index references. Similarly, the majority of repositories which maintain juvenile records have sealing or expungement records, and virtually all of the judicial respondents indicated that records are sealed or expunged under some circumstances.

The content of both law enforcement and court juvenile records consistently includes a reference to penal code terminology when describing the basis of a juvenile's misconduct. The judicial respondents unanimously indicated that juvenile delinquency petitions in their jurisdictions utilize penal code terminology or other terminology which specifically indicates the type of conduct that is the basis for a petition. Similarly, most law enforcement agencies (87%) responded that penal code terminology is used in juvenile arrest records to indicate the conduct that is the basis of the arrest.

The contemplation of significant policy changes in the juvenile justice system necessarily requires an examination of juvenile records and recordkeeping systems which are now in place. The information contained in this report is designed to inform policy decisions and enhance proper management of juvenile records.

Part I of this report provides the historical background for the creation of the juvenile record, its traditional protections and the evolution of controversy over the confidentiality of the juvenile record. The study methodology is also set forth in Part I.

Part II of the report presents the analyses of the survey responses. The areas covered in the law enforcement survey analysis are noted above. The judicial and repository surveys were not as exhaustive as the law enforcement, and results from each of those surveys are also included in Part II where topically appropriate.

Part III contains a review of the statutes affecting the records and recordkeeping practices in each state, the District of Columbia,

and the federal jurisdiction. The review includes a summary of statutory provisions relating to the age of juvenile delinquents, fingerprinting juveniles, dissemination and access to unsealed law enforcement juvenile records, sealing of juvenile records, expungement of juvenile records, detention hearings, and the content of juvenile records.

PART I

INTRODUCTION

SCOPE OF THE REPORT

The focus of this report is a baseline study of juvenile justice record systems and of the content of juvenile justice records, with an emphasis on law enforcement records, that is, records on juveniles maintained by police departments and other law enforcement agencies.¹ This study was designed to provide basic information concerning what is contained in juvenile records and record systems, where the records are maintained, how long the records are maintained, the completeness and accuracy of records, what record systems are in place to facilitate the sharing of juvenile records, and the extent to which juvenile records are shared outside the juvenile justice system. The study has attempted to ascertain the basic nature and content of juvenile justice records and record systems in order to provide the kinds of preliminary information essential for conducting more specific and detailed empirical research and for assisting policymakers and decisionmakers in developing recommendations, strategies, and program initiatives in juvenile justice.

The study focuses primarily on juvenile records maintained by law enforcement agencies, because less appears to be known about the content of police records and their importance in the juvenile justice system than about other records such as the juvenile court records. The assumptions of the study are that police records are the initial records of entry in the juvenile process, that they are the records used in the adult system more frequently than other juvenile records, and that they are the

¹ The terms "law enforcement agency" and "police" are used interchangeably throughout this report to indicate any law enforcement agency dealing with juveniles, including police departments, sheriffs, state patrols, constables, or any other state or local agency charged with the responsibility of patrolling the streets and communities of any particular jurisdiction.

records most likely to find their way into the non-criminal justice sector.

HISTORICAL OVERVIEW OF JUVENILE COURTS

The history and theories of the juvenile court movement have been traced in legal opinions and reviewed throughout juvenile justice literature.² For purposes of this report, it is important to briefly examine the philosophical roots of the juvenile justice system and its offender-based, rather than offense-based, orientation.

The removal of children from the adult criminal justice system resulted in large part from a need seen by reformers to extricate children from the harshness of the punishment meted out to older offenders.³ With the establishment of the first separate juvenile court in Illinois in 1899 came the notion that whether they were guilty of noncriminal indiscretions, such as truancy, or of crimes, errant children were not to be subjected to criminal processes.⁴ The question in dealing with children would henceforth be,

not, Has this boy or girl committed a specific wrong, but What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career.⁵

² See, e.g., *Id.* at 14-24, and R. Belair, *Criminal Justice Information Policy: Privacy and Juvenile Justice Records*, Bureau of Justice Statistics, U.S. Department of Justice, 1982, pp. 11-14.

³ Belair, *supra* at 11-12.

⁴ *Id.* at 12-13.

⁵ J. Mack, "The Juvenile Court," 23 *Harv. L. Rev.* 119-20 (1909).

All fifty states eventually followed the lead of the Illinois movement and enacted laws to deal with juveniles in systems separate and apart from adults.⁶ Basic to all of these juvenile codes was the notion that treatment and rehabilitation, not punishment, were the goals of the juvenile courts, and that such treatment and rehabilitation were to be accomplished by the court's assuming the role of the child's parents to determine the best interests of the child.⁷

In time, juvenile court reformers came to acknowledge that if the goals of the system were to be realized without the legal and social stigmas which attach as a result of the child's juvenile court involvement, a cloak of confidentiality surrounding the proceedings was required.⁸ Confidentiality was necessary, it was postulated, to insure that juvenile court proceedings would not become the basis for criminal records which would be used to harass juvenile subjects when they became adults.⁹

As the due process model of the juvenile court evolved and the juvenile court moved procedurally closer to its adult counterpart,¹⁰ confidentiality was

⁶ P. Tappan, *Juvenile Delinquency* at 172-73 (1949).

⁷ The doctrine of *parens patriae* originated as an English equity doctrine during the feudal period. The doctrine embraces the notion that the state shall act in the stead of a child's parents seeking to do what is in the best interests of the child. See S. Sinclair, "The Use of Juvenile Adjudications for Impeachment and Sentencing," 22 *Santa Clara L. Rev.* 419, n. 2 (1982).

⁸ Belair, *supra* at 14.

⁹ See Sinclair, *supra* at 421.

¹⁰ The first major case moving the juvenile court toward a due process model was *Kent v. United States*, 383 U.S. 541 (1966). The issue presented to the court in *Kent* was whether a 16-year old was entitled to procedural safeguards prior to a determination to transfer his case to adult court. The court affirmed that a juvenile was entitled to assistance of counsel, a hearing, and that the juvenile's attorney was entitled to review the records relied upon for the motion to transfer jurisdiction. Following on the heels of *Kent*, the court decided in *In re Gault*, 387 U.S. 1 (1966), that in addition to the rights set forth in the earlier *Kent* decision, that a juvenile was entitled to notice of the charges brought against him and further was accorded the right to confront and cross-examine witnesses testifying against him. In another landmark case, *In re Winship*, 397 U.S. 358, 361 (1970), the (footnote continued)

increasingly viewed not only as a prerequisite to achieving the goals envisioned by the court reformers, but also as a procedural right to be extended to the accused juvenile. Confidentiality was regarded as consistent with both the treatment and procedural goals of the juvenile court.

Today every state has adopted statutes dealing with the confidentiality of juvenile records.¹¹ Most have also enacted laws providing for the sealing and purging of juvenile records, and some have provided that juvenile records must be maintained separately from adult criminal records and be subject to enhanced security protections.¹² These and other provisions of state law dealing with juvenile records are summarized in a later section of this report.

EVOLUTION OF THE CONFIDENTIALITY CONTROVERSY

In recent years, however, the once near-universal support for confidentiality protections for juveniles has begun to erode. Criticism of confidentiality laws and policies and of related laws and policies providing for the sealing and expungement of juvenile records has been fueled in part by two developments. One is the re-emergence of a retributive penal philosophy known as "just deserts," which focuses on the criminal act and the offender's culpability and encourages the imposition of punishment suitably fitted to the crime committed.¹³ By the 1960s, this approach was largely

court held that the burden of proof in a juvenile delinquency case must be "beyond a reasonable doubt". Later cases continued to bestow upon juveniles the same rights accorded adults in criminal proceedings. See, e.g., *Breed v. Jones*, 421 U.S. 519, 541 (1975), applying double jeopardy safeguards. But see *McKeiver v. Pennsylvania*, 403 U.S. 528, 550 (1970), denying the right of juveniles to a jury trial.

¹¹ SEARCH, *State Law and the Confidentiality of Juvenile Records*, Bureau of Justice Statistics, U.S. Department of Justice 1 (1982).

¹² *Id.*

¹³ The philosophy of "just deserts" is a sentencing theory which actually limits the power of the sovereign to impose punishment only on those who *deserve* punishment and only to the extent that it may be justifiably imposed. See D. (footnote continued)

displaced by the so-called "treatment" model of correctional theory, which focused on the offender rather than the criminal act and stressed rehabilitation rather than punishment.¹⁴

The retributive approach regained support in the adult criminal justice system in the 1970s, however, and was largely responsible for the rash of modifications in sentencing approach seen in recent years, such as fixed term, mandatory, and presumptive sentences, as well as the abolition of parole.¹⁵ This trend has begun to spill over into the juvenile justice system and its effects have been seen in such areas as the lowering of the age at which juveniles may be tried as adults,¹⁶ an increase in the types of crimes for which transfer to adult court is permitted,¹⁷ and the call for the abolition of the two-tier juvenile-adult justice system.¹⁸

In a "just deserts" model, the repeat offender, or the one who has committed a particularly heinous offense, is viewed as more culpable and, therefore, more deserving of punishment. Increasingly, confidentiality of juvenile records and of juvenile proceedings has been perceived as having generated inequities in the treatment of dangerous and repeat offenders. The sealing, and particularly the expungement, of the juvenile records of such offenders in effect wipes their slates clean when they become adults and enables them to enter the adult criminal justice system as first offenders.

A second development underlying the trend away from strict confidentiality protections for juvenile proceedings and juvenile records is that recent research projects indicate that a history of involvement in the juvenile justice system may be

predictive of future involvement in crime.¹⁹ This research has spawned proposals for new prediction-based approaches to sentencing referred to generally as "selective incapacitation."²⁰

Unlike the "just deserts" approach, which focuses retroactively on the offender and the criminal act and seeks the imposition of punishment fitted to the crime committed, selective incapacitation seeks to predict the occurrence of criminal acts and to prevent them by imposing punishment on those deemed highly likely to commit them. The research suggests that there exists a small core of recalcitrant and very active offenders who are responsible for a disproportionately large share of crime, and that generally these individuals have histories of early and frequent encounters with juvenile authorities.²¹ Aided in part by access to juvenile history records, criminal courts may be able to identify and imprison these individuals early in their adult criminal careers, resulting in a more effective use of law enforcement resources and a reduction in crime.

Despite their differences in emphasis and approach, the two models depend upon the existence and availability of comprehensive juvenile history records for effective implementation. Thus, an understanding of the nature and content of juvenile records and of the laws and policies that govern their maintenance and dissemination is central to effective evaluation of these and other proposals for reform of the juvenile system. This study was designed to provide some of the basic information

Roberts, "The Changing Structure of Criminal Sentencing," 18 *Land and Water Rev.* 592, 603-04 (1983).

¹⁴ R. Clark, *Crime in America* (1970).

¹⁵ See discussion in Roberts, *supra* at 608-19.

¹⁶ See, e.g., N.Y. FAM. CT. ACT § 301.2.

¹⁷ *Id.*

¹⁸ M. Wolfgang, "Abolish the Juvenile Court System," *California Lawyer*, November, 1982 at 12.

¹⁹ See, e.g., D. Farrington, *Further Analyses of a Longitudinal Survey of Crime and Delinquency* (1983) and J. McCord, "Some Child-rearing Antecedents of Criminal Behavior in Adult Men," 37 *Journal of Personality and Social Psychology* 1477 (1979).

²⁰ Selective incapacitation is a recognized sentencing goal of the criminal justice system premised upon the belief that a criminal must be restrained or isolated from society to prevent his continuing a course of criminal activity. See D. Roberts, *supra* at 598.

²¹ See, e.g., M. Wolfgang, R. Figlio, & T. Sellin, *Delinquency in a Birth Cohort* (1972). The research suggests that, in addition to juvenile delinquency histories, other factors such as drug abuse may point to a probability of adult criminal careers; and 1 *Criminal Careers and "Career Criminals"* (A. Blumstein, et al. eds. 1986).

about juvenile records and record systems necessary for such evaluations.

STUDY METHODOLOGY

The study reported in this paper consisted of three phases: (1) surveys of law enforcement agencies, state criminal history record repositories, and juvenile courts, (2) research in state and federal legal codes, and (3) a review of the secondary literature concerning juvenile records.

The survey focused primarily on law enforcement agencies, since the report targets primarily records created and maintained by these agencies. Law enforcement records on juveniles frequently are not subject to the same statutory mandates and limitations as court records. As a result, there is often a lack of uniformity in recordkeeping practices regarding juvenile records among law enforcement agencies even within the same state. How the records are created, when they are created, what they contain, the length of retention, and where the records are retained, if they are retained at all, are some of the decisions which are typically left to the discretion of individual law enforcement agencies—all of which have an impact on the use and availability of juvenile history records. Since the point of origin for a juvenile history record is at the law enforcement level of the juvenile justice system, that is the area of concentration in this study. The utility of the record for whatever purpose is necessarily dependent upon the accuracy, completeness and clarity of the information contained in the record and the restraints placed upon its dissemination.

Survey forms were sent to 500 law enforcement agencies throughout the country. Two hundred fifty survey forms were sent to all law enforcement agencies in large jurisdictions (population of 100,000 or more); 200 survey forms were sent to agencies in metropolitan and suburban/medium-sized jurisdictions (population of 10,000-100,000); and 50 were sent to agencies in small jurisdictions (serving counties of a population of 25,000 or less). Responses were received from 229 agencies. Of these, 123 were from large jurisdictions, 93 were from medium-sized jurisdictions and 13 were from small jurisdictions. The responses represented jurisdictions from 43

states.²² For a breakdown of the number of respondents from each state, see Appendix A.

A second survey instrument, intended to provide a cursory view of juvenile record systems at the state level, was sent to the 50 state repositories charged with the responsibility of maintaining statewide criminal history record systems. Survey forms of 31 states were included in the analysis, of which 13 indicated that they maintain juvenile records in their statewide files.

A third survey, intended to provide a brief examination of record maintenance practices of the juvenile courts in the largest jurisdictions in the country, was sent to each member of the Metropolitan Judges Association of the National Council of Juvenile and Family Court Judges. The Association consists of the presiding judges of the 45 largest juvenile court jurisdictions in the nation. Twenty-four responses were received, representing 23 states.²³ The survey instrument sought information about the legal records on juveniles maintained by these courts. Legal records are that part of the formal or official court records containing such documents as the delinquency petition, judicial findings, adjudications and dispositions.²⁴ It was assumed that the legal records of juvenile courts were the records with the most utility in the adult criminal justice system, as well as in the non-criminal justice sector, that legal records would have the most impact on the record subject, and

²² Responses may have been received which were completed by other than a law enforcement agency, and therefore were deemed inappropriate for analysis in this part of the study. States from which no law enforcement agencies responded were Alaska, Hawaii, North Dakota, Vermont, West Virginia and Wyoming, as well as the District of Columbia.

²³ The states represented were Alabama, Arizona, California, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas and Washington.

²⁴ Legal records are to be distinguished from the social records which may also from time to time be found in the court records and include such documents as treatment information, copies of medical or mental examinations, social histories, and family background information.

that legal records were the most quantifiable and statistically useful part of the juvenile record.²⁵

In addition to the described surveys, a statutory review of the confidentiality of juvenile records was conducted, again concentrating on law enforcement records. The review was intended to provide information on the statutory requirements and limits affecting juvenile justice records, including the maximum age limits for jurisdiction over juvenile delinquency petitions, the requirement for detention hearings and the time limits for those hearings, the authority of law enforcement agencies to fingerprint juveniles, sealing and expungement procedures, permissible dissemination of law enforcement records on juveniles, and other notable procedures, such as self-auditing and nullification of sealing orders. To complete this portion of the study, a review was conducted of the statutes of each of the 50 states and the District of Columbia, and of relevant provisions of the United States Code governing federal jurisdiction. The results of this statutory review are set out in Part III of this report.

Finally, to supplement the information obtained from the surveys and the statutory examination, the secondary literature concerning confidentiality of juvenile records was also reviewed. This review included a consideration of Model Acts and model standards that have been developed by organizations interested in recordkeeping practices relating to juveniles. These models and standards are set out in Appendices B through F.

²⁵ The law enforcement survey consisted of 48 questions, many of which were multi-part and open-ended. The repository survey consisted of 10 questions, again some of which were multi-part or open-ended. The judicial survey consisted of 13 questions, again containing multi-part and open-ended questions. Copies of the complete survey instruments entitled, "Juvenile Justice Records Survey" (specify which one) may be obtained by contacting Sheila J. Barton, Director, Law and Policy Program, SEARCH Group, Inc.

PART II

ANALYSIS OF SURVEY RESPONSES

The survey instrument sent to law enforcement agencies sought information regarding agency policies in eight general areas of concern relating to juvenile records:

1. Fingerprinting of Juveniles
2. Written Reports Relating to Juvenile Contacts
3. Content of Law Enforcement Records on Juveniles
4. Sealing and Expungement of Juvenile Records
5. Tracking Juvenile Histories
6. Access to and Dissemination of Juvenile Records
7. Audits of Juvenile Records
8. Automated Recordkeeping Systems

Since the law enforcement survey instrument was the most extensive, the analysis in this part of the report follows the format of that instrument and is organized under the headings set out above. Information obtained from the other two surveys is included at the appropriate points in the discussion.²⁶

FINGERPRINTING OF JUVENILES

A vital component of any criminal or juvenile history system is the fingerprint record. Fingerprints provide law enforcement agencies with a basis for establishing positive identification of record subjects. The criminal activity of an individual can be

²⁶ The survey instrument sent to state record repositories sought information concerning: (1) maintenance of juvenile records, (2) content of juvenile records, (3) dissemination and security and (4) sealing and expungement. The survey instrument sent to the juvenile courts sought information concerning: (1) fingerprinting of juveniles, (2) automation of recordkeeping, (3) content of juvenile records, (4) sealing and expungement, (5) tracking of juvenile histories and (6) dissemination of juvenile court records.

linked by the process of comparing fingerprints taken at the time of a previous law enforcement contact with those produced at a current contact. Fingerprints, however, along with photographs, traditionally have been viewed as the most intrusive actions involved in a juvenile's contact with the justice system; as a result, they are frequently regulated by statute. (See Part III)

The maintenance and retention of juvenile fingerprint records also has confidentiality implications if the records are maintained with adult fingerprint records or if the records are forwarded to a central repository and retained beyond the age of juvenile court jurisdiction.²⁷ On the other hand, if juvenile fingerprint records are required to be destroyed or access and exchange of fingerprint information is limited, there may be significant impact on the ability to compile an accurate juvenile history record and to effectively search record systems.

The vast majority of law enforcement agencies responding to the survey²⁸ indicated that they have

²⁷ A central repository is that centralized agency which collects criminal history record information on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. Central repositories also typically collect identification information, such as fingerprint records, to the extent that the information is related to criminal activity.

²⁸ Percentages throughout this report are based upon the number of respondents who answered the question under discussion. Not all respondents answered all of the survey questions.

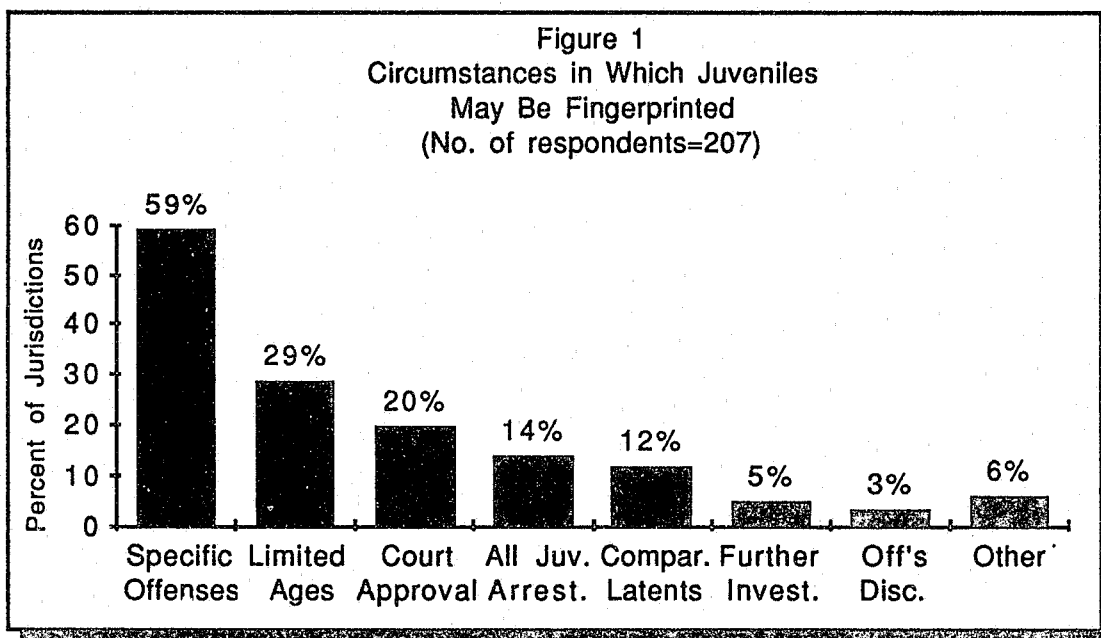
written policies governing the fingerprinting of juveniles. See Table 1. These policies are most frequently based upon state statutes, while some

jurisdictions have policies based upon agency administrative standards. In addition, agencies have also formulated policies based on state regulations,

Table 1
Law Enforcement Fingerprinting Practices

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Have written policies governing fingerprinting of juveniles	185	82
—based on state statutes		67
—based upon administrative standards		40
—based on state regulations		14
—based on court orders		12
—based on city or county ordinances		5
Allow fingerprinting of juveniles	207	92
—for specific offenses		59
—limited to certain ages		29
—requires court approval		20
—fingerprint all juveniles arrested		14
—fingerprint for comparison with latents		12
—fingerprint for further investigation		5
—officer's discretion		3
—other		6
Juvenile fingerprints maintained separately from adults	162	72
—based on state statute		77
—based on agency administrative standards		28
—based on state regulations		15
—based on court order		9
—based on city or county ordinance		2
Juvenile fingerprints must be returned or destroyed	176	77
—if no petition is filed		24
—when outcome of petition is favorable		27
—pursuant to court order		30
—negative comparison to latent prints		6
—reaching the age of majority		4
—reaching other statutorily defined age		3
—expiration of specified period of time		3

* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are used only on those respondents who answered the question affirmatively.



court orders, and city or county ordinances.²⁹

Ninety-two percent of respondents indicated that their policies permit law enforcement officers to fingerprint juveniles in at least some circumstances. The circumstances under which respondents indicated that fingerprinting is permissible include specific offense types, typically for offenses which would be felonies if committed by an adult; juveniles of certain ages; for comparison with latent fingerprints; for the purpose of further investigation; and other circumstances, such as the probability that the juvenile is a repeat offender or if the juvenile and his parent consent.³⁰ One of

five jurisdictions require court approval for fingerprinting of juveniles, while slightly fewer jurisdictions grant the arresting officer broad discretion to fingerprint all juveniles who are arrested.³¹ See Figure 1.

In jurisdictions where fingerprinting is authorized, an average of approximately one-quarter (27%) of the juveniles arrested are actually fingerprinted.³² Even in jurisdictions where fingerprinting is authorized, some agencies report that no juveniles are fingerprinted, while others fingerprint all arrested juveniles.

²⁹ The format of this answer is repeated several times throughout the survey. The inquiry provides a multiple choice answer, however, more than one choice may be selected; for example, a law enforcement agency may have a policy for fingerprinting juveniles which is based on both the state statute and an agency administrative standard. The total for this particular question, therefore, generally will not equal 100 percent.

³⁰ This is an open-ended question for which the answers are not mutually exclusive. For example, a given jurisdiction may have the authority to fingerprint for both comparison with latent fingerprints and for juveniles alleged to have committed certain offenses. The responses, therefore, will not equal 100 percent. Many of the questions in the survey were of this type, as will be noted throughout this report.

³¹ In the context of this survey, "arrest" also includes any "custodial detention" which by statute in some states may not be deemed to be an arrest in the same sense as an arrest of an adult. See, e.g., S.D. COMPILED LAWS § 26-8-19.7. This interpretation is applicable throughout this survey when reference is made to a juvenile being "arrested" or "under arrest" or similar terminology which indicates arrest or custody.

³² The average was computed by dividing the sum of the agencies who responded by the number of respondents. Agencies for whom this question was not applicable were excluded from the computation. This procedure was used throughout this report.

Juvenile fingerprint files of law enforcement agencies must be maintained separately from adult fingerprints in approximately three-quarters of the responding jurisdictions. This requirement is predominantly based upon state statute, though other jurisdictions report this requirement as originating from agency administrative standards, or state regulations, court order, or city/county ordinance.³³

Only about one-third of the responding jurisdictions (a total of 76) forward juvenile fingerprints to a central repository. Of these, the largest proportion (44 percent) forward fingerprints to a state central repository, while in others the prints go to a county repository (17 percent) or are maintained by the juvenile court (16 percent), by probation agencies (8 percent), by the prosecutor's office (1 percent), or by some other repository (13 percent).

Three out of four respondent law enforcement agencies reported that juvenile fingerprints must be returned to the subject or destroyed at some point, depending upon the disposition of the case. See Table 1. Approximately one-quarter of the jurisdictions require the return or destruction of juvenile fingerprints when no petition is filed, while an approximately equal proportion require destruction or return when the outcome of a filed petition is favorable to the juvenile. Nearly one-third authorize destruction or return of fingerprints pursuant to a court order. Various other circumstances calling for the destruction or return of juvenile fingerprints include negative comparison to latent prints, the juvenile reaching the age of majority, or reaching some other statutorily defined age, or after the expiration of a specified period of time.³⁴

In response to the survey instrument sent to juvenile courts in large metropolitan jurisdictions, 18 courts (75% of those responding) indicated that juveniles are fingerprinted in their jurisdictions. The circumstances under which fingerprinting is authorized include commission of certain offenses in 36% of the jurisdictions, with court approval in

36% of the jurisdictions, based upon the age of the offender in 9% of the jurisdictions, for all arrests (5%), upon the officer's discretion (5%) and for investigative purposes (5%).

If the records of juveniles are to be relied upon in the adult criminal justice system, positive identification becomes an important issue. Juvenile history records which are unsupported by fingerprints are of questionable credibility if they are to be used in making such decisions as charging, setting bail, or enhanced sentencing.

WRITTEN REPORTS RELATING TO JUVENILE CONTACTS

A patrol officer making contact with a juvenile generally has considerable discretion as to whether to "write-up" the juvenile, and thus, begin a juvenile history for the individual.³⁵ This discretion may often be exercised in favor of the juvenile, especially for the first contact, or even the first few contacts. The result may be that the juvenile actually has had much more involvement with the justice system than any *written* record or search of a juvenile history will reveal. Consequently, a review of juvenile histories may not give an accurate picture of a particular individual's past involvement with law enforcement authorities.

The survey results tend to bear out this assumption. Approximately one-quarter of the law enforcement agencies responding indicated that their policies require written reports to be filed for all contacts with juveniles, even in cases in which the contact does not result in an arrest or detention. See Table 2. In the other jurisdictions, the decision as to whether to write a report is left to the discretion of the law enforcement officer. In nearly three-quarters of the responding jurisdictions a written policy governs the filing of reports on juvenile contacts, usually based upon agency administrative standards. The policies are also based upon state statute in some jurisdictions, and in oth-

³³ See *supra*, n. 24.

³⁴ This calls for a non-mutually exclusive answer; the percentages will not total 100 percent. See *supra*, n. 26.

³⁵ Much research has been done exploring the factors besides delinquent behavior, such as a child's associations with juvenile delinquents, which increase the likelihood of arrest of a juvenile. See, e.g., M. Morash, "Establishment of a Juvenile Police Record," 22 *CRIMINOLOGY* at 98, February, 1984.

Table 2
Law Enforcement Juvenile Report Practices

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Have policies which <i>require</i> written reports on <i>all</i> contacts with juveniles	51	23
Have written policies re: reports on juvenile contacts	165	72
—based upon agency administrative standards		81
—based on state statutes		38
—based on state regulations		14
—based on city or county ordinance		12
—based on court orders		4
Police reports indicate specific conduct of juvenile	182	80

* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are based only on those respondents who answered the question affirmatively.

ers upon city or county ordinance, state regulations, or court order.³⁶

The survey results, on the other hand, reveal that in a majority of cases where reports are written, the reports indicate the specific type of conduct that was the basis for the contact. Four of five law enforcement agencies responding indicated that police reports of contacts with juveniles do indicate the specific conduct that caused the encounter, even in instances where no arrest is made. In most of these agencies (85%), the officers are provided with prepared forms for reporting such contacts. See Appendix G, sample form G.1.

CONTENT OF JUVENILE RECORDS

Because juvenile delinquency proceedings are not considered criminal proceedings and the juvenile is "adjudicated" for his conduct rather than found "guilty" of a crime, the translation from juvenile terminology into comparable adult terminology for purposes of generating a "criminal" history of the

subject may be difficult. The extent to which the conduct of a juvenile may be equated with the conduct of an adult offender is directly related to the content of the report which is created at the juvenile level. If the juvenile record is couched in the same or similar terminology as an adult record, the picture of any given offender's criminal involvement may be drawn more easily for such purposes as selective incapacitation or other sentencing decisions.³⁷

³⁷ For those who oppose breaching the confidentiality of the juvenile record, simply using the same penal code terminology in both the adult system and the juvenile system does not resolve the issue of making the juvenile record available to criminal courts. Other factors to be considered before the juvenile record is accepted on its face in the adult court are whether the juvenile was accorded due process when the record was created, whether the juvenile was placed in any treatment program as a result of the conduct and the result of the treatment received, and since juveniles generally commit crimes in groups, the degree of involvement of the subject in the conduct which was the basis of the record. R. Powell, J., "SEARCH FORUM: On the Use of Juvenile Records in Criminal Court Selective Incapacitation Determinations," *INTERFACE* at 9, Spring 1985.

³⁶ See *supra*, n. 24.

**Table 3
Law Enforcement Recordkeeping Practices**

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Use penal code terminology in arrest records	195	87
Use penal code terminology in delinquency petitions	203	93
Have procedures to obtain disposition information from prosecutors or courts	114	50

* The percentages above represent respondents who answered the question affirmatively.

Of the law enforcement agencies that responded to the survey, 195 (87%) indicated that they utilize penal code terminology or section numbers in juvenile arrest records to indicate the conduct that was the basis for the arrest. See Table 3. In the other jurisdictions, the conduct is described in other terms or by use of code systems unique to the juvenile system, although in some cases the terminology used indicates the unlawful conduct involved (for example, "delinquency—auto theft").

Nine of ten law enforcement agencies responding to the survey indicated that penal code terminology is utilized in juvenile delinquency petitions in their jurisdictions to describe the conduct that is the basis for the petition. In half of the jurisdictions the law enforcement agencies indicated that they have procedures for obtaining disposition information from prosecutors or courts for entry in their own records. Based upon survey responses, an average of 42% of arrest records maintained by the respondents contain the final juvenile court dispositions.³⁸ A sizeable majority of the respondents (63%) indicated that the form and terminology of the final findings and adjudications of the juvenile courts enable them to record a disposition for each of the charges on their arrest records.

³⁸ See *supra*, n. 27.

The responses are generally consistent with responses received from juvenile court judges. Of the 24 courts that responded, 16 (66%) indicated that information about juvenile court adjudications is provided to the police so that dispositions may be recorded in their records. All of the juvenile courts responding to the survey indicated that the juvenile delinquency petitions filed in their courts utilize penal code terminology or other terminology which specifically indicated the type of conduct that is the basis for a petition. In 19 jurisdictions (79%), the adjudication indicates a finding on each charge contained in the petition. In the remaining jurisdictions, the adjudication indicates which charge is the basis for the adjudication.

SEALING AND EXPUNGEMENT OF JUVENILE RECORDS

Sealing and expungement are the most efficient methods for ensuring the confidentiality of juvenile records.³⁹ Both procedures, however, necessarily

³⁹ Sealing a record in the context of this survey is interpreted to mean that the file is removed from the usual juvenile file and secured in files with restricted access. Sealing is to be distinguished from expungement, which in the context of this survey is interpreted to mean physically destroying all trace of the record.

Table 4
Law Enforcement Sealing Practices

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Have policies for sealing juvenile records	168	75
—based on state statutes		45
—based on court order		36
—based on agency administrative standard		22
—based on state regulations		7
—based on city or county ordinance		2
Conditions under which records are most frequently sealed:		
—pursuant to court order		50
—juvenile reaching age of majority		23
—expiration of specified period of time		10
—expiration of "clean record" period		8
—adjudication for specific, enumerated offenses		5
—expiration of court's jurisdiction		4
—juvenile reaching other specific age		2
—other		1
Sealing <i>only</i> pursuant to court order		53
Sealing automatic under specified circumstances		16
Combination of automatic and by court order		7
Records subject to sealing provisions:		
—arrest records		70
—photographs		61
—fingerprints		60
—investigative records		59
—master name index reference		55
—other records		19

* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are based only on those respondents who answered the question affirmatively.

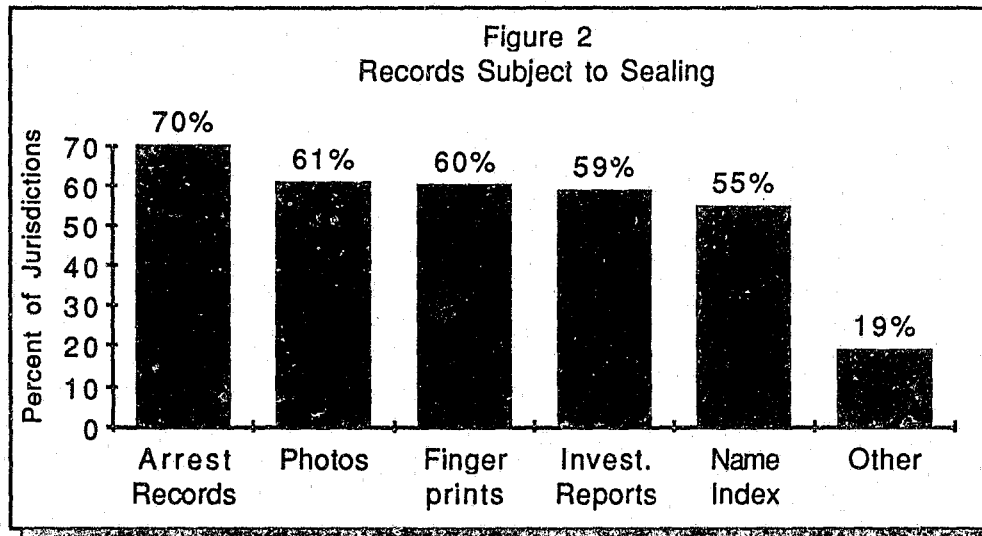
affect the ability to compile complete and accurate juvenile-criminal history records.

Of law enforcement agencies responding to the survey, three-quarters indicated that they have policies for sealing juvenile records. See Table 4. In most of those jurisdictions, the basis for the policy is a state statute. The policy is based upon court order in over one-third of the agencies. Agency administrative standards are the basis for

the policy in approximately one-quarter of the jurisdictions, while others are based upon state regulations or upon city/county ordinance.⁴⁰

Records are sealed most frequently pursuant to a court order. Records are also sealed in approximately one-fourth of the jurisdictions when the

⁴⁰ See *supra*, n. 24.



juvenile reaches the age of majority or when the juvenile reaches some other age, ranging from age 17 to age 20. Records are also sealed upon the expiration of a specified period, the expiration of the court's jurisdiction, the expiration of a clean record period following adjudication, and adjudication for specific, enumerated offenses. A minor number of the jurisdictions (1%) also require that there be no pending proceedings for criminal acts or other petitions for juvenile delinquency at the time of the sealing order. In a few jurisdictions (.5%), there are also policies for sealing juvenile records when the record subject dies or within a specified period following the death of the record subject.

In most jurisdictions, the sealing of records takes place only when ordered by the court. In some, sealing under the specified circumstances is automatic. In still others, sealing occurs under some circumstances automatically and under other circumstances when ordered by the court.

Records which are sealed by the respondents include arrest records, photographs, fingerprints, investigative records, the master name index reference, and other records which are created on juveniles. See Figure 2. Some jurisdictions (12%) seal all references to the juvenile, including all of the above.⁴¹

Expungement, like sealing, enhances the confidentiality of the juvenile record. In most cases, the effect of expungement, where authorized, is that the juvenile proceeding will be deemed never to have occurred, and the juvenile may respond accordingly to all who inquire.⁴² Since expungement results in the destruction of the record, any subsequent juvenile or criminal history would necessarily be devoid of any reference to the conduct which was the basis of the expungement.

⁴¹ The analysis here does not necessarily explain what does *not* happen in a particular jurisdiction. For example, a jurisdiction may indicate that fingerprints are not included in the documents which are sealed, either because the jurisdiction is permitted to withhold juvenile fingerprints from a sealed file, *or* because the jurisdiction is not authorized or does not fingerprint juveniles, and therefore, does not have any fingerprint files to seal.

⁴² SEARCH, *supra* at 10.

Table 5
Law Enforcement Expungement Practices

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Have policies for expunging juvenile records	180	79
—based on state statutes		47
—based on court orders		34
—based on agency administrative standards		32
—based on state regulations		8
—based on city or county relations		4
Conditions under which records are most frequently expunged:		
—pursuant to court order		61
—juvenile reaching age of majority		16
—expiration of specified period of time		9
—juvenile reaching other specific age		7
—expiration of "clean record" period		4
—adjudication for specific, enumerated offenses		4
—expiration of court's jurisdiction		2
—other		6
Expunged <i>only</i> pursuant to court order		52
Expungement automatic under specified circumstances		18
Combination of automatic and by court order		8
Records subject to expungement provisions:		
—arrest records		76
—master name index reference		66
—photographs		65
—fingerprints		64
—investigative or incident reports		57
—other records		12

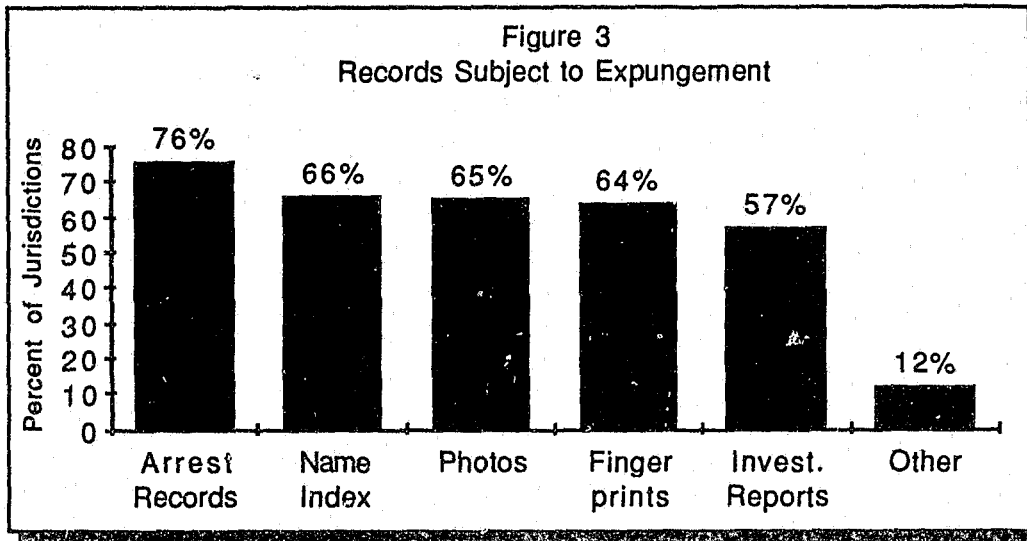
* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are based only on those respondents who answered the question affirmatively.

Most of the law enforcement agencies responding to the survey (79%) have policies for expunging juvenile records. See Table 5. Again, the policies most frequently are based upon state statutes. Court orders account for the policies in approximately one-third of the jurisdictions. Agency administrative standards are the basis for the policies in another one-third of the jurisdictions.

Others base their policies upon state regulations or city/county ordinance.⁴³

Most frequently law enforcement juvenile records are expunged pursuant to a court order. Other cir-

⁴³See *supra*, n. 24.



cumstances under which such records are expunged include reaching the age of majority, or reaching a specified age other than the age of majority, ranging from 16 years to 38 years, the expiration of a specified period, maintaining a clean record, adjudication for limited offenses, and expiration of the court's jurisdiction. Again, a few (.5%) require that the juvenile have no pending proceedings in either juvenile or adult criminal court. In addition, the record may be expunged upon the death of the record subject or upon the expiration of some specified period following death (1%), or under various, other circumstances (5%).

In about half of the jurisdictions, law enforcement records are expunged under the above circumstances only pursuant to a court order. In approximately one-fifth of the jurisdictions, expungement occurs automatically, while in others, expungement takes place under certain circumstances pursuant to court order and occurs automatically under other specified circumstances.

Law enforcement records which are expunged pursuant to the above procedures include, in order of their prevalence, the arrest records, master name index reference, photographs, fingerprints, investigative or incident reports, and other references which are created regarding juveniles. In one-fifth (20%) of the jurisdictions, all references to the juvenile are expunged. See Figure 3.

All but one of the juvenile judges who responded to the survey indicated that court records on juveniles are sealed or expunged in at least some circumstances in their jurisdictions. Most commonly, the records are sealed at some point in the proceedings and then expunged at a later time. In jurisdictions where sealing is permitted, survey responses indicated that it is pursuant to court order in ten responding jurisdictions (63%), upon the expiration of a specified period in five jurisdictions (31%), at the age of majority in four jurisdictions (25%) at an age other than the age of majority in two jurisdictions (13%), for certain offense types in two of the jurisdictions, upon expiration of the court's jurisdiction in one of the jurisdictions, and if there are no pending criminal or juvenile delinquency proceedings in one jurisdiction.

Expungement, on the other hand, is permitted in 18 jurisdictions, including under circumstances of a court order in 14 of the jurisdictions (78% of those responding), at the age of majority in three jurisdictions (17%), at an age other than the age of majority in six of the jurisdictions (33%) upon the expiration of a specified period in 17% of the jurisdictions, for certain offense types in 11% of the jurisdictions, expiration of the court's jurisdiction in 5% of the jurisdictions, and no pending criminal or juvenile delinquency proceeding in 5% of the jurisdictions. An additional 5% of the jurisdictions expunge records under other circumstances.

Table 6
Law Enforcement Tracking of Juvenile Histories

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Utilize unique identification number or other tracking/ or linking procedure	156	69
—unique identification number		25
—maintenance of juvenile card file/automated		18
—unique arrest number		12
—unique case number		10
—other		.5
Capable of making county/statewide record search	108	48
—county repository		12
—state repository		8
—informal telephone calls to other agencies		8
—probation or parole agencies		5
—juvenile courts		4
—FBI through NCIC		2

* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are based only on those respondents who answered the question affirmatively.

Eight of the 13 central state repositories that indicated that they maintain juvenile records indicated that they have requirements concerning the sealing or expungement of juvenile records, including fingerprints. Two of these agencies seal or expunge only upon the receipt of a court order. In the others, the records are sealed or returned to the juvenile court upon the expiration of juvenile court jurisdiction and/or the juveniles reaching the age of majority, if no other action is pending.

TRACKING JUVENILE HISTORIES

The ability to put together a reliable juvenile history record, even within a single jurisdiction, is dependent upon the ability to track a particular juvenile's involvement with the justice system. In addition, the exchange of information across jurisdictions may be valuable during the investigatory stage of a crime, as well as for later proceedings, such as bail setting or sentencing.

Over two-thirds of the law enforcement agencies

responding to the survey utilize a unique identification number or some other tracking or linking procedure to ensure that separate arrests and dispositions relating to a particular juvenile can be positively linked together into a chronological juvenile history. See Table 6. The most frequently used procedure is the assignment of a unique identification number. Other procedures include the maintenance of a juvenile card file listing all history on a card assigned to a specific juvenile or a similar automated procedure, the assignment of a unique arrest number, and the assignment of a unique case number. Other procedures are used in a small number of jurisdictions.

Slightly fewer than half of the responding law enforcement agencies are capable of making a countywide or statewide search to ascertain whether a particular juvenile has been arrested by another law enforcement agency. In 28 of the jurisdictions, a check can be made by going to a county repository, while in 19 jurisdictions, a state central repository can provide the information. Other agencies which

Table 7
Access to and Dissemination of Juvenile Records

	Responding Jurisdictions	
	<u>Number</u>	<u>%*</u>
Access by agency personnel restricted	112	49
Required to indicate disposition prior to release	58	27
—based on agency administrative standards		14
—based on state statute		13
—based on state regulations		5
—based on court order		5
—based on city or county ordinance		3
Refuse permission to review records by record subjects	91	41
Permit review of records only	68	31
Permit review <i>and</i> copying of record by record subject	63	28

* The bold figures above represent the percentages of all respondents who answered the question affirmatively. The other percentage figures are based only on those respondents who answered the question affirmatively.

may be contacted include probation or parole agencies, juvenile courts, and the FBI (through NCIC). Nineteen agencies indicated that they make checks by making telephone calls to other agencies deemed pertinent to the contact.

As indicated earlier, only 13 of the 31 state criminal record repositories that responded to the repository survey indicated that juvenile records are maintained in their statewide files. Of these 13 states, seven have laws requiring law enforcement agencies to submit juvenile arrest records to the repository. In three states, there is a legal requirement that juvenile courts submit dispositions to the repository. Based on survey responses, an average of about 33% of the juvenile records maintained by the 13 repositories include juvenile court dispositions.⁴⁴

Of the 23 juvenile courts that responded to this court survey inquiry, 19 reported that they utilize a unique identification number or some other tracking or linking procedure to ensure that separate arrests, petitions and adjudications relating to a particular juvenile can be positively linked together into a chronological juvenile history. Of these, 35% utilize a unique identification number, 32% use unique case numbers, while 13% utilize some other procedure.

Thirteen of the courts (54%) have the ability to make a countywide or statewide search to compile a cumulative juvenile history of a particular juvenile. The most common way to compile the history is by access to a county repository. Other courts utilize state central repositories, their own files, probation or parole agencies, or some other agency.

Twenty-one of the jurisdictions (87%) indicated that there are no significant problems in associating juvenile subjects with existing prior juvenile histo-

⁴⁴ See *supra*, n. 27.

ries. Eighteen of the courts indicated that they maintain jacket files or other files containing all original source records relating to a particular juvenile, such as fingerprints, arrest reports, petitions, adjudications.

ACCESS TO AND DISSEMINATION OF JUVENILE RECORDS

About half of the law enforcement agencies responding to the survey indicated that access to juvenile records by personnel within the agency is restricted to personnel with a legitimate law enforcement need for the information. See Table 7. Approximately one-quarter reported that they are required to indicate the disposition or status of the case before releasing a juvenile record outside of the law enforcement agency. This requirement is based at least in part upon state statute, administrative standards, state regulations, court order, or city/county ordinance.

Nearly half of the agencies responding do not permit record subjects to review their juvenile records. Approximately one-third permit review of records, but do not permit copying. Access to juvenile law enforcement records by the record subject or his parent or representative for the purpose of reviewing *and* copying the record is permitted in only approximately one-quarter of the agencies responding.

Of the 24 juvenile courts that responded to the court survey, 12 indicated that they make their legal records on juveniles available in connection with adult criminal investigations by law enforcement agencies. Eleven courts indicated they make their legal records available to prosecutors for charging decisions. And 20 courts (83%) indicated that their juvenile legal records are made available for use in adult criminal proceedings for bail or sentencing decisions.

AUDITS OF RECORDS

The accuracy and completeness of a juvenile history record is critical if the record is to be useful for any purpose. Any quality control of juvenile records in terms of an audit, however, is still a minority practice. Policies for conducting regular audits exist in only 46 of the responding law enforcement jurisdictions (21%). In 19 of these agencies, the audits which are conducted are formal audits. In 22 agencies, the audits are informal editing or proofreading audits. Five agencies did not specify the type of audit they conduct.

AUTOMATED RECORDKEEPING SYSTEMS

Of the law enforcement agencies that responded to the survey, juvenile arrest records are maintained in automated systems in less than half (41%). The average number of records maintained in an automated name search system is 62,297, ranging from none to 130,000. The average number of records maintained as fully automated juvenile history records is 4,440, ranging from none to 50,000.

In almost all of the agencies that have automated juvenile arrest records, all such arrest records are automated. In four jurisdictions, however, some criteria, such as offense type, is used to determine which records will be automated.

Of the 24 juvenile courts that responded, eight indicated that their records are fully automated and another nine indicated that their records are partially automated.

PART III

REVIEW OF JUVENILE RECORDS STATUTES

The review of juvenile records statutes was compiled by a state-by-state examination of the applicable statutes.⁴⁵ A total of 52 jurisdictions were reviewed, including the 50 states, the District of Columbia, and the federal code of the United States. Although court and repository information is included, the statutory summary again focuses on the law enforcement records of juveniles.

This statutory overview provides basic information about the content, maintenance, purging practices, and dissemination and access to juvenile records. Although there may be no statutory regulation of a particular recordkeeping practice, this will not necessarily mean that the activity in any given jurisdiction is unregulated. The practice may be authorized by a state regulation, court rule, city or county ordinance, or most commonly, by an agency administrative standard. The state statute is a starting place, however, for determining the extent of legislative control regarding juvenile records and whether there is a basis for statewide uniformity in juvenile recordkeeping practices.

The areas examined are the age at which juvenile status for juvenile delinquents terminates, fingerprinting authority, the retention and destruction of fingerprints, sealing of records, expungement of records, time period for detention hearings, the dissemination and access to law enforcement records of juveniles, and the content of juvenile records. More detailed information regarding each area is presented in Appendices H through M.

⁴⁵ Statutory references contained in this part and in Appendices H through M are current to September, 1987.

THE "AGE" OF JUVENILE DELINQUENTS

The subject of this study is the juvenile population of the United States. Although crime is reported to the Federal Bureau of Investigation for the compilation of the Uniform Crime Reports on the basis of juvenile offenders under the age of 18,⁴⁶ the juvenile population is not uniformly defined throughout the country. See Figure 4. When looking at the results of this or of any study involving juveniles, it is important to note that the age at which a child will lose the protections of the juvenile court, including the confidentiality of his record, will differ among jurisdictions. The age may even differ in the same jurisdiction depending upon what is alleged in the juvenile petition.⁴⁷

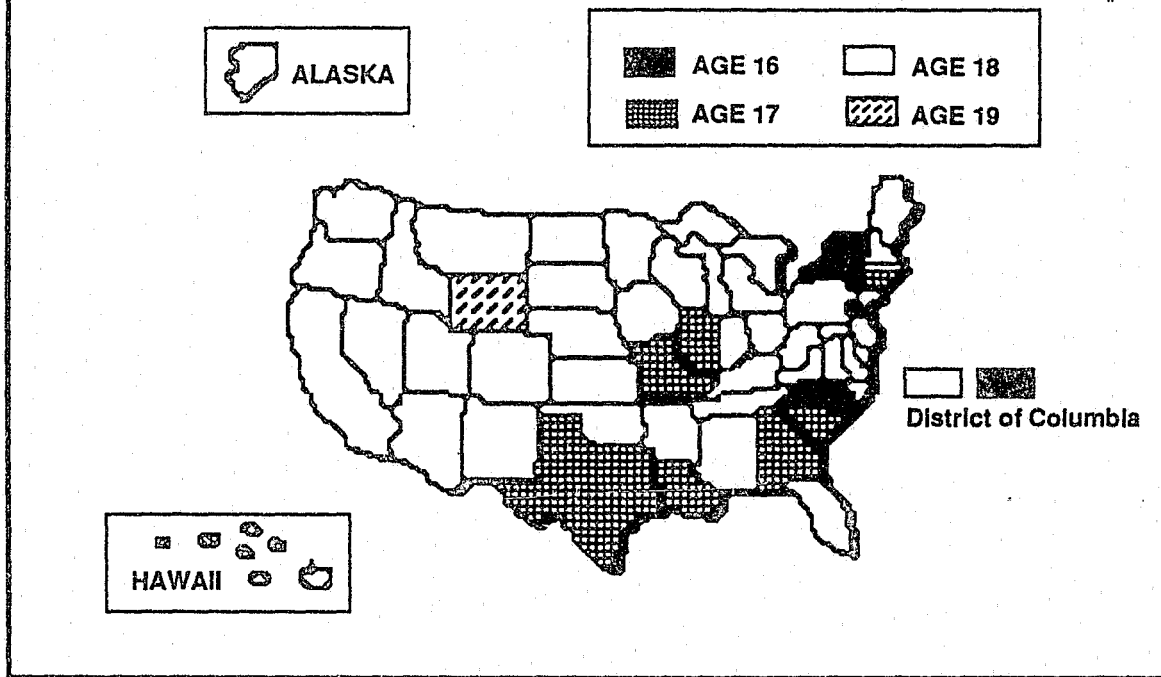
The majority of jurisdictions limit the age for juvenile status at age 18 for juvenile delinquency petitions. The jurisdictions imposing this age limit include 38 states, the District of Columbia and the United States.⁴⁸

⁴⁶ *Crime in the United States, 1986*, Federal Bureau of Investigation, 1987, p. 3.

⁴⁷ See, e.g., D.C. CODE §16-2301(3), defining "child" as an individual who is under 18 years of age unless the charges are for certain enumerated acts, including murder, forcible rape, burglary in the first degree, robbery while armed, or assault with intent to commit any of the enumerated offenses, in which case "child" is defined as an individual less than 16 years of age. For others, see Appendix H.

⁴⁸ The 38 states are Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Virginia, Washington, West Virginia, and Wisconsin.

Figure 4:
Age at Which Juvenile Status for Juvenile Delinquents Terminates



A total of 12 jurisdictions, including the District of Columbia for certain enumerated offenses,⁴⁹ terminate juvenile status at younger than 18. Connecticut, the District of Columbia, New York, North Carolina, and Vermont impose the lowest limitation, 16 years of age. Seven other states, Georgia, Illinois, Louisiana, Massachusetts, Missouri, South Carolina, and Texas, terminate juvenile status at age 17. Wyoming stands alone in extending juvenile status to the age of 19.

FINGERPRINTING JUVENILES

Statutory authority to fingerprint juveniles exists in 45 of the 52 jurisdictions reviewed.⁵⁰ The extent of the authority ranges from permitting fingerprints

to be taken of all juveniles who violate the law⁵¹ to authorization only with consent of the court.⁵²

What is found more frequently than blanket authorization or the strict limitation of court approval is a more lengthy statute spelling out specific circumstances under which fingerprinting of juveniles is permitted. The circumstances commonly include an age limitation, usually 14, under which fingerprints may not be taken or may be taken only with court approval, an offense limitation, such as any act which if committed by an adult would constitute a felony, and an exception to the other circumstances when the child is in custody and latent fingerprints have been found which the officer has probable cause to believe will match those of the

⁴⁹ *Supra*, n. 67.

⁵⁰ For statutory citations in jurisdictions where fingerprinting is authorized, refer to Appendix I.

⁵¹ See, e.g., IDAHO CODE § 16-1811(6) (Cum. Supp. 1987), which provides that, "A law enforcement agency may fingerprint and photograph a child taken into custody for an offense."

⁵² See, e.g., MONT. REV. CODES ANN. § 41-5-304(1)(a), "[N]o youth may be fingerprinted or photographed for criminal identification purposes except by order of the youth court judge;"

child. This is the typical statutory scheme in eight states.⁵³

Statewide procedural rules provide the authorization to fingerprint juveniles in the states of Col-

⁵³ The fingerprinting provisions of the Alabama statute are typical of those encompassing such circumstances:

(a) Fingerprints of [a] child 14 or more years of age who is referred to court for an alleged delinquent act may be taken and filed by law enforcement officers investigating the commission of a felony. If the court does not find that the child committed the alleged felony, the fingerprint card and all copies of the fingerprints shall be destroyed.

(b) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the child in custody, he may fingerprint the child regardless of age or offense for purpose of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is under 14 years of age and referred to court, the fingerprint card and other copies of the fingerprints shall be delivered to the court for disposition. If the child is not referred to court, the prints shall be immediately destroyed.

(c) If the court finds that a child 14 or more years of age has committed a felony, the prints may be retained in a local file and copies sent to a central state depository; provided, that the court shall, by rule, require special precautions to be taken to insure that such fingerprints will be maintained in such manner and under such safeguards as to limit their use to inspection for comparison purposes by law enforcement officers or by staff of the depository only in the investigation of a crime. ALA. CODE § 12-15-102.

See also IOWA CODE § 232.148, NEV. REV. STAT. § 62.265, N.J. REV. STAT. § 2A:4A-61 (consent of parent and child or court is needed to obtain fingerprints for latent comparison), N.D. CENT. CODE § 27-20-53(1) (Supp. 1985), TEX. FAM. CODE ANN. tit. 3, § 51.15 (Vernon), VA. CODE § 16.1-299, and WYO. STAT. § 14-6-240.

orado⁵⁴ and Maryland.⁵⁵ In Hawaii, the legislature has authorized local courts to promulgate rules and standards for the fingerprinting of minors "as they consider necessary to guide and control the police, within their respective jurisdictions..."⁵⁶

In eight states, there is no mention of authorization for or prohibition against fingerprinting juveniles.⁵⁷ Any regulation of fingerprinting in these states would presumably be pursuant to local legislation or agency administrative policy.

The life of the juvenile fingerprint file is usually limited, again by statutory mandate. In 34 of the jurisdictions which authorize fingerprinting, there are also statutory provisions for the sealing, destruction, or the return of the fingerprint files to the juvenile court.⁵⁸ The majority of those jurisdictions have specific statutory provisions for the destruction and retention of juvenile fingerprints, while the remainder have purging statutes with broad language encompassing all records or indicia of arrest in the possession of law enforcement agencies.⁵⁹

In jurisdictions where the destruction of fingerprints is mandated, the circumstances for doing so usually include a negative result of the latent fin-

⁵⁴ COLO. RULES OF JUV. P. 9.1 (1975).

⁵⁵ 1 MD. RULES 909(6)(c).

⁵⁶ HAW. REV. STAT. § 571-74.

⁵⁷ The states are Arizona, Kentucky, Massachusetts, Michigan, New Hampshire, Rhode Island, West Virginia, and Wisconsin.

⁵⁸ See Appendix J.

⁵⁹ Provisions for the destruction of fingerprint files are found in the statutes of Alabama, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Montana, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Washington, and Wyoming. Ohio also provides for the sealing of fingerprints, as does Colorado. Three states, Arkansas, Ohio, and Utah, also have statutory requirements for the return of juvenile fingerprints to the juvenile court. Sealing or expungement statutes generally requiring the purging of all law enforcement records are found in California, Connecticut, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, South Dakota, and Utah.

gerprint comparison, no petition or charges ultimately filed in the court, a favorable outcome of an adjudication hearing, or the maintenance of a clean record for a specified period.⁶⁰ Less frequently, an age limitation may also be included.⁶¹

Approximately one-third of the jurisdictions authorizing the fingerprinting of juveniles also provide for the maintenance of those fingerprints in a central repository.⁶² The basis of retention in nine jurisdictions is that the juvenile is charged with an offense which would be a felony if committed by an adult.⁶³ Other jurisdictions place no offense-type restrictions upon the fingerprints which are collected by the central repository.⁶⁴

DISSEMINATION AND ACCESS TO UNSEALED LAW ENFORCEMENT RECORDS

The dissemination and access to unsealed juvenile law enforcement records is governed less frequently by statute than are juvenile court records. Nevertheless, most jurisdictions do include some language regarding the availability or disclosure of records maintained by law enforcement agencies.⁶⁵ Only seven jurisdictions make no mention of dis-

semination or access to the unsealed police records of a juvenile.⁶⁶

In jurisdictions where access is granted, it is most commonly given to other law enforcement agencies for the purpose of investigation, to adult courts, more frequently for sentencing purposes than for impeachment, and to the record subject, his parent or guardian, and/or his attorney or representative. Various statutes will also designate access for prosecutors, social welfare agencies, the military or when necessary for the interest of national security, probation and parole agencies, the victim of the juvenile's act, school authorities, the institution where the child is committed, persons engaged in legitimate research, criminal justice agencies to whom the record subject has applied for employment, and a general catch-all category of recipients usually denoted as "others as the court may determine who have a legitimate interest in the proceedings".

Several jurisdictions which do not enumerate at length the parties to whom records may be disclosed may permit access when specifically authorized by the court.⁶⁷ Other jurisdictions specify the parties and in addition, require a court order for release to the parties so designated.⁶⁸

SEALING OF JUVENILE RECORDS⁶⁹

Sealing of juvenile records is governed by statute in most jurisdictions. Not unlike other areas of ju-

⁶⁰ See Appendix J for the circumstances applicable to each jurisdiction.

⁶¹ *Id.*

⁶² The jurisdictions are Alabama, California, Florida, Kansas, Maine, Minnesota, Nebraska, Nevada, New York, Ohio, and Utah. In addition, in the states of Georgia and Vermont, fingerprints may be forwarded to a central repository if the interests of national security require. In Illinois, fingerprints may be forwarded to a central repository when authorized by the court.

⁶³ The states are Alabama (must also be 14 years of age), Alaska (must also be 16 years of age), Florida, Kansas (other than felony requires court order), Nebraska, Nevada (must also be 14 years of age), Pennsylvania, South Dakota (also misdemeanors involving moral turpitude), and Wyoming.

⁶⁴ The jurisdiction, however, may be limited initially by offense type in the taking of juvenile fingerprints.

⁶⁵ See Appendix K.

⁶⁶ The states are Connecticut, Michigan, Nebraska, Nevada, New Mexico, Oklahoma, and Utah.

⁶⁷ See, ME. REV. STAT. tit. 15, § 3308(5) (Cum. Supp. 1986), MINN. STAT. § 260.161 Subd. 3, MO. REV. STAT. § 211.321 (2) (Supp. 1983), WYO. STAT. § 14-6-240(d).

⁶⁸ See, e.g., GA. CODE § 15-11-59, N.Y. FAM. CT. ACT § 381.3(2) (McKinney), S.D. COMPILED LAWS § 26-8-19.5, and W. VA. CODE § 49-5-17(d).

⁶⁹ While some statutes refer to the "expungement" of juvenile records, the procedure described is actually sealing the record, not obliterating or destroying it. See, e.g., KAN. STAT. § 38-1610. For the purpose of the statutory review, sealing and expungement will be interpreted in the same context as that set forth in the analyses of the surveys of the records. See *supra*, n. 44.

venile recordkeeping, law enforcement juvenile records are less frequently subject to legislative mandates than are court records of juveniles.

Pursuant to statutes in 25 jurisdictions, both court and police records are sealed,⁷⁰ while in an additional six jurisdictions, only juvenile court records are sealed.⁷¹ In 21 jurisdictions, there are no statutory sealing provisions for either court or police records.⁷²

In most cases, there are statutory limitations on which juvenile records may be sealed. These may include a clean record period, expiration of the court's jurisdiction, reaching the age of majority or some other designated age, no subsequent convictions or adjudications for enumerated offenses, no pending proceedings for enumerated offenses, the outcome of the proceedings for which the record was created, the type of offense which was the underlying basis for the petition, and the death of the record subject.

In six states, sealing occurs automatically upon the occurrence of an event, usually reaching a particular age. In Alaska, court records are sealed upon the individual's reaching 18 years of age,⁷³ while in Montana,⁷⁴ both court and law enforcement records are sealed when the record subject turns 18. Law enforcement and court records are sealed automatically in New Hampshire when the

individual reaches age 19,⁷⁵ in Nevada, at age 24,⁷⁶ and in West Virginia, one year after the eighteenth birthday of the individual or one year after personal or juvenile jurisdiction is terminated.⁷⁷ If the juvenile is adjudicated for a delinquent act in Virginia, the court records will be automatically sealed when the individual reaches 19 years of age and at least five years have elapsed since the last hearing in the juvenile proceedings.⁷⁸

Once the records are sealed, access or inspection is closely regulated in most states. In 21 of the jurisdictions, no access is permitted without the consent of the court.⁷⁹ In only six states is there no mention of whether or how access or inspection is permitted to sealed juvenile records.⁸⁰

Included in the statutes of the states of Alabama, New Jersey, and Washington are provisions for nullifying the sealing order of the court if subsequent to the sealing, the record subject is convicted of a crime or adjudicated delinquent. In New Mexico, the sealing order will be nullified if there is a subsequent criminal conviction, an adjudication for delinquency, or an adjudication for being a child in need of supervision.

⁷⁰ The jurisdictions include Alabama, California, Colorado, the District of Columbia, Georgia, Idaho, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, South Dakota, Texas, Utah, Vermont, Washington, and West Virginia. For statutory citations, *see* Appendix J.

⁷¹ The states are Alaska, Florida, Maryland, North Dakota, Virginia, and Wyoming. For statutory citations, *see* Appendix L.

⁷² The jurisdictions are Arizona, Arkansas, Connecticut, Delaware, Hawaii, Illinois, Indiana, Louisiana, Maine, Massachusetts, Michigan, Minnesota, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Wisconsin, and the United States.

⁷³ ALASKA STAT. § 47.10.090.

⁷⁴ MONT. REV. CODES ANN. § 41-5-604.

⁷⁵ N.H. REV. STAT. ANN. § 169-B: 35 (Cum. Supp. 1986).

⁷⁶ NEV. REV. STAT. § 62.275(3).

⁷⁷ W. VA. CODE § 49-5-17.

⁷⁸ VA. CODE § 16.1-306.B.

⁷⁹ The jurisdictions are Alabama, Alaska, California, Colorado, the District of Columbia, Idaho, Iowa, Kansas, Maryland, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

⁸⁰ The states include Georgia, Missouri, Montana, New Hampshire, North Dakota, and Ohio.

EXPUNGEMENT OF JUVENILE RECORDS⁸¹

Twenty-one jurisdictions authorize the expungement of both law enforcement and court records.⁸² Expungement of only court records is mandated in six states.⁸³ In Massachusetts, there are no statutes providing for the expungement of juvenile records, however, pursuant to judicial determination, courts have the power to order the expungement of police records if the utility of the records for law enforcement purposes is likely to be minimal or non-existent.⁸⁴ Approximately one-half of the 27 jurisdictions which have expungement statutes are jurisdictions which also have sealing statutes.⁸⁵

The circumstances under which juvenile records may be expunged are similar to those generally set forth in the sealing statutes. Because expungement is an irreversible act, however, a court order is required almost uniformly before the procedure is effectuated. In only one state, Connecticut, is there a provision for expungement of all police and court records without petitioning the court, and it is applicable only when the child is found not delinquent.⁸⁶

The statutory authority for expungement of juvenile court records in New York is unique in that it merely recognizes the court's inherent authority to order expungement without further qualifications

⁸¹ For the interpretation of "expungement", see *supra*, n. 44.

⁸² The jurisdictions include Alabama, Arizona, California, Connecticut, Delaware, Illinois, Indiana, Louisiana, Mississippi, Montana, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Washington, and Wyoming. For statutory citations, see Appendix M.

⁸³ The states are Arkansas, Florida, Minnesota, Missouri, Utah, and Virginia.

⁸⁴ *Police Comm'r of Boston v. Municipal Court of Dorchester Dist.*, 374 Mass. 640, 374 N.E.2d 272 (1978).

⁸⁵ The jurisdictions are Alabama, California, Florida, Mississippi, Missouri, Montana, New York, North Dakota, Ohio, Texas, Utah, Washington, and Wyoming.

⁸⁶ CONN. GEN. STAT. ANN. § 46b-146 (Supp. 1986) (West).

or limit.⁸⁷ The basis for the statutory provision is derived from the New York Court of Appeals decision in *Matter of Dorothy D.*,⁸⁸ wherein the court determined that the inability to order the destruction of juvenile records was in conflict with the purpose of the Family Court Act.⁸⁹ In addition, the authority of courts to order the expungement of juvenile law enforcement records was also recognized in the caselaw of New York.⁹⁰

A unique feature of the Ohio expungement statute is that unless the record subject waives his right to bring a civil action based upon his arrest, the court shall keep a sealed copy of all of his court and law enforcement records, except fingerprints, until the statute of limitations on the civil action expires.⁹¹

⁸⁷ N.Y. FAM. CT. ACT § 375.3 (McKinney) provides as follows:

Nothing contained in this article shall preclude the court's use of its inherent power to order the expungement of court records.

⁸⁸ 49 N.Y.2d 212, 424 N.Y.S.2d 890, 400 N.E.2d 1342 (1980).

⁸⁹ The court found that:

[T]he very existence of such records, despite provisions for confidentiality, may constitute a substantial impediment to entry into institutions of higher learning, government or private employment, the armed services, or the professions, cannot be seriously questioned. For this reason it would be antithetical to the purpose of the Family Court Act to maintain records which would not benefit society and would result in bringing unwarranted discrimination to a child's future (citation omitted). 424 N.Y.S.2d at 891, 400 N.E.2d at 1343.

⁹⁰ See, e.g., *Matter of Todd H.*, 49 N.Y.2d 1022, 429 N.Y.S.2d 401, 406 N.E.2d 1338 (1980).

⁹¹ OHIO REV. CODE ANN. § 2151.358(F) (Supp. 1986) (Anderson) provides in pertinent part, as follows:

If the applicant for an expungement order does not waive in writing his right to bring any civil action based on the arrest for which the expungement order is applied, the court shall, in addition to ordering the deletion, destruction, or erasure of all index references and of all

(footnote continued)

When the statute of limitations expires or a waiver is executed, the records which were the subject of the expungement order are then destroyed.⁹²

DETENTION HEARINGS

All jurisdictions require that a child taken into custody be given a court hearing within prescribed time limits. The initial hearing for detained juveniles is for the purpose of determining whether the juvenile's detention shall continue or whether the juvenile shall be released pending further proceedings in the matter. This also is generally the first opportunity for the court to review the juvenile history of the individual before him.

The time period for holding detention hearings ranges from being "brought forthwith before the court"⁹³ to "not later than ninety-six hours"⁹⁴ after the juvenile has been detained. Most jurisdictions, however, require the hearing within 48 hours⁹⁵ or

references to the arrest that are maintained by the state or any political subdivision of the state, order that a copy of all records of the case except fingerprints held by the court or a law enforcement agency be delivered to the court. The court shall seal all of the records delivered to the court in a separate file in which only sealed records are maintained. The sealed records shall be kept by the court until the statute of limitations expires for any civil action based on the arrest, any pending litigation is terminated, or the applicant files a written waiver of his right to bring a civil action based on the arrest. After the expiration of the statute of limitations, the termination of the pending litigation, or the filing of the waiver, the court shall destroy the sealed records.

⁹² *Id.*

⁹³ *See, e.g.*, MICH. COMP. LAWS ANN. § 712A.14. *See also* DEL. CODE tit. 10, § 933(2) (Cum. Supp. 1986).

⁹⁴ *See, e.g.*, N.D. CENT. CODE § 27-20-17(2) (Interim Supp. 1985).

⁹⁵ The states include Alaska, Arizona, California, Colorado, Hawaii, Indiana, Iowa, Kansas, Maine, Mississippi (with a warrant), Nebraska, South Carolina, South Dakota, Utah, and Vermont.

72 hours.⁹⁶ Others require that a detention hearing be held within 12 hours,⁹⁷ 24 hours,⁹⁸ 36 hours,⁹⁹ or 84 hours.¹⁰⁰ Still others prescribe hearing periods such as the business day following arrest,¹⁰¹ not later than the next court day,¹⁰² and not later than the second working day following arrest unless the arrest is on Friday or Saturday, then no later than the first working day following arrest.¹⁰³

In the federal courts, the child must not be detained "for longer than a reasonable period of time before being brought before a magistrate."¹⁰⁴ In addition, the federal law, unlike the statutory provisions of any other jurisdiction, requires that before the commencement of any proceedings against a juvenile, the court must have received the prior court records of the juvenile or a certification in writing that the juvenile has no prior record or the reasons for its unavailability.¹⁰⁵

⁹⁶ The states include Alabama, Arkansas, Georgia, Kentucky, Louisiana, New Mexico, New York (or the next court day, whichever is earlier), Ohio, Pennsylvania, Virginia (or the next day, if the court is sitting), Washington, and Wyoming.

⁹⁷ North Carolina is the only state with this provision.

⁹⁸ Ten states have this requirement, including Florida, Idaho, Mississippi (without a warrant), Missouri, Montana, Nevada, New Hampshire, Oregon, Rhode Island, and Wisconsin.

⁹⁹ This is the requirement in the states of Illinois and Minnesota.

¹⁰⁰ This is the requirement in Tennessee pursuant to RULE 6(a), TENN. RULES ANN. (1986-1987).

¹⁰¹ This provision applies in Connecticut.

¹⁰² This is the general statutory provision in the jurisdictions of the District of Columbia, Maryland, New Jersey, Oklahoma, and West Virginia. *See also supra*, n. 116.

¹⁰³ This is the statutory mandate of Texas.

¹⁰⁴ 18 U.S.C.A. § 5033.

¹⁰⁵ The statute provides, in pertinent part, as follows:

Any proceedings against a juvenile under this chapter or as an adult shall not be
(footnote continued)

CONTENT OF JUVENILE RECORDS

There are only three states which require that dispositions be included in juvenile records which are disclosed. In California, both the Department of Justice and local law enforcement agencies are required to include the disposition of an arrest or taking into custody.¹⁰⁶ Arizona law requires that the juvenile court release the dispositions of juvenile arrests, as well as of referrals and complaints, when the records of a juvenile are released to other law enforcement agencies, prosecutors, or the juvenile's attorney.¹⁰⁷ When law enforcement agencies in Pennsylvania disclose the content of juvenile records, they are also required to include the disposition of the case.¹⁰⁸

Only two states have statutory procedures which permit the individual to audit his own record. In Indiana, the record subject may request modifications to his record when it contains errors.¹⁰⁹ Washington law sets forth a two-step, self-audit procedure in which the court must first grant the individual the authority to inspect the record. Following the inspection, the individual must then make a second motion to the court to have the record corrected.¹¹⁰

commenced until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable and why it is unavailable. 18 U.S.C.A. § 5032.

¹⁰⁶ CAL. WELF. & INST. CODE § 204 (Deering) (Department of Justice) and CAL. WELF. & INST. CODE § 828 (Deering) (law enforcement agencies).

¹⁰⁷ ARIZ. REV. STAT. § 8-208(B) (Supp. 1986).

¹⁰⁸ 42 PA. CONS. STAT. ANN. § 6308(b)(2) (Cum. Supp. 1987).

¹⁰⁹ IND. CODE § 31-6-8-1.2(i).

¹¹⁰ WASH. REV. CODE ANN. § 13.04.130 (Cum. Supp. 1987).

PART IV

CONCLUSIONS

Information policy management concerning juvenile records has evolved on a jurisdiction by jurisdiction basis resulting in a checkerboard of practices throughout the juvenile justice system. As a result, understanding the profile of juvenile offenders is difficult. Policymakers attempting to resolve the issues of just deserts, selective incapacitation and rehabilitation as they apply to juveniles must be aware of and appreciate the differences which are inherent in the juvenile justice system. From an information management perspective, this study confirmed some of the apprehensions expressed by numerous commentators concerning the quality of juvenile records maintained by law enforcement agencies. The study, however, also indicated that juvenile violations are generally classified according to the same penal code terminology used in the adult system. Although administrative barriers may currently prevent the ready exchange of juvenile history information, the increased use of the juvenile record may concomitantly serve to increase the quality of the record.

QUALITY CONTROL

The survey confirmed a need to improve procedures to ensure the accuracy and completeness of law enforcement records on juveniles. Less than half of the juvenile records maintained by the law enforcement agencies that responded to the survey include court dispositions. In addition, very few agencies have any procedures to ensure the quality of their juvenile records. Only about half have any procedures for obtaining prosecutor or court dispositions. Only one-fifth have any audit procedures and most of the auditing that does take place is informal and irregular. Only about half of the responding agencies permit juveniles or their representatives to review their records to ensure accuracy and completeness.

The quality of juvenile records, moreover, has received little attention from the state legislatures. Only three states have laws requiring dispositions

to be included on juvenile records that are disseminated outside of the record-holding agency. Two states have laws authorizing juveniles to have access to their records for review purposes. Additional use of juvenile records may encourage upgrading the quality of the records. The lack of concern over the completeness and accuracy of the records may be a reflection of the fact that by and large juvenile records have not been intended for use in the adult system. If the data is intended for broader use and dissemination, additional resources may be brought to bear upon upgrading the data.

DOCUMENTATION OF JUVENILE CONTACTS

The survey indicated that less than one-fourth of the responding law enforcement agencies have policies requiring that written records be made of all contacts with juveniles. Thus it is evident that police records do not include reference to many juvenile contacts that do not result in arrest or detention.

JUVENILE VIOLATIONS DEFINED IN RECORDS

The study did indicate, however, that, in one important respect, law enforcement records on juveniles are more complete and useful than some commentators have felt them to be. Specifically, survey responses indicate that these records utilize penal code terminology to describe the misconduct of the juvenile to a much greater degree than has been suggested; moreover, the great majority of the agencies that responded to the survey indicated that the form and substance of juvenile court petitions and adjudications in their jurisdictions enable them to determine a disposition for each arrest charge or at least to determine which charge was the basis for the adjudication. Thus, these records would appear to reflect a clear indication of the extent and nature of a particular juvenile's misconduct in terms that are understandable and useful for sentencing and other disposition decisions.

LEGAL AND ADMINISTRATIVE BARRIERS TO JUVENILE HISTORY CHECKS

The study confirmed the existence of a number of suspected legal and administrative barriers to the availability of juvenile records outside of the juvenile system and, indeed, even within it. It is difficult or impossible in most jurisdictions to obtain a full juvenile history on a particular juvenile. Only about one-third of the responding law enforcement agencies forward juvenile fingerprint records to state repositories. Less than half of the agencies have any source for obtaining full juvenile histories. Only a handful of states have laws requiring any types of juvenile records to be forwarded to their state repositories, and most of the laws that do exist relate to the records of juveniles who are tried as adults.

IDENTIFICATION OF JUVENILES

The lack of full juvenile histories may be due largely to the fact that few juveniles are fingerprinted. Although most jurisdictions have policies for fingerprinting juveniles, in at least some instances, the survey indicated that only about one-fourth of the juveniles arrested by law enforcement agencies are fingerprinted, and many of these fingerprints are subsequently sealed or expunged. Fingerprinting is universally regarded as an indispensable element of adult criminal recordkeeping, both as a means of ensuring the accuracy of identification and as a basis for linking arrest and disposition data together into a searchable criminal history. It is probable that, if decisions are made to make juvenile records more available in adult criminal proceedings, these decisions will require an increase in the incidence of juvenile fingerprinting. Although many jurisdictions now use unique identification numbers and other tracking procedures as the basis for compiling juvenile histories, the experience of adult criminal record repositories has been that such procedures do not work unless they are tied to positive identification on the basis of fingerprints.¹¹¹

SEALING AND EXPUNGEMENT PRACTICES PREVALENT

It also seems probable that any decision to make juvenile records more available in the adult justice system for sentencing and other purposes will need to be accompanied by revisions in state laws regarding the sealing and expungement of juvenile records. The survey confirmed previous findings that sealing and expungement of juvenile records is widespread. Although sealed records may be unsealed by court order, records that are expunged are permanently lost. The expungement of juvenile records is one of the most important underpinnings of the two-tier juvenile-adult justice system that enables juvenile offenders, even serious repeat offenders, to enter the adult system with clean records. If such proposals as selective incapacitation are to be effectively implemented, the obvious consequence is that juvenile record expungement laws and policies will need to be re-examined and revised.

SUMMARY

The desire to use juvenile records for selective incapacitation decisions in the adult justice system must contemplate the significant policy issues which necessarily surround the record. Effective decisionmaking requires an accurate historical accounting of a juvenile's contact with the justice system, regardless where the decisionmaking occurs. Any attempt to modify existing practices governing the creation, maintenance and dissemination of the juvenile record, however, may raise questions concerning the traditional juvenile justice system, its two-tier structure and its *parens patriae* approach and rehabilitative mission. The resolution of this conflict is the challenge for decisionmakers faced with the task of redefining the juvenile history record.

¹¹¹ See *Tracking Juvenile Histories, Three Options for Creating Statewide, Longitudinal Records of Juvenile Offenders*, Office of the Attorney General, California Department of Justice, 1985.

Appendices

APPENDIX A

RESPONSES TO LAW ENFORCEMENT SURVEY

STATE	NUMBER	PERCENT OF TOTAL RESPONSES
Alabama	5	2.2
Alaska	0	0
Arizona	3	1.3
Arkansas	2	0.9
California	35	15.3
Colorado	5	2.2
Connecticut	5	2.2
Delaware	1	0.4
District of Columbia	0	0
Florida	19	8.3
Georgia	5	2.2
Hawaii	0	0
Idaho	2	0.9
Illinois	11	4.8
Indiana	6	2.6
Iowa	3	1.3
Kansas	2	0.9
Kentucky	1	0.4
Louisiana	3	1.3
Maine	3	1.3
Maryland	3	1.3
Massachusetts	3	1.3
Michigan	4	1.8
Minnesota	5	2.2
Mississippi	1	0.4
Missouri	4	1.8
Montana	1	0.4
Nebraska	2	0.9
Nevada	1	0.4
New Hampshire	1	0.4
New Jersey	8	3.5
New Mexico	1	0.4
New York	10	4.4
North Carolina	5	2.2
North Dakota	0	0
Ohio	11	4.8
Oklahoma	1	0.4
Oregon	3	1.3
Pennsylvania	6	2.6
Rhode Island	3	1.3
South Carolina	2	0.9
South Dakota	0	0
Tennessee	4	1.8
Texas	17	7.5
Utah	4	1.8
Vermont	0	0
Virginia	8	3.5
Washington	4	1.8
West Virginia	0	0
Wisconsin	5	2.2
Wyoming	0	0
United States	0	0

APPENDIX B

CONFIDENTIALITY RECOMMENDATIONS OF THE NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES REGARDING THE JUVENILE COURT AND SERIOUS OFFENDERS (1984)

Open Hearings

Fact finding hearings involving juveniles charged with criminal law violations and hearings for transfer to an adult criminal court should generally be open to the public while dispositional hearings should generally be closed. In a given case the court should exercise discretion to open or close the hearing to the public.

Police Should Be Informed of Court Actions in Their Cases

Juvenile courts should provide a law enforcement agency with the legal charge and disposition of juveniles referred by such agency for criminal law violations.

Juvenile Records Should Be Provided to Adult Courts When Sentencing

Once a person has been convicted of a crime in the adult criminal court, the legal record of any findings of guilt of charges of a criminal law violation in juvenile court should be made available to the adult criminal court upon its request.

Legal Records of Juveniles Should Be Open to Those Who Need To Know

Legal records of juveniles adjudicated for criminal law violations should be open to the child, the parents, the child's attorney, the guardian ad litem, the prosecutor and, at the discretion of the judge, to any other person having a legitimate interest. "Legal" records would not include social histories, medical and psychological reports, educational records or a transcript of the dispositional hearings.

APPENDIX C

STANDARDS RELATING TO JUVENILE RECORDS AND INFORMATION SYSTEMS (1977) (Tentative Draft)

Drafted by the Institute of Judicial Administration
and American Bar Association Government
Commission on Juvenile Justice Standards

SECTION IV: STANDARDS FOR POLICE RECORDS

19.1 Rules and Regulations.

- A. Each law enforcement agency should promulgate rules and regulations pertaining to the collection, retention, and dissemination of law enforcement records pertaining to juveniles.
- B. Such rules and regulations should take into account the need of law enforcement agencies for detailed and accurate information concerning crimes committed by juveniles and police contacts with juveniles, the risk that information collected on juveniles may be misused and misinterpreted, and the need of juveniles to mature into adulthood without the unnecessary stigma of a police record.

19.2 Duty to keep complete and accurate records.

- A. All information pertaining to the arrest, detention, and disposition of a case involving a juvenile should be complete, accurate, and up to date.

19.3 Allocation of responsibility for record-keeping.

Each law enforcement agency should designate a specific person or persons to be responsible for the collection, retention, and dissemination of law enforcement records pertaining to juveniles.

19.4 Retention of records in a secure and separate place.

Each law enforcement agency should maintain law enforcement records and files concerning juveniles in a secure place separate from adult records and files.

19.5 Duty to account for release of law enforcement records.

Law enforcement agencies should keep a record of all persons and organizations to whom information in the law enforcement records pertaining to juveniles has been released, the dates of the request, the reasons for the request, and the disposition of the request for information.

19.6 Juveniles' fingerprints; photographs.

- A. Law enforcement officers investigating the commission of a felony may take the fingerprints of a juvenile who is referred to court. If the court does not adjudicate the juvenile delinquent for the alleged felony, the fingerprint card and all copies of the fingerprints should be destroyed.
- B. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the

juvenile in custody, he or she may fingerprint the juvenile regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken should be immediately destroyed. If the comparison is positive and the juvenile is referred to court, the fingerprint card and other copies of the fingerprints should be delivered to the court for disposition. If the juvenile is not referred to court, the prints should be immediately destroyed.

- C. If the court finds that a juvenile has committed an offense that would be a felony for an adult, the prints may be retained by the local law enforcement agency or sent to the [state depository] provided that they be kept separate from those of adults under special security measures limited to inspection for comparison purposes by law enforcement officers or by staff of the [state depository] only in the investigation of a crime.
- D. A juvenile in custody should be photographed for criminal identification purposes only if necessary for a pending investigation unless the case is transferred for criminal prosecution.
- E. Any photographs of juveniles, authorized under subsection D., that are retained by a law enforcement agency should be destroyed:
 - 1. immediately, if it is concluded that the juvenile did not commit the offense which is the subject of investigation; or
 - 2. upon a judicial determination that the juvenile is not delinquent; or
 - 3. when the juvenile's police record is destroyed pursuant to Standard 22.1.
- F. Any fingerprints of juveniles that are retained by a law enforcement agency should be destroyed when the juvenile's police record is destroyed pursuant to Standard 22.1.

G. Wilful violation of this standard should be a misdemeanor.

19.7 Statistical reports.

- A. Each law enforcement agency should prepare a monthly and annual statistical report of crimes committed by juveniles an of the activities of the agency with respect to juveniles.
- B. The statistical report should include a maximum amount of aggregate data so that there can be meaningful analysis of juvenile crime and the activities of the agency with respect to juveniles.
- C. The principal state law enforcement agency of each state should develop standardized forms for collecting and reporting data to insure uniformity.

19.8 Juveniles' privacy committee.

A juveniles' privacy committee should have authority with respect to law enforcement records pertaining to the arrest, detention, and disposition of cases involving juveniles that is commensurate with the authority of the committee set forth in Standard 2.1.

**PART XX: ACCESS TO
POLICE RECORDS**

20.1 Police records not to be public records.

Records and files maintained by a law enforcement agency pertaining to the arrest, detention, adjudication, or disposition of a juvenile's case should not be a public record.

20.2 Access by the juvenile and his or her representatives.

A juvenile, his or her parents, and the juvenile's attorney should, upon request, be given access to all records and files collected or retained by a law enforcement agency which pertain to the arrest, detention, adjudication, or disposition of a case involving the juvenile.

20.3 Disclosure to third persons.

- A. Information contained in law enforcement records and files pertaining to juveniles may be disclosed to:
1. law enforcement officers of any jurisdiction for law enforcement purposes;
 2. a probation officer, judge, or prosecutor for purposes of executing the responsibilities of his or her position in a matter relating to the juvenile who is the subject of the record;
 3. the state juvenile correctional agency if the juvenile is currently committed to the agency;
 4. a person to whom it is necessary to disclose information for the limited purposes of investigating a crime, apprehending a juvenile, or determining whether to detain a juvenile;
 5. a person who meets the criteria of Standards 5.6 [Access for research or evaluation] and 5.7 [Access for law enforcement or judicial purposes].

- B. Information contained in law enforcement records and files pertaining to a juvenile should not be released to law enforcement officers of another jurisdiction unless the juvenile was adjudicated delinquent or convicted of a crime or unless there is an outstanding arrest warrant for the juvenile.

- C. Information that is released pertaining to a juvenile should include the disposition or current status of the case.

20.4 Warnings and nondisclosure agreements.

Prior to disclosure of information concerning a juvenile to a law enforcement agency outside of the jurisdiction, that agency should be informed that the information should only be disclosed to law enforcement personnel, probation officers, judges, and prosecutors who are currently concerned with the juvenile. The outside agency should also be informed that the information will not be disclosed unless the agency is willing to execute a nondisclosure agreement.

20.5 Response to police record inquiries.

The response and procedure for answering inquiries regarding the police record of a juvenile should be in accordance with Standard 18.3 [Response to juvenile record inquiries].

**PART XXI: CORRECTION OF
POLICE RECORDS**

**21.1 Rules providing for the
correction of police records.**

Each law enforcement agency should promulgate rules and regulations permitting a juvenile or his or her representative to challenge the correctness of a police record pertaining to the juvenile.

**PART XXII: DESTRUCTION OF
POLICE RECORDS**

**22.1 Procedure and timing of
destruction of police records.**

Upon receipt of notice from a juvenile court that a juvenile record has been destroyed or if a juvenile is arrested or detained and has not been referred to a court, a law enforcement agency should destroy all information pertaining to the matter in all records and files, except that if the chief law enforcement officer of the agency, or his or her designee, certifies in writing that certain information is needed for a pending investigation involving the commission of a felony, that information, and information identifying the juvenile, may be retained in an intelligence file until the investigation is terminated or for one additional year, whichever is sooner.

APPENDIX D

MODEL STATUTE ON JUVENILE AND
FAMILY COURT RECORDS (1980)

Drafted by the Model Court Systems and Technical
Committee of the National Council of
Juvenile and Family Court Judges

Sec. 106. Law Enforcement Records

- (1) The taking of a child into custody under the provisions hereof shall not be considered an arrest.
- (2) Records and files of a law enforcement agency concerning a juvenile shall not be open for inspection and their contents shall not be disclosed except as provided in this section, or for an offense for which the court has waived, certified, or transferred its jurisdiction over the child to another court.
- (3) Such records may be inspected, and their contents may be disclosed without a court order, to the following:
 - (a) peace officers of this state and other jurisdictions, when necessary for the discharge of their official duties;
 - (b) the judge and professional staff, including juvenile probation officers, of a juvenile court or of a juvenile or family court in another jurisdiction having the child currently before it in any proceeding;
 - (c) the child, his or her counsel, parent, guardian, custodian and guardian ad litem;
 - (d) the designated representative or any agency, association, facility or institution which has custody of the child, or is responsible for the care, treatment, or supervision of the child pursuant to a court order;
- (4) Pursuant to court order, such records may be inspected by, and their contents may be disclosed to, the following:
 - (a) a person conducting bona fide research under such conditions as the court may deem proper, provided that no personal identifying data shall be disclosed to such a person;
 - (b) persons who have a direct interest in a proceeding or in the work of the court;
 - (c) victims, including their subrogees, and/or legal representatives.
- (5) A child shall not be photographed or fingerprinted by a law enforcement agency without the prior order of the court, and without a showing of good cause, unless the court waives its jurisdiction over the child.
- (6) Files of children shall be kept separate from those of adults, and copies shall not be placed in any central data storage system.
- (e) a court in which the child has been convicted of a public offense in connection with a pre-sentence report or dispositional proceedings.

- (7) All juvenile records of all law enforcement agencies shall be destroyed upon the juvenile attaining the upper age of the original jurisdiction of the court, unless, upon application of such agency and for good cause shown, the court authorizes retention of such records. Provided, however, that upon petition of the record subject, the court upon good cause shown, may order the destruction of such records at any time.

APPENDIX E

MODEL JUVENILE DELINQUENCY ACT (1987)

Drafted by the Rose Institute
of State and Local Government and
the American Legislative Exchange Council

RECORDS

Section 91. Open Records

(A) All records other than the social file shall be open to public inspection, unless sealed or expunged pursuant to Sections 92 or 95. The social file shall be confidential and may be released only as provided in Sections 93 and 94.

(B) Upon motion to the court, the prosecutor, defense counsel, law enforcement agencies, and juvenile and adult probation agencies may obtain the social file if the court is satisfied that such file is necessary for ongoing investigatory purposes. The social file shall remain confidential in the hands of such persons.

(C) A diversion agreement shall be recorded in the social file as of the date the agreement was executed.

Section 92. Sealing of Records

(A) As used in Sections 91 to 96, "seal a record" means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records and that is accessible only to the court. A record that is sealed shall be destroyed by all juvenile justice or care agencies except the court.

(B) Upon motion to the court by any person previously subject to this Act

or such person's parents or guardian, and upon reasonable notice to all interested parties including the victim, the court may seal all records of any juvenile justice or care agency in the case under the following conditions:

- 1) Two years have elapsed from the later of
 - a) The final discharge of such person from the supervision of any agency charged with supervising juvenile offenders, or
 - b) The date of an order of the court, and
- 2) No court or criminal proceeding is pending against such person;
- 3) No proceeding is pending which involves the establishment of a diversion agreement with the person; and
- 4) The juvenile has never been convicted of [list serious felonies].

Section 93. Inspection and Correction

- (A) Upon motion to the court and reasonable notice to all interested parties, any person who reasonably believes that he or she is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may move the court for an order authorizing that person to inspect such records. The court shall grant the motion to examine records unless it finds that in the best interest of justice or of such person the records or parts of them should remain confidential.
- (B) Upon motion to the court and reasonable notice to all interested parties, any person who reasonably believes that he or she is included in the records of a juvenile justice or care agency may challenge the accuracy of any information concerning such person in the record or challenge the agency's continued possession of the record. If the court grants the motion, it shall order the record or information corrected or destroyed.

Section 94. Treatment and Research Inspection

- (A) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment, or to individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. This includes records sealed pursuant to Section 92.
- (B) Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records

for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents or guardian will remain confidential.

- (C) Except as otherwise provided in this section, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system and to the adult criminal justice system unless the court explicitly orders otherwise.
- (D) Violation of this section shall be a [misdemeanor].

Section 95. Expungement of Records

- (A) As used in Sections 95 and 96, "expunge a record" means to destroy the record or file of the juvenile.
- (B) In the event a delinquency proceeding against a juvenile is terminated in favor of such juvenile, all juvenile justice and care agencies shall expunge all records other than the official court file of a juvenile in connection with a given case and not make them available to any person or public or private agency, unless any interested party including the court, upon written motion with not less than [eight] days notice to such juvenile, demonstrates to the court that the interests of justice require that such records not be expunged.
- (C) For the purposes of this section, a delinquency proceeding shall be considered terminated in favor of a juvenile if
 - 1) The petition is withdrawn;
 - 2) No petition has been filed within the applicable period of limitations;
 - 3) The petition is dismissed; or

- 4) The juvenile has not been diverted or charged with any offense within twelve months from the date the juvenile completes a diversion agreement.
- (D) Every juvenile justice or care agency shall develop procedures for the routine destruction of all expunged records other than the official court file.
- (D) Nothing in this section may be construed to prevent the victim or members of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding, or to limit the use of a prior adjudication or diversion when otherwise permissible under state or federal law.

Section 96. Effect of Expungement

- (A) Whenever a record is sealed and remains sealed or is expunged, with respect to the matter in which the record was sealed or expunged, the proceedings in the case shall be treated as if they never occurred, and the person the subject of the record and his or her parent or guardian may inform any person or organization including employers, banks, credit companies, insurance companies, and schools that he or she was not taken into custody, did not appear before the court, did not enter into any diversion agreement, or was not adjudicated delinquent.
- (B) Any agency shall reply to any inquiry concerning sealed records that records are confidential and that no information can be given about the existence or nonexistence of records concerning an individual. The court shall authorize a person the subject of sealed records to inspect such records only upon such person's request.
- (C) The [Department of Motor Vehicles] shall, in its discretion, be exempt from any or all of the provisions of this section for records of a juvenile relating to adjudication or diversion for violations of Sections 97 to 103 [Alcohol Related Charges], or any municipal ordinance proscribing driving under the influence of intoxicants.

APPENDIX F

MODEL INTERAGENCY JUVENILE RECORD STATUTE OF THE NATIONAL SCHOOL SAFETY CENTER (1988)¹

A. The following records are confidential and shall not be released to the general public except as permitted by this statute:

1. Juvenile court records, which include both legal and social records (Legal records include petitions, dockets, motions, findings, orders and other papers filed with the court other than social records. Social records include social studies and medical, psychological, clinical or other treatment reports or studies filed with the court);
2. Juvenile social service, child protective service agency or multidisciplinary team records, whether contained in court files or in agency files (This includes all records made by any public or private agency or institution that now has or has had the child or the child's family under its custody, care or supervision.);
3. Juvenile probation agency records, whether contained in court files or in probation agency files;
4. Juvenile parole agency records, whether contained in court files or in parole agency files;

5. Juvenile prosecutor, state attorney, district attorney or county attorney records relating to juvenile cases;
6. Juvenile law enforcement records, including fingerprints and photographs; and
7. School records that are maintained by school employees on all students, including but not limited to, academic, attendance, behavior and discipline records.

B. Access to the records listed in Section A is permitted without court order for official use to the following:

1. All courts;
2. All probation or parole agencies;
3. All attorneys general, prosecutors, state attorneys, district attorneys, county attorneys;
4. All social service or protective service agencies or multi-disciplinary teams;
5. All law enforcement agencies;

¹ The National School Safety Center has proposed this model juvenile record-sharing statute for the stated purpose of "foster[ing] the sharing of information among those organizations and agencies that need information from juvenile records to adequately perform

their jobs as they work in an official capacity with youths and their families." The focus of the statute is restricted to the sharing of records among child-serving agencies and does not concern itself with the broader issue of public access to juvenile records.

6. All schools attended by the minor;
and
7. All persons, agencies or institutions
that have responsibility for the
custody, care, control or treatment
of the minor.

C. The juvenile court may issue an order releasing juvenile records to any person, agency or institution asserting a legitimate interest in a case or in the proceedings of the juvenile court.

D. Juvenile records may be sent to a central repository, which may be computerized. The central repository may be accessed by all agencies and organizations listed in Section B above.

E. The juvenile, the juvenile's parents and guardians and the juvenile's attorney may have access to the legal records maintained on the juvenile that are in the possession of the juvenile court without court order. The juvenile's attorney may have access to the social records maintained on the juvenile that are in the possession of the juvenile court and to the records listed in Section A above for use in the legal representation of the juvenile. The juvenile on whom records are maintained may petition the court to correct any information that is incorrect.

APPENDIX G

SAMPLE FORMS

Appendix G consists of several sample forms which were submitted as attachments to the law enforcement surveys. Each of the examples presented is specifically designed for juvenile matters and contains provisions for information which is peculiar to a juvenile proceeding.

The forms are as follows:

G.1. Juvenile Contact Form. Note items 32-36 which describe the offense for which the juvenile was contacted.

G.2. Juvenile Arrest and Information Sheet. Note that the sheet includes provisions for recording the disposition of the arrest.

G.3. Application for Juvenile Court Petition. Note the "Disposition of Petition Application" provisions.

G.4. Juvenile Complaint/Referral. Note the items relating to the offense description and statute reference.

G.5. Juvenile Intake Disposition Report and Affidavit in Support of Request to File Petition. Note that the information from all agencies involved in the case is consolidated in one form. Note also the detailed information required from the District Attorney when a case is closed.

G.6. Juvenile Record Summary. Note the provisions for both police dispositions and court dispositions.

G.7. Juvenile Record Information Card. Note the provisions for recording dispositions.

G.8. Juvenile Fingerprint Card. Note the manner in which the card is identified as a juvenile record. The "JUVENILES" notations on the actual card are red.

G.9.a. and G.9.b. Petition and Order for the sealing of juvenile records and files. Note the information contained in the Petition and the agencies included in the Order.

juvenile contact form

rochester police department

1. LAST NAME		FIRST		MIDDLE		1. DATE	
4. ALIAS / NICK NAME(S)		5. DATE OF BIRTH		6. PLACE OF BIRTH		7. JOB # FOR OFFICE USE ONLY	
8. ADDRESS 9. STREET, APT. #		CITY		STATE		ZIP CODE	
8. SEX / CHARACTERISTICS				10. AGE	11. SEX	12. RACE	13. NATURALITY <input type="checkbox"/> NATURALIZED <input type="checkbox"/> BORN ABROAD
14. CITIZEN	15. HEIGHT	16. WEIGHT	17. HAIR	18. EYES	19. COMPLEXION	20. RELIGION	21. SCHOOL & GRADE
22. FATHER'S NAME			ADDRESS 9. ST, APT #		RESIDENCE PHONE		BUSINESS PHONE
23. MOTHER'S NAME			ADDRESS 9. ST, APT #		RESIDENCE PHONE		BUSINESS PHONE
24. GUARDIAN'S NAME			ADDRESS 9. ST, APT #		RESIDENCE PHONE		BUSINESS PHONE
25. NARRATIVE OFFICER'S REMARKS (INCLUDE GUARDIAN'S RELATIONSHIP)							
26. CASE / INCIDENT ACTION							
<input type="checkbox"/> REFERRAL PARENT		<input type="checkbox"/> PETITIONED CHILDREN'S COURT/FAMILY COURT		<input type="checkbox"/> WARRANT - JURY		<input type="checkbox"/> WARRANT - FINE	
<input type="checkbox"/> REFERRAL AGENCY: _____		<input type="checkbox"/> PETITIONER RELEASED TO: _____					
27. PARENTAL RELEASE: I/we hereby give permission for a selected agency to give pertinent information about my/our child to the Rochester Police Department. Such information may include school or medical history, summary of testing, treatment and/or social intake.							
YOUTH _____				PARENT OR GUARDIAN _____			
28. PERIODS HISTORY OF INCIDENT & COURT APPEARANCES / DATE						29. RELATIONSHIP	
30. USABLE TO CONTACT PARENT <input type="checkbox"/>				31. AFFECTS			
32. LAW	33. NUMBER OF DAYS	34. CLASS - CATEGORY	35. OFFICER AFFECTS RELATIONSHIP TO UP	36. BUREAU			
OFFICER 27.	NAME	AGE	ADDRESS	RESIDENCE PHONE			
	EMPLOYER	ADDRESS			BUSINESS PHONE		
OFFICER	NAME	AGE	ADDRESS	RESIDENCE PHONE			
	EMPLOYER	ADDRESS			BUSINESS PHONE		
OFFICER	NAME	AGE	ADDRESS	RESIDENCE PHONE			
	EMPLOYER	ADDRESS			BUSINESS PHONE		
OFFICER	NAME	AGE	ADDRESS	RESIDENCE PHONE			
	EMPLOYER	ADDRESS			BUSINESS PHONE		
38. PLACE AND DATE OF ORIGIN			39. DATE / TIME & PLACE OF ARREST/CONTACT/REFERRAL			40.	
41. AGENCY / REFERRER OFFICER ID			42. OFFICER / YOUTH OFFICER TELEPHONE			1	

Sample Form G.1

Complaint No. _____

KNOX COUNTY SHERIFF'S DEPARTMENT
JUVENILE ARREST AND INFORMATION SHEET

Subject's Name _____ Last _____ First _____ Middle _____ Nickname _____

Address _____ City _____ State _____

Age _____ D.O.B. _____ Place of Birth _____ Sex _____ Race _____

Phone _____ School _____ Grade _____ Dropout (Circle One) Yes No

Hair Color _____ How Worn _____ Eyes _____ Height _____ Weight _____

Scars-Marks-Tattoos _____ Subject Was (Circle One) Arrested--Detained

Place of Detention (Circle One) Detention Home--Jail

Date of Arrest _____ Time of Arrest _____ Place of Arrest _____

(Circle One)

Witness or Victim _____ Address _____ Phone _____

Witness or Victim _____ Address _____ Phone _____

Specific Charges _____

GIVE DETAILED DISCRPTION OF CHARGES AND ARREST (VEHICLES, PROPERTY, ETC.)

Father's Name _____ Address _____

Mother's Name _____ Address _____

Were Parents Notified? _____ Time _____ By Whom _____

Arresting Officer(s) _____

Transporting Officer(s) _____

Juvenile Officer(s) _____

DO NOT WRITE BELOW THIS LINE-FOR JUVENILE DIVISION USE ONLY

HOW RELEASED _____ BOND _____ RELEASED TO _____

PETITION SIGNED (CIRCLE ONE) YES NO DATE _____ BY WHOM _____

PLEA _____ ATTORNEY _____

TRIAL DATE _____ DISPOSITION _____

APPLICATION FOR JUVENILE COURT PETITION

(Affidavit, Section 653 W&I Code)

		NO. BOOKINGS	TIME BOOKED
		AGE	DOB
MINOR'S NAME (Please Print)		ADDRESS	
MOTHER'S NAME	ADDRESS	HOME PHONE	WORK PHONE
FATHER'S NAME	ADDRESS	HOME PHONE	WORK PHONE
GUARDIAN OR RELATIVE'S NAME	ADDRESS	HOME PHONE	WORK PHONE
DATE, TIME AND PLACE OF ARREST		DATE AND TIME PARENTS NOTIFIED	

Minor NEEDS/DOES NOT NEED physical or mental attention. Explain if needed: _____

_____, APPLICANT'S NAME, _____, AGENCY, applies to the

Probation Officer/Prosecuting Attorney for proceedings in the Ventura County Superior Court, sitting as a Juvenile Court under Section 602 of the California Welfare and Institutions Code. Minor is/was residing in Ventura County.

Charge(s): _____

Basic facts of Offense(s) are: _____

(Please Continue on Reverse Side)

I declare, under penalty of perjury, that the foregoing facts are true and correct to the best of my knowledge.

Executed this _____ day of _____, 19____, at _____, California.

APPLICANT'S SIGNATURE

DISPOSITION OF PETITION APPLICATION

Case Name _____ Application Date _____

- | | | |
|---|--|---|
| <input type="checkbox"/> 1. Affidavit taken to prosecuting attorney on _____. | <input type="checkbox"/> a. Insufficient evidence. | <input type="checkbox"/> e. Referred to U.S. Department of Immigration. |
| <input type="checkbox"/> 2. Informal program initiated. | <input type="checkbox"/> b. Insufficient probable cause. | <input type="checkbox"/> f. Referred to out of county agency. |
| <input type="checkbox"/> 3. Application denied. | <input type="checkbox"/> c. Referred to C.Y.A. | <input type="checkbox"/> g. Interest of Justice. |
| | <input type="checkbox"/> d. Referred to P.S.S.A. | <input type="checkbox"/> h. Other _____ |

Name of District Attorney consulted _____ Intake Officer _____

Arresting Agency _____

CSA-10 (Rev. 1/77)

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
MARICOPA COUNTY, JUVENILE DIVISION
JUVENILE COMPLAINT/REFERRAL**

LAST NAME		FIRST	MIDDLE	RACE	CITIZENSHIP	SEX	AGE
AKA				BIRTH PLACE		BIRTHDATE (DOB)	
HEIGHT	WEIGHT	HAIR	EYES	SCARS OR MARKS			
HOME ADDRESS AND MAILING ADDRESS - CITY AND ZIP CODE						HOME PHONE	
JUVENILE ASSOCIATES WITH						RELATIONSHIP	
NATURAL PARENTS/GUARDIAN				HOW WERE PARENTS/GUARDIAN NOTIFIED? OFFICER: DATE/TIME:			
PARENTS/GUARDIAN ADDRESS - CITY and ZIP CODE (if different from home)				PARENTS PHONE		BUSINESS PHONE	
JUVENILE'S EMPLOYER				SCHOOL		GRADE	
OFFENSE TIME	DATE	OFFENSE DESCRIPTION	A.R.S. NO.	CLASS.	OFFENSE LOCATION	POLICE REPORT NO.	CONNECT-UP REPORT NO.
ARREST LOCATION			CHRG	PHYSICAL CONDITION			
CODEFENDANTS							
DETAILS OF OFFENSE <input type="checkbox"/> See DR Attached							
SUSPECTS PROPERTY:							
REFERRING AGENCY Phoenix Police Department			MCIC AZ 00723	DATE OF COMPLAINT			
NAME OF COMPLAINANT-(OFFICER) - PLEASE PRINT			SERIAL #	WORK UNIT ID.	SIGNATURE OF COMPLAINANT-(OFFICER)		
IF DETENTION REQUESTED, STATE REASON (SEE RULE 3, ARIZONA RULES OF PROCEDURE FOR JUVENILE COURT)							
<input type="checkbox"/> (1) THAT OTHERWISE HE WILL NOT BE PRESENT AT ANY HEARING; OR <input type="checkbox"/> (2) THAT HE IS LIKELY TO COMMIT AN OFFENSE INJURIOUS TO HIMSELF OR OTHERS; OR <input type="checkbox"/> (3) THAT HE MUST BE HELD FOR ANOTHER JURISDICTION; OR <input type="checkbox"/> (4) THAT THE INTEREST OF THE CHILD OR THE PUBLIC REQUIRE CUSTODIAL PROTECTION.							
EXPLANATION:							
<input type="checkbox"/> RELEASED	RELEASED TO	RELATIONSHIP	ADDRESS AND ZIP CODE	PHONE			
<input type="checkbox"/> DETAINED							
PROBATION OFFICE COPY							

Send 2 copies of Police Report with this completed form to Probation Officer.
ALAMEDA COUNTY JUVENILE INTAKE DISPOSITION REPORT
AFFIDAVIT IN SUPPORT OF REQUEST TO FILE PETITION UNDER SECTION 602 W&I

The undersigned hereby declares, upon information and belief:
 That he is a _____ of the _____
 California. That on _____ (Date)

(Name) _____ a minor,
 DOB: _____ age _____, who was within the County of Alameda, State of California, or residing therein,
 did come within the provisions of Section 602 of the Welfare and Institutions Code of the State of California by
 committing the crime(s) of _____

That said minor was arrested on _____, 19__ at _____ .m. by _____
 (arrest number _____).

That said minor committed said offense(s) in the manner and by the means as set forth and described in the
 following documents: _____

copies of which documents are attached hereto and incorporated by reference as though fully set forth.
 The above case was investigated by _____

That said documents were prepared in the ordinary course of business and pursuant to the sworn duty of the
 officer(s) subscribing same, and that declarant believes the contents thereof to be true.

That the contents of said documents provide probable cause to believe that the said minor committed
 said offense(s).

Dated: _____ at _____ Alameda County, California.

I declare under penalty of perjury that the foregoing is true and correct.

(Signed) _____ Phone: _____

CO-PARTICIPANTS (Name) (D.O.B.) (Action Taken)

Felony Misdemeanor
 Prior Police Contacts:
 Yes No
 (If yes, attach summary)

Police Agency Recommends:
 1. Petition to be filed (see attached report)
 2. Matter to be handled informally by Probation
 3. No recommendation

Person to be Notified of P.O. Action
 _____ (Name) _____ (Phone)

INTAKE DISPOSITION

PROBATION OFFICER DISPOSITION

1. Referred to District Attorney
2. Referral Closed after investigation
3. Reprimand, Case Closed
4. Reprimand, Continued Supervision by _____ (Supervising DPO)
5. Closed, Referred to Other Agency _____ (Agency Name)
6. S.O.U. or 601 W&I Referred to Service Center 601 Petition Filed
 Active to S.O.U. Closed
7. Informal Probation (654 W&I Code)
 Conditions: Fremont W.T.A. Restitution \$ _____
 Other: _____
8. Report to Court as additional misconduct in conjunction with a referral from
 (Agency) _____ For (Charges Filed) _____
9. Other (specify) _____
10. Reason(s) for above decision (#2-98): _____
 (Print-050 comments)

Police Agency notified regarding above decision (REFERRING AGENCY TO BE NOTIFIED WITHIN 21 COURT DAYS OF
 DATE OF THE ABOVE APPLICATION): Date: _____ Agency Contact _____

Agency stated intent to appeal to D.A.

After completion of form:
 Return original to referring agency
 Retain copy in P.O. folder

D.P.O. _____ (Notified by) _____ (Telephone)

Form No. 60-723 (Rev. 4/83)

5. Street No.		6. Street Name		7. City/State Address		8.	
9. Alias or Maiden Name				10. Place of Birth (State or Country)		11.	
12. Fingerprint Control No.		13. Date of Birth (M/D/Y)		14. Age		15. Sex	
16. Race		17. Skin		18. Hair		19.	
20. Height Ft.		21. Weight		22. Arresting Agency Name		23. Arresting Agency No.	
24. Arresting Agency No.		25. Date of Arrest		26. Place of Arrest (City & State)		27. Date of Arrest	
28. Place of Offense (City, County & State)		29. Date of Offense		30. Type of Arrest		31. Court of Jurisdiction (See Instructions)	
32. Name of Offense		33. NCIC Code		34. Property Invoice No.		35. Social Security No.	
36. Signature of Arrestee		37. No. of Offenders		38. No. of Victims		39. Signature of Arrestee	
40. Arrest Agency Case No.		41. No. of Offenders		42. No. of Victims		43. Signature of Arrestee	
1. Right Thumb		2. Right Index		3. Right Middle		4. Right Ring	
5. Right Little		6. Left Thumb		7. Left Index		8. Left Middle	
9. Left Ring		10. Left Little		11. Left Four Fingers Taken Simultaneously		12. Right Four Fingers Taken Simultaneously	

JUVENILE ARREST INFORMATION CARD <small>(For Persons Fingerprinted Pursuant to PCA § 734a)</small> Arresting Officer - Submit To Probation Service or Governmental Authority Presenting J.D. Petition			See back for full instructions - Please print or type Always complete items in Section A			14. Family Court Docket Number(s) <small>(Use All Docket Numbers of Petitions Filed for This Arrest)</small>		
A 1. Name of Person Fingerprinted (Last, First, Middle)		2. Sex		3. Control No.		15. Date of Action (s) Filed		
4. Date of Birth (M/D/Y)		5. NYS No.		6. No. of Fingers		16. Signature of Probation Officer		
7. Fingerprint Control No.		8. For PROBATION USE - Adjustments / Terminations		9. Date of Adjustment / Termination		17. Signature of Official		
<input type="checkbox"/> Case Adjusted / Terminated By Probation - No Family Court Petition Filed		<input type="checkbox"/> No Family Court Petition Filed As The Result Of Action By:		12. Date of Action		<input checked="" type="checkbox"/>		
(Check Appropriate Item)		<input checked="" type="checkbox"/> District Attorney		<input type="checkbox"/> County Attorney		<input type="checkbox"/> Corp. Counsel		<input type="checkbox"/> Other

Sample Form G.8

IN THE JUVENILE COURT OF COLUMBUS, GEORGIA

IN THE INTEREST OF: _____ FILE NUMBER _____
_____ SEX _____
SOCIAL SECURITY NO. _____ AGE _____
_____ DATE OF BIRTH _____

TO THE JUVENILE COURT OF COLUMBUS, GEORGIA

1. Your petitioner alleges that the above-named person to be of the sex and age and to have the name there set forth;

that the father of the above is _____,

who resides at _____,

the mother is _____,

who resides at _____,

said named person resides at _____,

in said county and state, and is in the actual custody, possession, and control

of _____,

who resides at _____,

that said person makes application to the Court for an Order sealing his files and records by reason

of the facts set forth below; that the above-named person is subject to the jurisdiction of this Court

and the above facts of this application are within the jurisdiction of this Court; that the within

application is filed in the best interest of the public and the within-named person.

2. That more than two (2) years have elapsed since the above-named was finally discharged from the jurisdiction of this Court for any cause or the Department of Human Resources, Division of Family and Children Services.

3. That since the final discharge he has not been convicted of a felony or of a misdemeanor involving moral turpitude or adjudicated a delinquent or unruly child and no proceeding is pending seeking conviction or adjudication.

4. That he has been rehabilitated.

5. Petitioner requests that all files, records, fingerprints, photographs, and any reference to same be sealed, the same being in the best interest and welfare of the above-named person and of the community.

Petitioner prays that process issue and notice be directed to all parties according to law requiring them to show cause why said application should not be granted.

PETITIONER

SUBSCRIBED AND SWORN TO BEFORE ME

THIS _____ DAY OF _____, 19____.

NOTARY PUBLIC, MUSCOGEE COUNTY, GEORGIA

6420-014 8/76

IN THE JUVENILE COURT OF COLUMBUS, GEORGIA

IN THE INTEREST OF _____ FILE NUMBER _____
_____ SIX _____
SOCIAL SECURITY NO. _____ AGE _____
_____ DATE OF BIRTH _____

ORDER

Petition having been filed in this Court on _____ by the above-named individual moving the Court seal his/her records in the Juvenile Court and that the necessary parties be notified as to the sealing of his/her record; proper notice having been made to the Department of Human Resources, District Attorney, and Law Enforcement Department of said city and county in accordance with Section 24A-2504 of the Georgia Juvenile Court Code of 1971, as amended.

The investigation revealing that no further action has been brought against this individual in the Juvenile Court of Columbus, Georgia, since _____, and no objections having been filed in regard to said petition, the said petition is hereby granted, and

IT IS ORDERED that all records in the Juvenile Court of Columbus, Georgia, in the State Department of Human Resources, Sheriff's Department, Police Department, and in any other law enforcement agency with regard to any reference to said individual of offense brought in the Juvenile Court of Columbus, Georgia, including all index references, reports, files, fingerprints, or memoranda, and said record of said individual be and is hereby sealed and treated as if it never occurred.

This _____ day of _____, 19 _____.

JUDGE, JUVENILE COURT OF COLUMBUS, GEORGIA

APPENDIX H

AGE AT WHICH JUVENILE STATUS FOR JUVENILE
DELINQUENTS TERMINATES¹

AGE 16	AGE 17	AGE 18	AGE 19
Connecticut	Georgia	Alabama	Wyoming
District of Columbia ²	Illinois	Alaska	
New York	Louisiana	Arizona	
North Carolina	Massachusetts	Arkansas	
Vermont	Missouri	California	
	South Carolina	Colorado	
	Texas	Delaware	
		District of Columbia ³	
		Florida	
		Hawaii	
		Idaho	
		Indiana	
		Iowa	
		Kansas	
		Kentucky	
		Maine	
		Maryland	
		Michigan	
		Minnesota	
		Mississippi	
		Montana	
		Nebraska	
		Nevada	
		New Hampshire	
		New Jersey	
		New Mexico	
		North Dakota	
		Ohio	
		Oklahoma	
		Oregon	
		Pennsylvania	
		Rhode Island	
		South Dakota	
		Tennessee	
		Utah	
		Virginia	
		Washington	
		West Virginia	
		Wisconsin	
		United States ⁴	
Total=5	Total=7	Total=40	Total=1

APPENDIX H (cont.)

Footnotes

¹ Some states may extend juvenile status beyond the age limits stated here for individuals who are alleged to be children in need of supervision. *See, e.g.,* VT. STAT. ANN. tit. 33, § 632(a)(1).

² This age limit is limited to individuals charged with murder, forcible rape, burglary in the first degree, robbery while armed, or assault with intent to commit any of the enumerated offenses. It also includes individuals charged with one of the enumerated offenses which is joined with another

offense, to those who subsequently plead or are found guilty of a lesser included offense, and to individuals charged with a traffic offense. D.C. CODE § 16-2301(3).

³ This age limit does not apply for certain enumerated offenses. *See id.*

⁴ This age limit is applicable to those adjudicated under the jurisdiction of the federal courts. 18 U.S.C.A. § 5031.

APPENDIX I

STATUTORY AUTHORITY TO FINGERPRINT JUVENILES

State	Statutory Citation
Alabama	ALA. CODE §12-15-102
Alaska	1988 ALASKA SESS. LAWS, chap. no. 121
Arizona*	
Arkansas	ARK. STAT. ANN. §45-419
California	CAL. WELF. & INST. CODE §240 (Deering) ¹
Colorado	COLO. RULES OF JUV. P. 9.1 (1975) ²
Connecticut	CONN. GEN. STAT. ANN. §46b-133 (Supp. 1986) (West)
Delaware	DEL. CODE tit. 10, §930 ³
District of Columbia	D.C. CODE §16-2334 ⁴
Florida	FLA. STAT. §39.031
Georgia	GA. CODE §15-11-60
Hawaii	HAW. REV. STAT. §571-74 ⁵
Idaho	IDAHO CODE §16-1811(6) (Cum. Supp. 1987)
Illinois	ILL. REV. STAT. ch. 37, §702-8(B) (Cum. Supp. 1987) (Smith-Hurd) ⁶
Indiana	IND. CODE §31-6-8-1.5
Iowa	IOWA CODE §232.148
Kansas	KAN. STAT. §38-1611
Kentucky	KY. REV. STAT. ANN. §610.220(d) (Baldwin) (eff. 7/1/87)
Louisiana	L A. CODE JUV. PRO., Art. 36 (West)
Maine	ME. REV. STAT. tit. 25, 1542(1)(B) (Supp. 1986)
Maryland	1 MD. RULES, 909(6)(c) ⁷
Massachusetts*	
Michigan*	
Minnesota	MINN. STAT. §299C.10
Mississippi	MISS. CODE ANN. §43-21-255
Missouri	MO. REV. STAT. §211.151(3)
Montana	MONT. REV. CODES ANN. §41-5-304(1)(a)
Nebraska	NEB. REV. STAT. §43-252
Nevada	NEV. REV. STAT. §62.265
New Hampshire*	
New Jersey	N.J. REV. STAT. §2A:4A-61
New Mexico	N.M. STAT. ANN. §32-1-27
New York	N.Y. FAM. CT. ACT §306.1 (McKinney)
North Carolina*	
North Dakota	N.D. CENT. CODE §27-20-53(1) (Supp. 1985)
Ohio	OHIO REV. CODE ANN. §2151.313 (Supp. 1986) (Anderson)
Oklahoma	OKLA. STAT. ANN. tit. 10, §1127 (Cum. Supp. 1987) (West)
Oregon	OR. REV. STAT. §419.584
Pennsylvania	42 PA. CONS. STAT. ANN. §6308(c) (Cum. Supp. 1987) (Purdon)

APPENDIX I (cont.)

State	Statutory Citation
Rhode Island* ⁸	
South Carolina	S.C. CODE §20-7-780
South Dakota	S.D. COMPILED LAWS ANN. §26-8-19.6
Tennessee	TENN. CODE ANN. §37-1-155
Texas	TEX. FAM. CODE tit. 3, §51.15
Utah	UTAH CODE ANN. §78-3a-55
Vermont	VT. STAT. ANN. tit. 33, §664
Virginia	VA. CODE §16.1-299
Washington	WASH. REV. CODE ANN. §13.04.130 (Cum. Supp. 1987)
West Virginia	W.VA. CODE §49-5-17(a) ⁹
Wisconsin*	
Wyoming	WYO. STAT. §14-6-240
United States	18 U.S.C.A. §5038(d)

* Jurisdiction has no mention or authorization in the statutes for fingerprinting juveniles.

¹ The authority to fingerprint is not explicit in the juvenile code, however, the statute permits the Department of Justice to transmit fingerprints of a minor to a law enforcement agency for the purpose of identification or requesting history of the minor from an agency.

² Authority to fingerprint is pursuant to court rule, not statute.

³ Authority to fingerprint is not explicit in the juvenile code, however, the statute providing for expungement of juvenile records includes expungement of fingerprints.

⁴ No statute specifically confers authority to fingerprint, however, the statute indicated governs dissemination of a child's fingerprint files.

⁵ The statute authorizes courts to promulgate rules and standards governing the taking of fingerprints.

⁶ The authority to fingerprint is not explicit in the juvenile code, but the statute does prohibit transmittal of fingerprints to the Adult Division of the Department of Corrections, the Department of State Police, or to the Federal Bureau of Investigation.

⁷ Authority to fingerprint is pursuant to rule, not statute. Fingerprints are taken when the State requests that the juvenile be fingerprinted.

⁸ Fingerprinting is statutorily authorized only for voluntary plans or programs, and all records are given immediately to the child's parent or guardian. R.I. GEN. LAWS § 42-28.7-1 (Cum. Supp. 1986).

⁹ There is no specific authorization for fingerprinting juveniles, however, the purging statute includes fingerprints.

APPENDIX J

STATUTORY PROVISIONS FOR DESTRUCTION
AND RETENTION OF FINGERPRINT RECORDS

STATE	Method of Destruction		Circumstances for Destruction				Repository Maintenance		
	(1) Seal	(2) Destroy	(1) Negative Latent	(2) No Petition Filed	(3) Favorable Outcome	(4) Clean Record	Fingerprints Returned to Court	Maintenance in Central Repository	Reason Fingerprints Sent To Central Repository
Alabama		x	x	x	x	x		x	felony offense*
Alaska**								x	felony offense
Arizona***									
Arkansas							x		
California	x†							x	††
Colorado	x								
Connecticut		x†							
Delaware		x							
District of Columbia	1								
Florida		x		x	x			x	felony offense
Georgia		x	x	x	x	x		2	††
Hawaii 3									
Idaho		x4							
Illinois	x†							5	††
Indiana		x6		x	x				
Iowa		x	x	x	x	x			
Kansas	x†7							x	felony offense 8
Kentucky	x†								
Louisiana		x†							
Maine								x	††
Maryland***									
Massachusetts***									
Michigan***									
Minnesota***									
Mississippi		x†							
Missouri	x†								
Montana		x9							
Nebraska	x†							x	felony offense 10
Nevada		x	x	x				x	felony offense*
New Hampshire***									
New Jersey		x 11							
New Mexico	x†								
New York		x 12		x				x	††
North Carolina**									
North Dakota		x	x	x	x	x			
Ohio	x	x					x		
Oklahoma		x	x					x	adjudicated or admits offense
Oregon		x		x	x				
Pennsylvania		x						x	felony or firearms offense
Rhode Island***									
South Carolina***									
South Dakota	x†							x	felony or misdemeanor of moral turpitude
Tennessee		x 13	x	x	x	x			
Texas		x	x	x	x	x			
Utah	x†						x		
Vermont		x	x					x 14	††
Virginia		x							
Washington		x 16							
West Virginia***									
Wisconsin***									
Wyoming		x						x	felony offense
United States***									

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APPENDIX J (cont.)

Footnotes

* The juvenile must also be 14 years of age or older.

** The juvenile must also be 16 years of age or older.

*** The jurisdiction has no mention or authorization in the statutes for the fingerprinting of juveniles.

† Sealing or expungement is pursuant to a general purging statute for juvenile records.

†† The statute sets forth no limitations or qualifications for the forwarding of juvenile fingerprints to a central repository; however, there may be restrictions on the initial taking of fingerprints, for example, for felony offenses only.

¹ Although there is a statutory provision for the sealing of all juvenile records, a separate statute appears to make an exception for fingerprints. See D.C. CODE §§ 16-2333-2334.

² Fingerprints are forwarded only if needed in the interest of national security. § 15-11-60(b).

³ Fingerprinting standards are governed by court rule. See HAW. REV. STAT. § 571-74.

⁴ If a child's detention for an offense is found to be unlawful, expungement is mandatory, unless the court orders otherwise after a hearing. IDAHO CODE § 16-1811(6) (Cum. Supp. 1987).

⁵ Fingerprints may be transmitted to the Department of Corrections, Adult Division, or State Police, or Federal Bureau of Investigation if authorized by the court. ILL. REV. STAT. ch. 37, § 702-8(B) (Cum. Supp. 1987) (Smith-Hurd).

⁶ If the individual has a record of prior arrests or has another charge pending, the fingerprints need not be destroyed. IND. CODE § 31-6-8-1.5(d)(4).

⁷ Fingerprints must be sent to a state or federal repository if the juvenile is in custody for an offense which, if committed by an adult, would be a felony. KAN. STAT. § 38-1611(c)(2). If the offense is not a felony, the juvenile's fingerprints

are sent only if authorized by the the judge having jurisdiction over the case. KAN. STAT. § 38-1611(c)(1).

⁸ *Id.*

⁹ Fingerprints must be destroyed at the time the individual reaches the age of majority, unless the judge orders them destroyed at an earlier date. MONT. REV. CODES ANN. § 41-5-304(2).

¹⁰ Fingerprints may also be forwarded if the juvenile unlawfully terminated his commitment to a youth development center or is a runaway, and the fingerprints are needed for identification. NEB. REV. STAT. § 43-252(3).

¹¹ Latent fingerprints must be destroyed when the purpose for their use has been fulfilled. N.J. REV. STAT. § 2A:4A-61(a)(1).

¹² Fingerprints are destroyed only when the juvenile is not adjudicated delinquent for a felony act, or is 11 or 12 years of age and is not adjudicated for certain enumerated felony acts. N.Y. FAM. CT. ACT § 354.1(2)(McKinney).

¹³ Fingerprints are not destroyed if taken of an individual alleged to have committed an act which, if committed by an adult, would be a felony. TENN. CODE ANN. § 37-1-155.

¹⁴ Fingerprints are sent to a central repository only in national security cases. VT. STAT. ANN. tit. 33 § 664(b).

¹⁵ Fingerprints are also destroyed if the juvenile is less than 13 years of age and is adjudicated delinquent. VA. CODE § 16.1-299(C)(2).

¹⁶ If the juvenile's arrest for a felony offense is found to be unlawful, the court must order the fingerprints expunged, unless after a hearing, the court orders otherwise. WASH. REV. CODE ANN. § 13.04.130(2) (Cum. Supp. 1987).

¹⁷ If the juvenile is not adjudicated delinquent or a consent decree is entered for a felony act, the fingerprints are destroyed. WYO. STAT. § 14-6-201(b).

APPENDIX K

STATUTORY PROVISIONS FOR DISSEMINATION AND ACCESS TO JUVENILE LAW ENFORCEMENT RECORDS

STATE	OTHER LAW ENFORCEMENT FOR INVESTIGATION	PROSECUTORS	USE IN ADULT COURT		SOCIAL WELFARE AGENCIES TO WHOM COMMITTED OR RESPONSIBLE FOR SUPERVISION	MILITARY OR FOR NATIONAL SECURITY	PROBATION PAROLE	CHILD/PARENT/ ATTORNEY- REPRESENTATIVE
			(1) GUILT PHASE	(2) SENTENCING PHASE				
Alabama 1	x			x	x		x	x
Alaska								x
Arizona	x 2	x 3						x 4
Arkansas	x 5							
California	x							
Colorado	x			x			x	
Connecticut*								
Delaware				x 6				
District of Columbia	x				x		x	x
Florida	x				x		x	x
Georgia 7	x			x	x	x	x	x
Hawaii								
Idaho								
Illinois	x	x	x	x 8	x	x	x	
Indiana	x	x	x 9	x	x			x
Iowa	x			x	x			x
Kansas	x	x			x			x
Kentucky								
Louisiana 11								
Maine 12								
Maryland	x	x				x		
Massachusetts								
Michigan*								
Minnesota 13								
Mississippi	x	x			x		x	x
Missouri 14								
Montana	x	x		x	x		x	x
Nebraska*								
Nevada*								
New Hampshire							x	x
New Jersey	x	x	x 15	x	x		x	x
New Mexico* 16								
New York 17				x				x
North Carolina		x						x
North Dakota	x	x		x	x		x	x
Ohio	x							
Oklahoma*								
Oregon	x	x						x
Pennsylvania	x	x		x	x	x	x	x
Rhode Island				19		x		x 20
South Carolina 22								
South Dakota 23				x				
Tennessee	x	x		x		x	x	x
Texas	x	x				x		x
Utah*								
Vermont	x	x			x		x	
Virginia	x 24						x	x 25
Washington	x		x 26	x 27	x			x 28
West Virginia 29				x			x	x
Wisconsin	x	x 31			x			x 32
Wyoming 34								
United States	x	x		x	x	x	x	x

APPENDIX K (cont.)

STATE	VICTIM	SCHOOL	INSTITUTION TO WHICH COMMITTED	RESEARCH	OTHERS WITH A LEGITIMATE INTEREST	OTHER
Alabama 1			x		x	
Alaska						person /agency making investigation for court
Arizona						
Arkansas						
California				x	x	
Colorado	x				x	
Connecticut*						
Delaware						
District of Columbia			x		x	
Florida					x	
Georgia 7			x	x		
Hawaii					x	official duties are concerned with juvenile statutes
Idaho						
Illinois	x		x	x		
Indiana	x			x	x	
Iowa			x	x 10	x	
Kansas				x		
Kentucky						
Louisiana 11					x	
Maine 12						criminal justice agencies where employment sought
Maryland			x	x	x	
Massachusetts			x			
Michigan*						
Minnesota 13						
Mississippi	x			x	x	
Missouri 14						
Montana			x		x	
Nebraska*						
Nevada*						
New Hampshire			x		x	presumption of dissemination if for enumerated felonies
New Jersey	x	x	x		x	
New Mexico* 16						
New York 17						
North Carolina						
North Dakota			x			
Ohio						
Oklahoma*						
Oregon	x 18					
Pennsylvania			x		x	identification and disposition if for enumerated felonies
Rhode Island	21					
South Carolina 22						
South Dakota 23						
Tennessee			x		x	
Texas						
Utah*						
Vermont	x		x			
Virginia					x	
Washington	x		x	x		
West Virginia 29			x	x		
Wisconsin	x 33	x				
Wyoming 34						
United States	x		x			

APPENDIX K (cont.)

Footnotes

* The jurisdiction has no mention or specific authorization regarding dissemination and access to juvenile law enforcement records.

¹ By rule, the local courts may adopt rules to enforce the confidentiality of juvenile law enforcement records. ALA. R. JUV. P. 19 (1977).

² Arrest records which are in the possession of the juvenile court must be released upon request to the indicated party. ARIZ. REV. STAT. § 8-208B.

³ *Id.*

⁴ *Id.*

⁵ The statutory provision covers only fingerprints and photographs. ARK. STAT. ANN. § 45-419.

⁶ The records may also be released for the purpose of determining conditions of release or bail. DEL. CODE tit. 10, § 930.

⁷ Inspection by the indicated parties is permitted only with the consent of the court unless the interests of national security. GA. CODE § 15-11-59.

⁸ Access is also permitted for the purpose of setting bail. ILL. REV. STAT. ch. 37, § 702-8(A)(3)(b) (Cum. Supp. 1987) (Smith-Hurd).

⁹ The records may be used to impeach the record subject if he is a witness or to discredit the subject's reputation if he places it in evidence. IND. CODE § 260.161 Subd. 3.

¹⁰ Access is permitted with a court order. IOWA CODE § 232.149(4)(a).

¹¹ Records of arrests, convictions, or adjudications may be released if the individual was previously adjudicated delinquent and is subsequently arrested or charged with any crime or delinquent act. Records may also be released if the juvenile is adjudicated for felony act, a misdemeanor against the person, or a misdemeanor

involving a dangerous weapon. LA. CODE JUV. PRO., Art. 123(C).

¹² Access is permitted only with the consent of the court. ME. REV. STAT. tit. 15, § 3308(5) (Cum. Supp. 1986).

¹³ Records are not open to public inspection except by order of the juvenile court. MINN. STAT. § 260.161 Subd. 3.

¹⁴ Inspection is permitted by court order only. MO. REV. STAT. § 211.321 (Supp. 1983).

¹⁵ With court approval, a party in a subsequent legal proceeding may have access to the individual's records for the purpose of impeaching the individual. N.J. REV. STAT. § 2A:4A-60(c)(4).

¹⁶ The juvenile records which are closed to the public are enumerated in the statutes of New Mexico; *not* included in the list are law enforcement records and legal records in delinquency proceedings. N.M. STAT. ANN. § 32-1-44.

¹⁷ Access by the indicated parties requires a court order. N.Y. FAM. CT. ACT § 381.3(2) (McKinney).

¹⁸ Access is permitted only with court order. OR. REV. STAT. § 419.584(4)(g).

¹⁹ If the finding of delinquency is based upon an act which would be a felony if committed by an adult, the court record may be used for sentencing recommendations. R.I. GEN. LAWS § 14-1-40 (Cum. Supp. 1986).

²⁰ Access is permitted by court order. R.I. GEN. LAWS § 14-1-64.

²¹ Upon the victim's motion, the court may release the name and address of the juvenile for the purpose of allowing the victim to commence a civil action. R.I. GEN. LAWS § 14-1-66 (Cum. Supp. 1986).

APPENDIX K (cont.)

Footnotes

²² Records are not open to public inspection, but are open to other governmental agencies when approved by the court. S.C. CODE § 20-7-600(d) (eff. 5/26/87).

²³ The records shall not be disclosed to the public except by order of the court, or where held for criminal proceedings, or as indicated for sentencing. S.D. COMPILED LAWS § 26-8-19.5.

²⁴ A court order is required for the release of the records to the indicated party. VA. CODE § 16.1-301(B)(4).

²⁵ Access is permitted by order of the court. VA. CODE § 16.1-301(B)(4).

²⁶ Access is subject to the rules of discovery and other rules of law applicable to adult criminal prosecutions and investigations. WASH. REV. CODE ANN. § 13.50.050(6).

²⁷ *Id.*

²⁸ *Id.*

²⁹ Disclosure to the parties indicated is by court order only. W. VA. CODE § 49-5-17(d).

³⁰ Access is pursuant to statutory discovery provisions. WIS. STAT. ANN. § 48.293 (West).

³¹ *Id.*

³² *Id.*

³³ The records are available upon petition to the court. WIS. STAT. ANN. § 48.396(5) (West).

³⁴ The records are not open to public inspection without the written consent of the court. WYO. STAT. § 14-6-240(d).

APPENDIX L

SEALING JUVENILE RECORDS

State	Court Statutory Citation Only	Court and Records Records	Police	Access
Alabama*	ALA. CODE §12-15-103		x	court order
Alaska**	ALASKA STAT. §47.10.090	x		court order
Arizona***				
Arkansas***				
California	CAL. WELF. & INST. CODE §781 (Cum. Supp. 1987)		x	court order
Colorado†	COLO. REV. STAT. §19-1-111		x	court order
Connecticut***				
Delaware***				
District of Columbia	D.C. CODE §16-2335		x	court order
Florida	FLA. STAT. §39.12	x		child care employment
Georgia	GA. CODE §15-11-60		x	no mention
Hawaii***				
Idaho†	IDAHO CODE §16-1816A		x	court order
Illinois***				
Indiana***				
Iowa	IOWA CODE §232,150 (Cum. Supp. 1987)		x	court order
Kansas†	KAN. STAT. §38-1610		x	court order
Kentucky†	KY. REV. STAT. §610.330 (Baldwin)		x	
Louisiana***				
Maine***				
Maryland	MD. CTS. & JUD. PROC. CODE ANN. §3-828	x		court order
Massachusetts***				

APPENDIX L (cont.)

State	Statutory Citation	Court Records Only	Court and Police Records	Access
Michigan***				
Minnesota***				
Mississippi	MISS. CODE ANN. §43-21-263		x ¹	court order
Missouri	MO. REV. STAT. §211.321		x	no mention
Montana**	MONT. REV. CODES ANN. §41-5-604		x	no mention
Nebraska	NEB. REV. STAT. §43-2,105		x	court order
Nevada**	NEV. REV. STAT. §62.275		x	court order
New Hampshire**	N.H. REV. STAT. ANN. §169-B:35 (Cum. Supp. 1986)		x	court order
New Jersey*	N.J. REV. STAT. §2A:4A-62		x	court order
New Mexico* ²	N.M. STAT. ANN. §32-1-45		x	court order
New York	N.Y. FAM. CT. ACT §§375.1 ³ and 375.2 ⁴		x	§375.1 — respondent or his agent
North Carolina				
North Dakota	N.D. CENT. CODE §27-20-53(1) (Supp. 1985)	x		no mention
Ohio	OHIO REV. CODE ANN. §2151.358 (Supp. 1986)		x ⁵	no mention
Oklahoma***				
Oregon***				
Pennsylvania***				
Rhode Island***				
South Carolina***				
South Dakota	S.D. COMPILED LAWS ANN. §26-8-57.1		x	court order

APPENDIX L (cont.)

State	Statutory Citation	Court Records Only	Court and Police Records	Access
Tennessee***				
Texas	TEX. FAM. CODE tit. 3, §51.16		x	court order
Utah†	UTAH CODE ANN. §78-3a-56		x	court order
Vermont‡	VT. STAT. ANN. tit. 33, §665		x	court order
Virginia**	VA. CODE §16.1-306	x		sentencing courts
Washington*	WASH. REV. CODE ANN. §13.50.050		x	court order
West Virginia**†	W.VA. CODE §49-5-17		x	court order
Wisconsin***				
Wyoming	WYO. STAT. §14-6-239	x		court order
United States***				

*A subsequent delinquency adjudication or conviction nullifies the sealing order.

**Sealing is automatic when statutorily imposed conditions are met.

***Sealing of juvenile records is not statutorily mandated in this jurisdiction.

†Statutory terminology refers to the procedures as "expungement" or "expungement and sealing"; the procedure within the context of this study is construed as "sealing."

1 The statute authorizes the court to order the sealing of records "involving children"; it is assumed that such language is broad enough to include law enforcement records.

2 A subsequent adjudication for a child in need of supervision may also, in the judge's discretion, result in nullification of the sealing order.

3 Sealing provisions if the proceedings are terminated in favor of the juvenile.

4 Sealing provisions if a finding of juvenile delinquency is made.

5 When a record is sealed by the court, it must be destroyed by all other governmental bodies.

APPENDIX M

EXPUNGEMENT OF JUVENILE RECORDS

State	Statutory Citation	Court Records Only	Court and Police Records
Alabama	ALA. CODE §12-15-103		x
Alaska**			
Arizona	ARIZ. REV. STAT. §8-247 (1986 Supp.)		x
Arkansas	ARK. STAT. ANN. §45-441.1	x	
California	CAL. WELF. & INST. CODE §781 (Cum. Supp. 1987)		x ¹
Colorado*			
Connecticut ²	CONN. GEN. STAT. ANN. §46b-146 (Supp. 1986) (West)		x
Delaware	DEL. CODE tit. 10, §930		x
District of Columbia*			
Florida	FLA. STAT. §39.12	x	
Georgia*			
Hawaii*			
Idaho*			
Illinois	ILL. REV. STAT. ch. 37 §702-11 (Cum. Supp. 1987) (Smith-Hurd)		x
Indiana	IND. CODE §31-6-8-2		x ³
Iowa*			
Kansas*			
Kentucky			
Louisiana	LA. CODE JUV. PRO., Art. 124-128		
Maine*			
Maryland*			
Massachusetts ⁴			
Michigan*			
Minnesota	MINN. STAT. §§260.194-260.195	x ⁵	
Mississippi	MISS. CODE ANN. §§43-21-265 and 67-3-70 (Cum. Supp. 1986) ⁶		x
Missouri	MO. REV. STAT. §211.321	x ⁷	
Montana	MONT. REV. CODES ANN. §41-5-604		x
Nebraska*			
Nevada*			
New Hampshire ⁸			
New Jersey ⁹			
New Mexico*			

APPENDIX M (cont.)

State	Statutory Citation	Court Records Only	Court and Police Records
New York	N.Y. FAM. CT. ACT. §§375.3 ¹⁰		x ¹¹
North Carolina	N.C. GEN. STAT. §7A-676		x
North Dakota	N.D. CENT. CODE §27-20-54 (Supp. 1985)		x
Ohio	OHIO REV. CODE ANN. §2151.358 (Supp. 1986)		x ¹²
Oklahoma	OKLA. STAT. ANN., tit. 10, §1506 (Cum. Supp. 1987)		x
Oregon	OR. REV. STAT. §§419.800-419.839		x
Pennsylvania	18 PA. CONS. STAT. ANN. §9123 (1986 Pa. Legis. Serv.)		x
Rhode Island*			
South Carolina	S.C. CODE §20-7-1335 (eff. 5/26/87)		x
South Dakota*			
Tennessee*			
Texas	TEX. FAM. CODE tit. 3, §51.16		x
Utah ¹³	UTAH CODE ANN. §78-3a-57	x ¹⁴	
Vermont*			
Virginia	VA. CODE §16.1-306	x	
Washington*	WASH. REV. CODE ANN. §13.50.050		x
West Virginia*			
Wisconsin* ¹⁵			
Wyoming	WYO. STAT. §14-6-241		x
United States*			

* Expungement (destruction) is not statutorily mandated in this jurisdiction.

¹Pursuant to the California statute, unless for good cause, the court must order sealed court records destroyed at age 38 if the individual was adjudicated for a crime. Others in possession of sealed records *may* destroy the records five years after the record was ordered sealed.

²Expungement orders are called "erasure orders" in Connecticut. Expungement is automatic if the individual is dismissed as delinquent.

³The records may either be destroyed or given to the record subject.

APPENDIX M (cont.)

Footnotes

⁴By caselaw, courts have the authority to order expungement of police records if the utility of the records for law enforcement purposes is likely to be minimal or non-existent. *Police Comm'r of Boston v. Municipal Court of Dorchester Dist.*, 374 Mass. 640, 374 N.E.2d 272 (1978).

⁵Expungement authority is limited to (1) the adjudication of a child as an habitual truant, runaway, or juvenile petty offender, MINN. STAT. § 260.194 Subd. 2; and (2) the adjudication of a child as a juvenile alcohol or controlled substance offender, MINN. STAT. § 260.195 Subd. 7. In either case, the adjudication may be expunged at any time the court deems advisable.

⁶A special expungement provision is included in the alcoholic beverages chapter regarding those under the age of 21 convicted of purchasing light wine or beer, which is a misdemeanor under Mississippi law.

⁷The statute provides for the destruction of all social histories, records and information other than the official court file; the official court file and law enforcement records may be sealed. *See* Appendix L.

⁸Expungement provisions are limited to the automatic expungement at age 18 for records pertaining to children in need of services. N.H. REV. STAT. ANN. § 169-D: 25 (Cum. Supp. 1986).

⁹The expungement of juvenile records is covered by the provisions of chapter 52 of title 2C of the New Jersey statutes; however, expungement is defined as the "extraction and isolation" of records, and therefore does fall within the parameters of this summary. N.J. STAT. ANN. § 2C:52-2-2C:52-4.1 (West).

¹⁰The New York statute recognizes the inherent authority of the court to order expungement of court records.

¹¹By caselaw, the courts may order the expungement of law enforcement records. *See, e.g., Matter of Todd H.*, 49 N.Y.2d 1022, 429 N.Y.S.2d 401, 406 N.E.2d 1338 (1980).

¹²Pursuant to the expungement statute, if the applicant for expungement does not waive his right to bring a civil action based upon the arrest, the court must retain a copy of all records pertaining to the case, except fingerprints, until the applicant executes a written waiver, or until the statute of limitations expires, or until any pending litigation based upon the arrest is terminated.

¹³Although the sealing provisions are referred to as "expungement", there are also limited provisions for the destruction of records pursuant to Utah law. *See infra* note 14.

¹⁴The limitations on the destruction of records in Utah are great and effectively swallow the provision. Records which may not be expunged include the petition, summons, findings, orders, decrees, and any other records the court selects.

¹⁵Courts are specifically prohibited, by caselaw, from ordering the expungement of juvenile law enforcement records. *See, e.g., In Interest of E.C.*, 130 Wis.2d 376, 387 N.W.2d 72 (1986).

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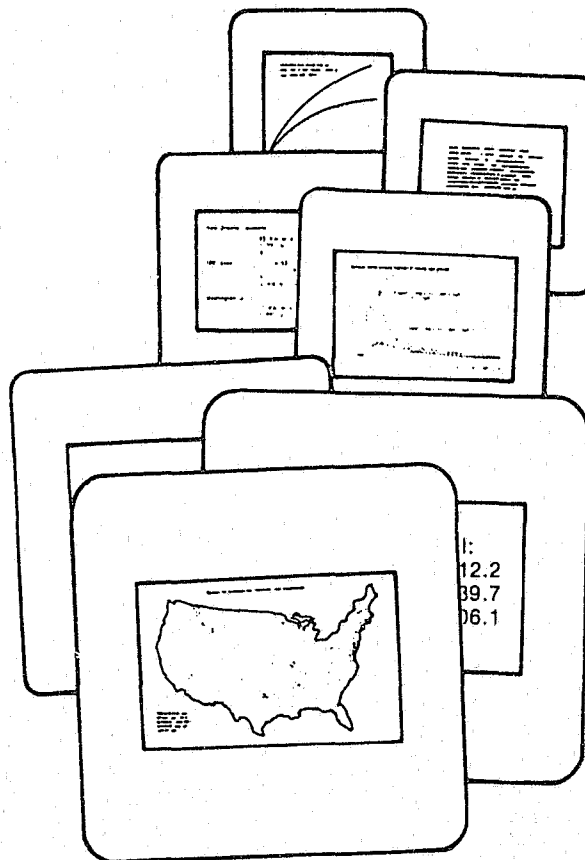
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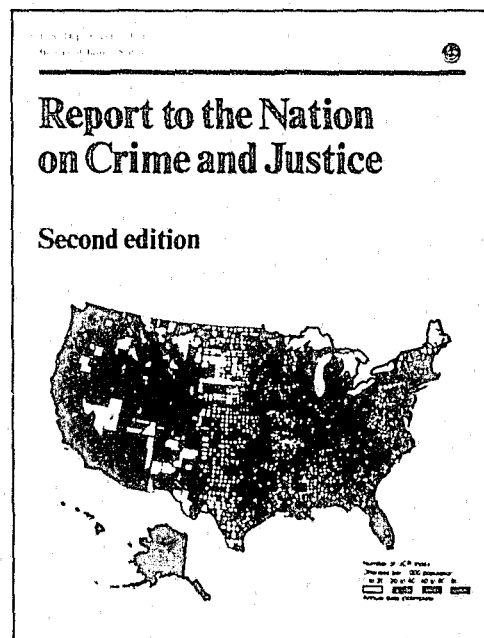
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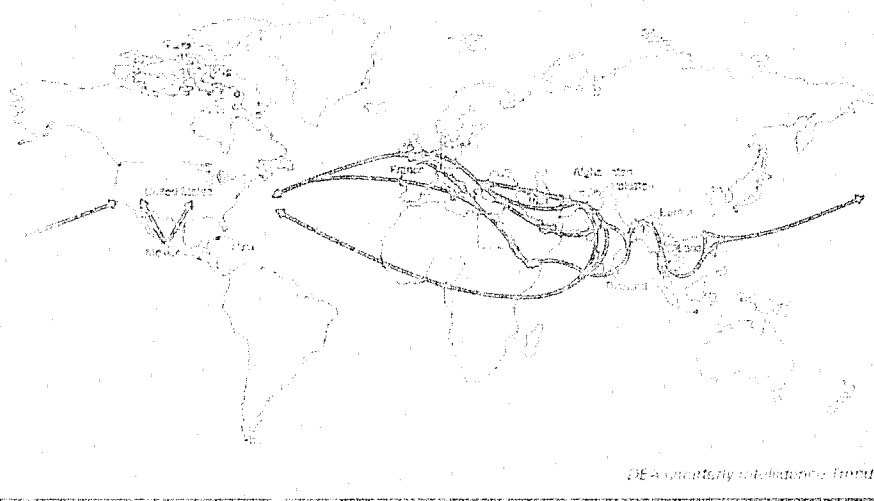
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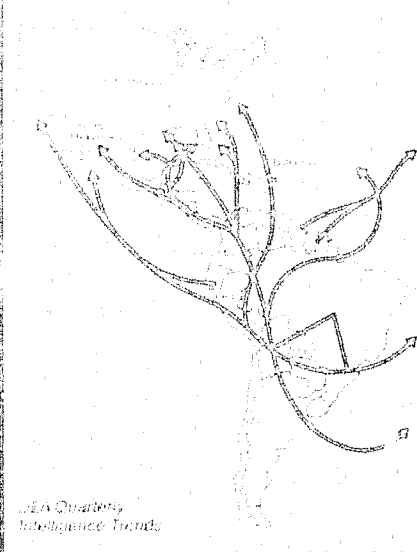


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