

Juvenile Records Expungement

A Guide for Defense Attorneys
in Pennsylvania

JUVENILE LAW CENTER
2007

Juvenile
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Juvenile Records Expungement A Guide for Defense Attorneys in Pennsylvania

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JUVENILE LAW CENTER

Juvenile Law Center is a non-profit, national, public-interest law firm that advances the rights and well-being of children in jeopardy. JLC ensures that the child welfare, juvenile justice, and other public systems provide vulnerable children with the protection and services they need to become happy, healthy, productive adults. Founded in 1975, JLC is one of the oldest public interest law firms for children in the United States.

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Acknowledgements

A number of people provided research and input that was essential to the completion of this guide. First, law students, Matt Bush, Christine Back, and Rahul Munshi provided thorough research of county rules and procedures on expungement. Also many thanks to a number of attorneys and professionals throughout Pennsylvania who provided their county resources and feedback on the utility of this guide — Bob Listenbee, Ron Turo, Kathy Zeigler, Barbara Krier, Mark Waitlevertch, Jennifer Staley, Bill Rossnock, and Lisa Freese. Finally, thank you to Nina Chernoff, whose vision inspired the publication of this guide, and JLC colleagues, Joanna Darcus, for editing and proofing, and Bob Schwartz and Laval Miller-Wilson for their guidance throughout the publication of this guide.

Introduction

Juvenile court, law enforcement and probation records exist for important reasons. They are used for community protection—to track patterns of criminal behavior and to provide for appropriate levels of supervision and treatment. The utility of juvenile records diminishes over time and in relation to the severity of juvenile offending. Indeed, when records become an obstacle to a youth’s ability to become a productive member of mainstream society, those records *reduce* community protection and undermine important societal goals. This guide shows how juvenile defenders can give their clients room to reform by a employing thoughtful approach to expunging juvenile records.

Records of juvenile crime can follow an individual through his or her adulthood.

Records of juvenile crime can follow an individual through his or her adulthood. They can have far-reaching consequences on the individual’s ability to join the military, pursue higher education, or obtain employment. Many people have the false impression that juvenile offenses are

immediately erased from one’s record at the age of majority. Too many people also equate juvenile misbehavior with adult criminal behavior—they fail to appreciate that adolescence is a volatile stage of life through which the vast majority of teens pass without additional contact with the law.¹ Unfortunately, even though adolescents are generally less culpable and more capable of change than adults, their records can be just as damaging to them later in life as records caused by adult criminal behavior. One method of assuring these records are not harmful to youth is through expungement.

In Pennsylvania, expungement of juvenile records varies from county to county. Each county has its own procedure and forms required for petitioning the Court for an expungement. Since the Pennsylvania Supreme Court promulgated the Rules of Juvenile Court Procedure (Pa.R.J.C.P.) in 2005, there has been a stronger movement towards standardized processes and practices across



Pennsylvania counties. Juvenile Law Center drafted this Guide to provide juvenile defenders with an overview of the current law regarding records of youth in the juvenile justice system and a model of best practices to assure that youths' records are shared minimally and the expungement process is barrier-free. The Guide is intended to provide attorneys and youth advocates important information about the accessibility of juvenile records, the lasting consequences of having a juvenile record, and the standard process for petitioning the court for an expungement.

Part I of this Guide outlines the role of a juvenile defender beyond the disposition stage of a delinquency hearing. Part II outlines what is contained in juvenile court records and law enforcement records retained by the Pennsylvania State Police. In Part III, we will provide readers with an overview of the consequences of having a juvenile court or law enforcement record. Part IV defines the expungement process—outlining the steps that must be followed and paperwork that must be filed to petition the Court for an expungement. Finally, the appendices contain model county policies, sample notification letters, sample expungement petitions and orders, and a sample expungement affidavit prepared by the Pennsylvania State Police. You will also notice that throughout the guide we have provided advocacy tips. These “sidebar” tips provide attorneys for youth with essential best practice information as well as Juvenile Law Center recommendations to assure that expungement procedures are efficient and barrier-free for youth.

A note about the terms used in this guide

Throughout this guide, we refer to a *juvenile defender* interchangeably with other terms relating to attorneys for children, including defense counsel, attorney for youth, and child’s attorney. These terms refer to public defenders and private counsel. See Part I for further discussion on the role of a juvenile defender.

When a juvenile enters the juvenile justice or child welfare system, a *juvenile court record* is created. This record documents the juvenile’s journey through the juvenile court system. In Pennsylvania’s juvenile justice system, this record is created immediately upon the filing of a petition alleging dependency or delinquency. The juvenile file contains all original records, papers, and court orders; copies of all court notices; and docket entries.² A juvenile court record differs from a *law enforcement record* maintained by the Pennsylvania State Police (PSP). Part II of this guide addresses the public availability and expungement process of a juvenile’s law enforcement record.

In addition to the juvenile court record, when a juvenile is in the juvenile justice system, there exists a separate recording system for his or her *juvenile probation records and reports*. This record may also be created immediately after a petition alleging delinquency is filed, and an intake interview occurs. The notes from the intake interview typically become part of the juvenile probation record or report. Similarly, if a juvenile is under any type of supervision after s/he is adjudicated delinquent, his or her probation officer will be responsible for monitoring progress and creating reports for the court during review hearings.

There is a difference in Pennsylvania between sealing a record and expunging a record. If a record is *sealed*, the general public has no access to it. Sealed records, however, are generally accessible to certain individuals enumerated in statutes. This guide outlines circumstances when juvenile court records can be made available for public inspection, and similar circumstances when juvenile law enforcement records are open to public inspection. If none of those circumstances exists, the record remains sealed. When a record is *expunged*, it is completely destroyed. Court records and law enforcement records that are expunged must be erased from the system.³

Part I

The Role of the Juvenile Defender

The role of counsel in any juvenile delinquency case is to be a zealous advocate for his or her client. During the pendency of the proceeding, this requires fully explaining the nature and purpose of the proceedings and the general consequences of the proceedings to the youth. It also requires involving the juvenile in all appropriate decisions. The lawyer should counsel the child, present comprehensible choices and help the child reach his or her own decisions. At each stage it is imperative that the attorney emphasize the lasting consequences of having a juvenile record. This should inform the child's decision-making throughout the course of the proceedings.

The attorney's role begins prior to adjudication and extends beyond disposition, whether the youth is eligible for a record expungement or not. Numerous experts recognize the responsibility of counsel to continue representation after disposition: "The attorney should be prepared to counsel and render or assist in securing appropriate legal services for the client in matters arising from the original proceeding."⁴ The attorney's role includes addressing the consequences resulting from adjudication. At each stage, before adjudication and beyond disposition, the attorney must be cognizant of and inform his or her client about the danger of having a juvenile record. There are no separate rules of procedure governing private attorneys; private attorneys are governed by the same Rules of Juvenile Court Procedure as court-appointed counsel. Therefore, the obligation to represent juvenile clients beyond disposition applies to both public and private attorneys.

Prior to adjudication, one way an attorney can assure the youth does not suffer from the lasting consequences of a juvenile record is to advocate for a diversion program so the child is kept out of the juvenile justice system altogether. Many youth who are charged for the first time with minor offenses unnecessarily penetrate too deeply into the system. Similarly, the system is often used as a treatment provider when it would be more appropriate to connect a youth to services from other systems. It is the role of defenders to identify diversion programs that are tailored to their clients' individual needs and advocate for them rather than allowing youth to fall deeper into the juvenile delinquency system. For first time offenders, diversion programs promote low recidivism rates while saving youth from the consequences of a juvenile record.



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For a more thorough discussion of the role of the defense attorney at each stage of the delinquency process, see *An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings* authored by the American Bar Association Juvenile Justice Center and Juvenile Law Center, available for download at www.jlc.org.

If a diversion program is inappropriate or is not agreed upon by the district attorney, another option for which the defender should advocate is a consent decree.⁵ Under a consent decree, the child will be subject to a set of conditions for a set period of time – usually six months to a year – after which, the child’s record will (in most counties) be automatically expunged. This is a good alternative for youth who are first time offenders or charged with minor offenses, since it balances considerations of public safety with giving youths room to reform.

Part II

Records 101

JUVENILE COURT RECORDS

Access to Juvenile Court Records

A child’s juvenile court record may contain information regarding the child’s charges, the child’s delinquency history, the child’s school and mental health history, as well as personal family and social history. This information is protected by several provisions of the Rules of Juvenile Court Procedure and the Juvenile Act. Information-sharing agreements drafted between agencies and memoranda of understanding that outline specific information-sharing protocols may also affect the availability of a child’s juvenile court record; however, any agreement drafted among agencies must remain consistent with federal and state law. In addition, while only court personnel may have access to the juvenile’s entire file, limited portions and types of information may be shared with school personnel and the general public. As a juvenile defender, it is important to assure that the child’s privacy and rights to confidentiality are protected for a number of reasons. For example, the information contained in a youth’s record may contain misinformation, outdated information, stigmatizing information, and hearsay, causing the child numerous problems as s/he grows into adulthood. While there is some benefit to sharing court records, the juvenile defender has the responsibility to guarantee that the child’s record is not inappropriately shared. Sharing must be monitored to ensure it is only for limited purposes. Expungement is the most complete and permanent way to guaranteeing that a youth’s record will not be used inappropriately.

Court Personnel

Most court personnel and probation staff may view a juvenile’s court record or records of probation without obtaining court authorization.

The Juvenile Act defines court personnel as the judge, master, juvenile probation officer, attorneys for juvenile and Commonwealth, designated individuals from the public or private agency providing supervision or having custody, the Administrative Office of Pennsylvania Courts (AOPC), the Department of Corrections or other state correctional institution where the juvenile has been committed, the Sexual Offenders Assessment Board, the parole board, and the court or county probation official in a criminal matter. Any other person who wishes to see a juvenile's court file or record of probation must get court permission.⁶ Court personnel must be careful that juvenile court files are not shared without express permission from the court.

Releasing Juvenile Court Records to Schools

When a juvenile is adjudicated delinquent, the school in which s/he is enrolled may receive a limited amount of information regarding the youth's delinquency case. The court will generally disclose the juvenile's name and address, a brief description of the delinquent acts s/he committed, and the disposition of the case to the juvenile's school. If the adjudication of delinquency was for a felony offense, then any prior delinquent history, supervision plans, and other relevant information contained in the juvenile probation and treatment reports may also be released to the school. Furthermore, if deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the juvenile, the court, or the juvenile probation officer may release other information to the school as well.⁷ The school must keep all delinquency information separate from the juvenile's official school record so it may not be accessible through a request for the juvenile's school records under the Family Educational Rights and Privacy Act of 1974 (FERPA).⁸ Under FERPA, youth school records are accessible by the child's parent and by other educational institutions. When attainable by other educational institutions, records may have negative implications and may result in collateral consequences. It is important to note that no law requires the school to be notified of a child's delinquency adjudication. However, as a practical matter, when a child returns to school after placement, the probation officer may contact the school to give the child's records and re-enroll the child, thereby informing the school of some type of delinquency history.

Public Availability of Juvenile Court Records

Only limited information concerning a juvenile's adjudication of delinquency may be available as a matter of public record. When a record is publicly available, any person may obtain access to it.



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Center recommends to all juvenile justice professionals that juvenile court records be shared minimally, and only when necessary to promote the well-being of the child. The law states that information is admissible during juvenile court proceedings only when that information is necessary to further the child's disposition. For example, when a child's placement depends on the sharing of pertinent information in the child's court record, it is appropriate to share this information with the judge or the probation officer for disposition purposes. There are instances where information may not be shared at particular times or for particular purposes. For example, records of prior adjudications are typically inadmissible at the adjudicatory stage of the proceeding, but may come in at the disposition stage. But, there are other instances where information can be legally shared, but it is unnecessary and potentially harmful to do so. Even if legally permissible, however, information should not be shared beyond what is necessary for the task at hand.

Although specific rules apply to the use of law enforcement records in employment situations, records that are publicly available may be obtained by potential employers, higher education institutions, the press, or any other interested people. The Juvenile Act governs the public's access to certain categories of juvenile court records. The Act specifies that records of a juvenile age 14 or older may be accessible to the public if the conduct would have been considered a felony if committed by an adult. If the child was 12 or 13 years old at the time of the act, only certain types of adjudications will result in a record that may be available to the public. The offenses, specified in the Juvenile Act which lead to a publicly available record include: murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnapping, rape, robbery, robbery of a motor vehicle, and attempt or conspiracy to commit one of these offenses.⁹ If the juvenile was previously adjudicated delinquent for an offense mentioned above, and another petition has since been filed, that juvenile's court record will be public regardless of the most recent charge.

What information will be available to the public?

The juvenile's entire court record is not to be made publicly available. Information made public may include the child's name, age, address, the offenses charged, and the disposition of the case. The specific offenses and counts that the juvenile was found to have committed will be part of the juvenile's law enforcement record or court file and disclosed to the public.¹⁰ See Part B below for further discussion on law enforcement records.

LAW ENFORCEMENT RECORDS

Many counties automatically expunge or destroy probation records or court records after a designated amount of time has passed in accordance with AOPC rules.¹¹ However, what are generally more harmful are youths' law enforcement records, which may have far-reaching implications. When accessible to the public, they can have a severe impact on the youth's future education, financial aid, housing, or employment. These consequences are discussed in greater detail in Part III. With increased digital recordkeeping and Internet searching, arrest, adjudication, and disposition records are more readily available to employers and the general public.

When law enforcement records are maintained by the Pennsylvania State Police, juvenile defenders must be attentive to assure that juvenile files are kept separate from adults. Records and files are not to be made open for public inspection unless a charge of delinquency is transferred for criminal prosecution,¹² the interest of national security requires, or the court otherwise orders it in the interest of the juvenile.¹³ Youth who are transferred from the juvenile justice system and prosecuted in the adult system will no longer have juvenile records for that charge; the records will become adult records, available for public inspection. Similarly, when a judge orders a record to be open, regardless of the reason, it must be open.

In Pennsylvania, although juvenile records are not intended to be found on the Internet, the Administrative Office of Pennsylvania Courts (AOPC) maintains a website where some counties continue to post juvenile law enforcement records, making them publicly available. Attorneys for youth should be proactive in assuring that their clients' records are not accessible on the AOPC website. If any records are found, the attorney should immediately call the county probation department and notify them that his or her client's juvenile records should not be made publicly available through the AOPC website, and then notify the Statewide Training Coordinator at the Defender Association of Philadelphia.¹⁴ Law enforcement records may be made publicly available only in certain limited circumstances.

Inspection of law enforcement records and files is permitted by the juvenile court judge, the attorney for the Commonwealth, defense counsel, the residential program to which the juvenile was committed, law enforcement officers of other jurisdictions when necessary for the discharge of their official duties, a court in which the juvenile is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceeding, by officials of penal institutions and other penal facilities to which s/he is committed, or by a parole board in considering parole or discharge or in exercising supervision over him or her. Best practices indicate that the inspection of these records for individuals within the purview of the juvenile justice system is primarily for purposes such as: determining whether to divert the case out of the juvenile justice system, determining whether to allow for a consent decree, determining whether to transfer the case to the adult system or decertify the case back to juvenile court, and finally identifying an appropriate placement and the programming needs for the child at and beyond disposition.

Fingerprints and Photographs

Fingerprints and photographs may be taken of any juvenile alleged to have committed an act designated as a misdemeanor or felony under the laws of this Commonwealth or of another state if the act occurred in that state or under Federal law.¹⁵ In fact, if the act occurred in another state, the Juvenile Act requires that fingerprints be taken.¹⁶ These fingerprints and photographs may be disseminated to law enforcement officers of other jurisdictions, the Pennsylvania State Police (PSP), or the FBI, and may be used for investigative purposes. All fingerprints and photographs must be kept separate from adult prints and photographs. They are required to be taken and then forwarded by the arresting authority to the PSP Central Repository, following an adjudication of delinquency or if a case is transferred for criminal prosecution. When fingerprints and photographs have been taken and it is determined that a juvenile did not commit the offenses for which he was charged, the court must direct that the records be immediately destroyed by law enforcement agencies.



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When a petition is dismissed, juvenile defenders should follow up with court officers to verify that their clients' fingerprints or photographs have indeed been destroyed. The Pennsylvania State Police sends an affidavit to court staff verifying records have been expunged. Attorneys should request a copy of this affidavit.

DNA Records

In 2004, Pennsylvania passed Act 185 requiring that any juvenile adjudicated delinquent for a felony offense, including felony sex offenses, must have a DNA sample drawn.¹⁷ Any juvenile who is in a court-ordered placement is not allowed to be released until a DNA sample is taken. If a child is housed in a state other than Pennsylvania, it is the responsibility of the probation officer to send the other state all of the information necessary for the completion of the paperwork, and a PSP DNA kit for the facility to complete and return to the DNA Laboratory. All DNA samples are stored at the PSP Bureau of Forensic Services and DNA Laboratory in Greensburg, Pennsylvania. Although there has yet to be a challenge to the DNA-testing requirement for youth, the Pennsylvania Superior Court has found that requiring DNA sampling is not punitive when applied to adults.¹⁸ Since the implementation of Balanced and Restorative Justice in Pennsylvania, there has been a multi-purpose approach to juvenile delinquency, but rehabilitative principles still govern the juvenile justice system. Therefore, the window remains open for defenders to develop creative challenges to show that the DNA testing requirement for youth is, in fact, punitive when applied to children, and therefore should not be implemented. Because DNA testing often accompanies lifelong sex offender registration and other collateral consequences, it can be analogous to sex offender registration requirements and be argued as punitive under the same theory.

Juvenile History Record Information¹⁹

The Pennsylvania State Police Central Repository is required to retain fingerprints, photographs, and juvenile history record information of alleged delinquents and adjudicated delinquents.²⁰ Within seven days of disposition, the court notifies the arresting authority of the disposition of the case. The court is also required to report the disposition to the Juvenile Court Judges' Commission, which will forward to the PSP Central Repository all adjudications of delinquency within 90 days of their occurrence.

Public Availability of Law Enforcement Records²¹

The Juvenile Act governs the public's access to law enforcement records. Only limited information concerning a juvenile's law enforcement record may be made available to the public. When a record is publicly available, *any* person may have access to the information. Although specific rules apply to the use of law enforcement records in employment situations, records that are public are available to potential employers, higher education institutions, the press, and any other interested people.

The Act specifies that law enforcement records of a juvenile age 14 or older may be accessible to the public if the conduct would have been considered a felony if committed by an adult. If the juvenile is 12 or 13 years old, only certain types of adjudications will result in a record that will be available to the public. These are murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnapping, rape, robbery, robbery of a motor vehicle, and attempt or conspiracy to commit one of these offenses.²² If the juvenile was previously adjudicated delinquent for an offense mentioned above (either a felony after the 14th birthday, or one of the enumerated offenses for 12 or 13-year-olds), and another petition has since been filed, the record will be public regardless of the current charge. See Figure 1 on the next page.



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A separate affidavit is sent to court staff when DNA records are expunged. This is a different affidavit from the affidavit following expungement of records from a blanket expungement order. Attorneys should contact court staff to verify that DNA records have also been expunged.

What information will be released?

If the child's conduct meets the requirements for disclosure as set forth above, then the law enforcement agency shall disclose the name, age and address of the juvenile, the offenses charged and the disposition of the case. The judge who adjudicates a juvenile delinquent shall specify the particular offenses and counts that the juvenile is found to have committed and that information shall be inserted in any law enforcement records or files disclosed to the public as provided for in this section.

Figure 1 – Public Availability of Court and Law Enforcement Records

What information is publicly available?

	Court Records	Law Enforcement Records
Juveniles 14 and older	<p>Court records of conduct that would have been considered a felony if committed by an adult</p> <p>Any subsequent court records involving the child, regardless of age or conduct</p>	<p>Law enforcement records of conduct that would have been considered a felony if committed by an adult</p> <p>Any subsequent court records involving the child, regardless of age or conduct</p>
Juveniles ages 12 and 13	<p>Court records of conduct including murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnapping, rape, robbery, robbery of a motor vehicle, and attempt or conspiracy to commit one of these offenses</p> <p>Any subsequent court records involving the child, regardless of age or conduct</p>	<p>Law enforcement records of conduct including murder, voluntary manslaughter, aggravated assault, arson, involuntary deviate sexual intercourse, kidnapping, rape, robbery, robbery of a motor vehicle, and attempt or conspiracy to commit one of these offenses</p> <p>Any subsequent court records involving the child, regardless of age or conduct</p>

Part III

Consequences of a Juvenile Adjudication

The records discussed in this guide are records of juvenile court adjudications and dispositions. If a juvenile is tried as an adult in criminal court, his or her records are criminal records and will therefore be open to public inspection. In juvenile court, an adjudication or finding of fact that the juvenile committed the alleged offenses is not a determination of guilt, but rather a finding of the court. The disposition, similarly, is not a sentencing, but the court's process for placing the child in a treatment, rehabilitative, or supervised program. An adjudication of delinquency is not a conviction of crime and imposes no civil disability that would ordinarily result from a criminal conviction. Even so, employers will generally ask for information regarding both criminal convictions and juvenile adjudications.

Having a juvenile court record, therefore, has long-lasting implications. Many adults who do not expunge their juvenile court record may have difficulty obtaining employment, getting financial aid, getting approved for housing, entering the military, obtaining a driver's license, or purchasing a firearm. This section will explore the legal and social consequences attached to having a juvenile court record and suggest ways that advocates can forestall the consequences short of expungement.

In subsequent judicial matters

The Juvenile Act provides specific circumstances under which prior juvenile court involvement may be admissible in judicial proceedings. First, for presentence investigation and reports following an adjudication of delinquency, records may be used in dispositional proceedings after an adjudication of delinquency. For this purpose, records are integral to assuring that the child receives an appropriate placement for his or her needs.

Second, prior juvenile adjudications may be admitted in hearings involving subsequent juvenile charges. Third, juvenile adjudication records may be used in civil proceedings where the juvenile has put his reputation or character at issue, and in criminal proceedings if the juvenile was adjudicated delinquent for an offense, and the evidence of which would be admissible if committed by an adult.²³

Finally, prior juvenile adjudications may be used in adult criminal proceedings to calculate a "Prior Record Score." A prior juvenile adjudication is factored into the Prior Record Score when the juvenile



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Juvenile Law Center recommends that attorneys for youth counsel their clients on the impact a record may have on their future success. Equally important, however, is their relationship with a potential employer. Even though they may have no legal obligation to disclose a juvenile record, JLC usually counsels clients to do so. That is because some employers are usually forgiving when they learn directly from the individual that they were charged as a child for an act; they may be less forgiving if the information is disclosed through a background check. However, if youth are unsure of how an employer may respond, they may want to order a record check prior to beginning an employment search to discover for themselves what an employer would find in a background check.

offense occurred on or after the offender's 14th birthday, and there was an express finding by the juvenile court that the adjudication was for a felony or a misdemeanor involving a weapon or involving the death of or danger to children or involving driving while under the influence of alcohol or some other controlled substance.²⁴

Employment

Although juvenile law enforcement records maintained by the Pennsylvania State Police are accessible to employers pursuant to the Crimes Code, for an employer to gain access to a *juvenile court record* the employer must demonstrate a legitimate interest in the proceedings and obtain an order from the court.²⁵ The court order is necessary to obtain any information contained in a juvenile court record or juvenile probation record or report.²⁶ Juvenile records maintained by the PSP may be used only for limited purposes by employers when deciding whether or not to hire the individual. The Crimes Code provides that felony and misdemeanor convictions may be considered by an employer only to the extent to which they relate to the applicant's suitability for employment in the position for which s/he has applied.²⁷ Unfortunately, because of the vagueness in this statutory language, an employer may justify very easily why s/he needs to be made aware of the child's juvenile court record. Records should only be shared with employers when directly related to the job skills necessary – for example, if the child has a DUI on his/her record and is applying for a pizza delivery position.

If an employment application asks whether the applicant was ever convicted of a felony or misdemeanor, a juvenile whose record includes an adjudication of delinquency need not respond in the affirmative. Attorneys for youth who are adjudicated should instruct their clients that they have no legal obligation to answer affirmatively when asked this question on an employment application. A juvenile adjudication is not synonymous with a criminal conviction, and therefore it is not dishonest to say that the applicant was never convicted of a felony or misdemeanor.²⁸ However, if the application clearly asks whether the person has ever been adjudicated delinquent, and the individual's record has not been expunged, s/he must respond in the affirmative.

Financial Aid

Certain drug offenses may make an individual ineligible for federal financial aid. This is generally for a specified duration dependent upon whether the offense was a first offense or a subsequent offense.²⁹

Military Service

If a juvenile, upon reaching the age of majority, or at age 17 with parental consent, chooses to enter the military, s/he may have difficulty gaining entrance if s/he has a juvenile record. Although court records are only accessible to military officials via a court order,³⁰ law enforcement records maintained by the PSP are always accessible to military officials. Although each branch of the military has separate regulations regarding the use of juvenile and criminal records, none specifically excludes the recruiters' use of the juvenile or criminal history information in the determination of whether to allow enrollment.

To be eligible for enlistment in the U.S. Army, a person must satisfy the moral criteria, which include an examination of the applicant's civil, juvenile, and criminal history. When an applicant interviews with a recruiter, the recruiter will interview the applicant on "any records of arrest, charges, juvenile court adjudications, traffic violations, probation periods, dismissed or pending charges or convictions, *including those*

which have been expunged or sealed (emphasis added)."³¹ An applicant may request a moral waiver to enlist into the Army when s/he has an "adverse disposition"³² as a juvenile or adult or when criminal charges resulting in conviction or action by a court amount to a finding of guilt.³³ However, if the applicant was convicted of certain

Military recruiters will specifically ask about any records of arrest, charges, juvenile court adjudications, traffic violations, probation periods, and dismissed or pending charges or convictions including those which have been expunged or sealed.

enumerated offenses, identified by the Army regulations (not state law), s/he may be ineligible to even request a waiver.³⁴ Waivers are not required for charges that were never filed, or that were dropped or dismissed.³⁵ A juvenile's attorney can aid the individual in completing the request for a waiver and the application for waiver. When an applicant requests a moral waiver, the military will seek information from law enforcement, courts, employers, and institutions using standardized forms. The applicant must also write a detailed description of all offenses and include that with the waiver request.³⁶ The Air Force, Navy, and Marine Corps have similar waiver request processes by which applicants with adverse adjudications or dispositions may request enlistment.³⁷

Driver's License

For certain types of juvenile adjudications, the youth's ability to obtain a driver's license may be affected. A juvenile's driver's license may be



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In appropriate situations, juvenile defenders can advocate for their clients by having them plead to lesser offenses so that the degree of conviction is not as great and therefore will not have such a lasting implication for the individual's future.

revoked or suspended if the juvenile was adjudicated delinquent for a felony offense where a vehicle was “essentially involved,” including racing on highways, careless driving, driving without lights on to avoid identification or arrest, and car accidents involving damage to a vehicle or property.³⁸ The driver's license bureau may also suspend or revoke a juvenile's driver's license if s/he is adjudicated delinquent for any offense involving the possession, sale, or delivery of a controlled substance.³⁹ Finally, the driver's license bureau retains discretion to revoke or suspend the driver's license of a juvenile adjudicated for committing the delinquent act of terroristic threats on school property, purchasing, consuming, or possessing alcoholic beverages, carrying a false identification card, or being habitually truant from school.⁴⁰

Public Benefits

Adjudications for certain types of drug-related crimes can result in a lifetime ban on Temporary Assistance for Needy Families (TANF) and Food Stamps. For example, adjudications for offenses that would be considered felony drug convictions if committed by an adult will prohibit the individual from ever receiving federal public benefits.⁴¹

Child Welfare System

A juvenile record may preclude an individual from retaining custody of his/her minor child if the court finds that the return of the child to the parent is not best suited for the child's safety, protection, physical, mental, and moral welfare.⁴² Certain types of adjudications may also preclude an individual from approval as a foster or adoptive parent or from having a job that requires working with children.⁴³

Possession or Purchase of a Firearm

To be eligible to purchase or possess a firearm in Pennsylvania, prior criminal and juvenile records are key considerations.⁴⁴ Specifically, a prior juvenile adjudication is factored into the “Prior Record Score” when the juvenile offense occurred on or after the offender's 14th birthday, and there was an express finding by the juvenile court that the adjudication was for a felony or a misdemeanor involving a weapon or involving the death or danger to children or involving driving while under the influence of alcohol or some other controlled substance.⁴⁵

Retention of Juvenile Delinquency Records

Juvenile delinquency records, including the docket and original court order, are considered permanent records and may not be destroyed unless upon expungement. Any other records, including records of

consent decree and informal adjustments, must be kept until the juvenile reaches the age of 25 or ten years following the date of the last action, or upon expungement, which is discussed in the next section.⁴⁶ However, with the increasing use of privatized digital recordkeeping, records that are available in online and electronic databases may be downloaded and stored for indeterminate amounts of time in violation of the law. In these circumstances, children’s records may still be accessible years after they have been expunged. Juvenile defenders are encouraged to verify that records are promptly destroyed when the requisite time has passed and conduct a thorough search of all private databases so that agencies can be identified in the expungement petition and order.

Part IV

Expunging a Juvenile Record

Expunging versus Sealing a Juvenile Record

Although the terms are often used interchangeably, there is a difference between sealing and expunging a juvenile record. If a record is *sealed*, the public has no access to it. Sealed records, however, are available to certain individuals – including law enforcement and government authorities. There are circumstances when a juvenile court records can be made available for public inspection, and similar circumstances when juvenile law enforcement records are open to public inspection. If none of those circumstances exists, the record remains sealed. When a record is *expunged*, it is completely destroyed. Court records and law enforcement records that are expunged must be erased from the system.⁴⁷

Eligibility for Expungement

A person may file for expungement of his or her juvenile records if the charges against him or her were dismissed, if it has been more than six

Figure 2 – Eligibility for Expungement

Charges dismissed	Automatic expungement
Consent decree	Automatic expungement
5 years passed	file petition — expungement granted within 30 days unless good cause shown
Over age 18	file petition — DA consents — court will order expungement

months since a discharge from a consent decree or supervision, more than five years since an adjudication of delinquency, or if the juvenile is over age eighteen.⁴⁸

Charges dismissed

If a complaint was filed which is not substantiated, a person may petition the court for expungement of the record of the complaint. Attorneys for youth can argue that a complaint that is not substantiated is synonymous with one that was never presented to the court via petition because it was deemed appropriate for informal adjustment. Similarly, if a petition filed as a result of that complaint is dismissed by the court, the person may also request that the record be destroyed.⁴⁹ Although the Criminal History Record Information Act does not specifically provide for expunging informal adjustments, most courts have applied this section to expunge charges that were informally adjusted by the district attorney.

Consent Decree: six months since discharge from supervision

As long as six months have elapsed since the final discharge of the juvenile from supervision under a consent decree and no proceeding in juvenile or adult criminal court is pending, the juvenile may petition for expungement.⁵⁰ Pending good cause shown for why the expungement should be denied, it will be granted within 30 days.



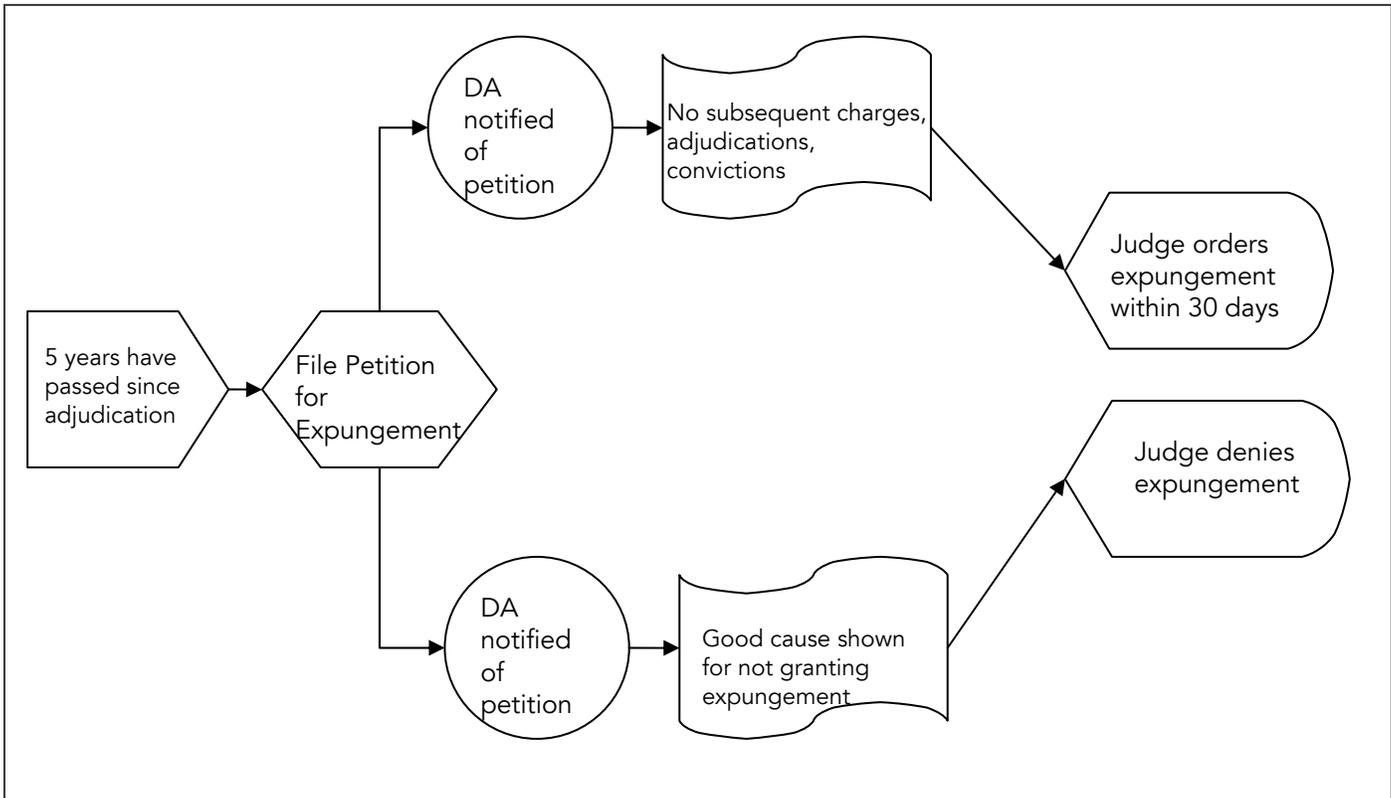
SIDEBAR

Juvenile Law Center recommends that attorneys should advocate to their Administrative Judges or the Clerk of Courts for the adoption of a uniform expungement procedure for their county that is consistent with the Rules of Juvenile Court Procedure. Model policies can be found in Appendix A of this guide. A streamlined process across the county will assure that expungements are efficient and barrier-free for youth.

Five years since juvenile adjudication

In order to be eligible for expungement under this category, the individual must demonstrate that five years have passed since his or her discharge from commitment, placement, probation, or any other disposition or referral. S/he must also show that during this period s/he has not been convicted of a felony or misdemeanor, has not been adjudicated delinquent, and no proceeding is pending seeking conviction or adjudication.⁵¹ So long as there is no showing of good cause as to why the expungement should not be granted the judge will grant the expungement within 30 days.

Figure 3 – Expungement when 5 years since adjudication have passed



Juvenile over age 18

If the juvenile has reached the age of majority, and wishes to expunge his or her juvenile record, but five years have not yet passed since his or her adjudication, s/he may petition the Court. If the District Attorney consents to the expungement, the Court will order the expungement upon consideration of:

- The type of offense in the record;
- The individual's age, history of employment, criminal activity and drug and alcohol problems;
- Adverse consequences that the individual may suffer if the records are not expunged; and
- Whether retention of the record is required for purposes of protection of public safety.⁵²

In most counties, when the District Attorney consents to the expungement, the judge can grant the expungement without a hearing. However, in a few counties, every expungement request must be heard before a judge. If the District Attorney does not consent to expungement the judge may order a hearing, pursuant to the Rules of Juvenile Court Procedure.⁵³

Although some youth maintain contact with their probation officers or attorneys beyond discharge, many youth have no connection to the



SIDEBAR

Juvenile defenders have the responsibility to advocate for their clients beyond the disposition of the case. At disposition, defenders must instruct their clients of the consequences of a juvenile court record and discuss the process of expungement. Many youth are unaware that their juvenile records may follow them, and it is important that they are educated about the lasting effects of a juvenile record and the availability of record expungement.

juvenile justice system once they are discharged from it. Thus, youth whose records may become eligible for expungement may not be aware that they are indeed eligible, or that they even have the option of expunging their record. Some counties automatically expunge some records, such as those of consent decrees. Some court systems have a notification system in place that alerts youth when their records may be eligible to be expunged.⁵⁴ For example, in Northumberland County, youth who are charged as first time offenders have their petitions completed by Juvenile Probation and sent to them for signature. This automatic notification process allows the youth to apply for expungement without initiating the petition process himself. However, in most counties these notification systems are not in place. When the juvenile defenders do not have the resources or capability to file petitions for expungement on behalf of old clients, best practices indicate they should, at a minimum, inform their clients of the availability of expungement prior to or following their adjudication.

Although an individual may file for an expungement *pro se*,⁵⁵ one important way a juvenile defender can advocate for his/her client post-disposition is to notify the child of his/her expungement eligibility and assist the child in filing an expungement petition. Expungement petitions can be lengthy and difficult to understand, and therefore, the assistance of an attorney during this stage is exceptionally important.

The process of filing for expungement

Traditionally, the process of petitioning for expungement depended upon the county in which the juvenile was adjudicated. In some counties, expungements were only granted upon motion or petition. However, in other counties, expungements occurred automatically, without the requirement of a petition. In January 2005, the Supreme Court of Pennsylvania promulgated new Rules of Juvenile Procedure in Delinquency Matters. The Juvenile Court Procedural Rules require that a request for expungement must be filed as a motion in the form of a proposed court order.⁵⁶ The rule specifies the contents required in a motion and the process for service.

Requirements for a Motion to Expunge⁵⁷

The Rules of Juvenile Court Procedure require that a motion to expunge must contain the following components:

- *The juvenile's name*
- *The juvenile's date of birth (if known)*

If the individual's date of birth is unknown, you may provide the social security number for identification purposes.

- *The juvenile's case docket number*
- *The charges the juvenile is seeking to have expunged*

If all charges are under one adjudication, then one motion is sufficient. However, if the juvenile has several adjudications, then each adjudication must be the subject of a separate expungement motion. If there are multiple charges, only the specific charges listed in the petition will be expunged. If several charges are dismissed and only one results in adjudication, records of the dismissed charges will remain even if the petition for expungement on the adjudicated charge is granted.

- *The law enforcement agency that initiated the allegations*
- *The reference number of the police report or written allegations to be expunged*
- *The date of arrest*
- *The disposition of the written allegation or petition*
- *The reasons and statutory authority for expunging or destroying the records*

The motion must provide statutory authority, using the criteria set forth in 18 Pa.C.S. § 9123(a)(4), to demonstrate the record should be expunged.

- *The agencies upon which certified copies of the court order shall be served*

The agencies listed in the motion must be listed and be case-specific. A general list of agencies may inadequately cover all the agencies that will have records of the juvenile's adjudication and disposition. The motion should be as accurate and complete as possible to ensure that the record is completely expunged. Agencies that are typically included in a motion to expunge are: Administrative Office of Pennsylvania Courts, County District Attorney, County Children and Youth Services, County Juvenile Probation, Clerk of Courts, County Police Department, and the Pennsylvania State Police Central Repository.

Service of the Motion

In addition to filing a motion to expunge a juvenile record with the Clerk of Courts, the attorney for the juvenile must serve a copy of the motion to expunge upon the Chief Juvenile Probation Officer.⁵⁸ In some counties, the probation department will handle processing of the petition, while other counties have the Clerk of Courts process the petition. Once served with the motion to expunge, the District Attorney, or any other party that was served the motion, may file an answer.⁵⁹

Notice to District Attorney

In all cases where the youth is filing for expungement and has not yet reached age 18, the Court must give notice to the District Attorney when it receives a petition requesting expungement. Expungement must occur after 30 days have passed since notice was given to the District Attorney unless good cause is shown.⁶⁰ If the child has been subsequently charged, adjudicated, or convicted of any offenses, there exists good cause to deny the expungement request.

The law does not require the District Attorney to provide consent in these instances, but s/he must be notified of all petitions filed for expungement. It is unclear whether a hearing is required when good cause is raised as to why the expungement should be denied. However, the plain language of the statute reads that if any issues are raised, either by the juvenile's subsequent record or the District Attorney, the judge will make a determination within 30 days as to whether these issues require a denial of the expungement petition. It is important to keep in mind, however, that the District Attorney's consent is only required in certain circumstances for expungement to occur. The judge has the final decision making authority. See the next section for more information on the District Attorney's authority.

When Consent of District Attorney is Required

If an individual petitions for expungement when s/he has reached age 18, but five years have not yet passed since his or her adjudication, consent of the District Attorney is required before the Court can grant an expungement. In this circumstance, the consent drives the petition for expungement.

Unfortunately, neither the Juvenile Act nor the Rules of Delinquent Court Procedure provide factors that the District Attorney must consider before providing or denying consent for an expungement petition. Some District Attorney's offices require consideration of the same factors listed in the Juvenile Act that the court must consider in a hearing, including the type of offense in the record; the individual's age, history of employment, criminal activity and drug and alcohol problems; any adverse consequences that the individual may suffer if the records are not expunged; and whether retention of the record is required for purposes of protection of public safety.⁶¹

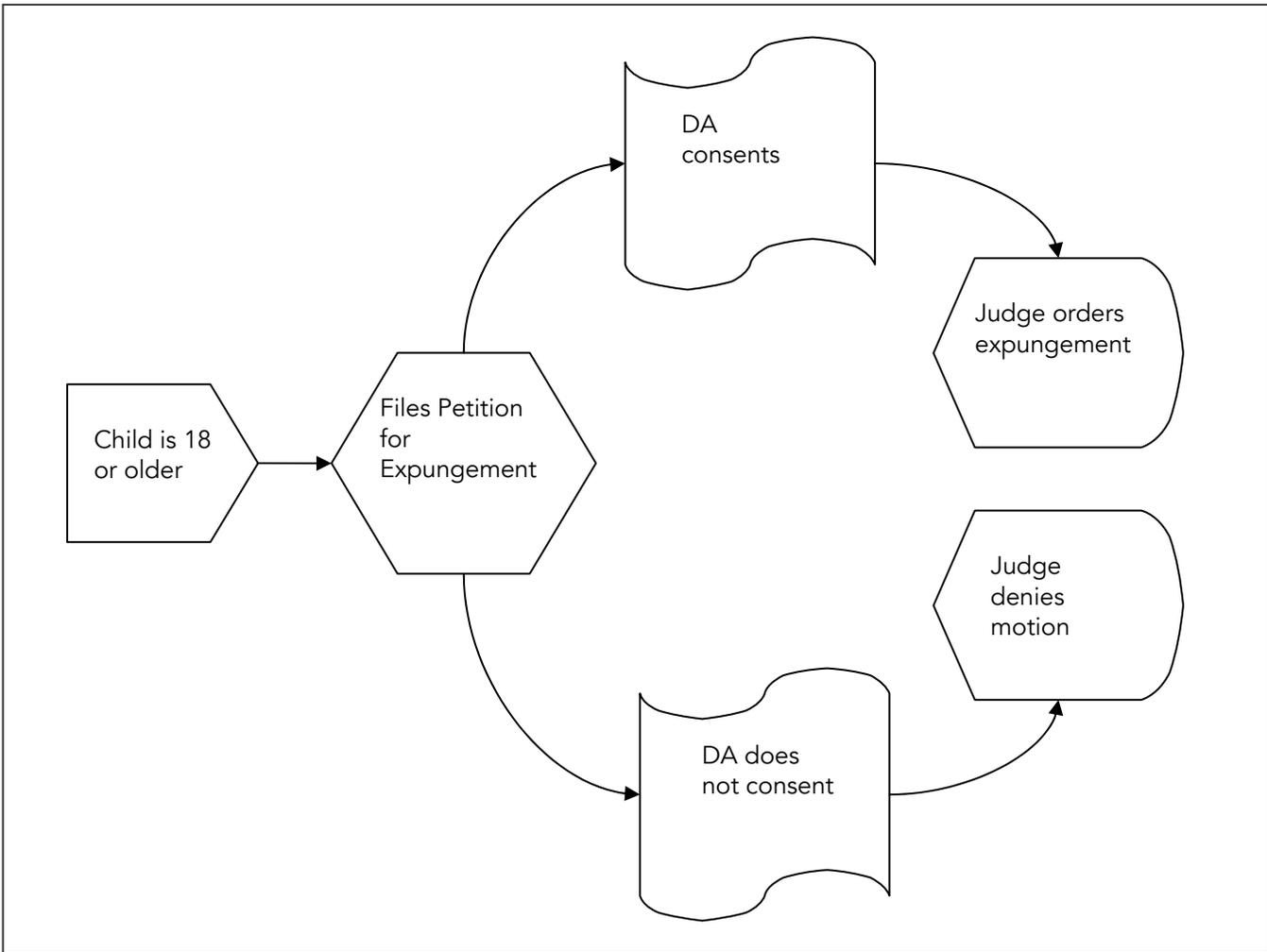
Therefore, if the child is represented by an attorney, the attorney should discuss the expungement petition with the District Attorney prior to



SIDEBAR

Attorneys for youth should discuss their client's desire to file a petition for expungement with the District Attorney to get a sense of whether the District Attorney is likely to consent to the expungement.

Figure 4 – Expungement for children over age 18 when consent of DA is required



filing for expungement. The defender will determine the likelihood of obtaining consent from the District Attorney and be able to better assess the outcomes of a hearing if the District Attorney consents. Typically, if the District Attorney does not provide consent for the expungement, s/he may indicate to the defense attorney when the individual should re-petition the court. In such circumstances, the individual may be advised to wait until five years have passed to re-file his or her petition to expunge. It is important to keep in mind that even at that stage, the District Attorney will be notified of the petition to expunge and may show cause as to why the expungement should not be granted. In the latter situation, however, the judge has the authority to grant or deny the expungement, regardless of the District Attorney's consent.



SIDEBAR

Defenders can use school records and records of the juvenile's community and employment activity to show academic and personal progress at an expungement hearing.

Hearing for expungement

If a hearing is held, the Court will either grant or deny the petition.⁶² At an expungement hearing, typically, the defense attorney will first offer evidence as to why the record should be expunged. The defense attorney should offer evidence that no additional adjudications of delinquency or criminal convictions have occurred since the offense, and the individual has demonstrated academic or personal success. Defenders can do this by introducing school records and records of community activity. The youth's attorney should be prepared to offer evidence that the child's record is eligible for expungement and that there is no public safety reason to maintain the record. If opposing the expungement, the District Attorney will then offer his or her reasons for not consenting to the expungement.⁶³ Based on this information, the Judge will then grant or deny the expungement. The order granting or denying the expungement must include all the same contents required in a motion to expunge and should be distributed to the Clerk of Courts, the attorneys, the juvenile, the Chief Probation Officer, any individual or agency having possession of the juvenile's delinquency record and any other individual or agency that the Court directs.⁶⁴ The court staff (either clerk's office or juvenile probation office) will forward the expungement order to the Pennsylvania State Police (PSP) which will then send back an affidavit verifying that the records were expunged. Defenders should follow up with court staff to assure that this affidavit was received and ask to obtain a copy of the affidavit for the juvenile.

Appealing an Expungement Order

The Rules do not specifically state whether there is a right of appeal once an expungement petition is denied at the hearing phase. However, there exists case law in Pennsylvania suggesting that a denied expungement motion can be appealed to the Superior Court.⁶⁵ Even if one does not choose to appeal the denial of expungement, s/he may re-file a motion to expunge after some time has passed.

Expungement of Fingerprints and Photographs

When fingerprints and photographs have been taken and it is determined that a juvenile did not commit the offenses for which s/he was charged, the court order must direct that the records be immediately destroyed by law enforcement agencies. By asking the Pennsylvania State Police for a copy of the expungement affidavit (attached in Appendix D), juvenile defenders can verify that their client's fingerprints and photographs were destroyed upon the court order. If

the child was adjudicated, then the record of fingerprints and photographs can only be destroyed along with the juvenile record upon order of expungement.

Expungement of DNA Samples

DNA samples may be expunged on the grounds that the adjudication of delinquency was reversed and the case dismissed, or that the DNA sample was mistakenly included in the database.⁶⁶ It is imperative that court orders contain the essential case-specific information so that the PSP can properly identify the records that are to be expunged. If specific information regarding DNA records is not included in the expungement order, a separate petition and order must be filed to expunge DNA records. An expungement order that asks that all records be expunged without mentioning specific DNA records will not suffice to expunge a DNA sample. Court orders should include language directing the PSP to notify the court of the action taken in response to the court order. DNA records may not be expunged if the juvenile was incarcerated after an adjudication of delinquency for a felony sex offense prior to July 27, 1995. Also, a person may not seek expungement of a DNA sample, record or profile on the ground that the person was adjudicated delinquent for one of the other specified offenses prior to the effective date of the former DNA Act.⁶⁷ Once the order is received and the DNA record is expunged, the PSP will send an affidavit to the court staff (either clerk or probation department) from which the PSP received the expungement order, thus verifying that the record was expunged.

Expungement of Department of Transportation Records

Although the Pennsylvania Department of Transportation (PennDOT) is authorized by regulation to retain records for specified time periods, those rules are irrelevant when an order of court commands PennDOT to expunge a specific record at the end of the minimum required period of retention.⁶⁸ There have yet to be successful attempts made by attorneys for youth to have PennDOT records expunged upon order of juvenile record expungement.

Cost of an Expungement Petition

Each county has its own costs associated with filing a motion to expunge. In most cases where an individual is represented by a public defender, the fee for filing the motion may be waived. If the individual is indigent, s/he may file an *in forma pauperis* motion to request a waiver of fees.

Endnotes

1. See Thomas Grisso & Robert G. Schwartz, *Youth on Trial: A Developmental Perspective on Juvenile Justice* (University of Chicago Press, 2000).
2. The Rules of Juvenile Court Procedure provide that at a minimum, the docket entries in the juvenile court file must include: The juvenile's name, last known address, and date of birth; the names and addresses of all attorneys who have appeared or entered an appearance, the date of entry of appearance, and the date of withdrawal of appearance; notations concerning all papers filed with the clerk, including all court notices, appearances, admissions, motions, orders, findings and adjudications, and dispositions, briefly showing the nature and title of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process; notations concerning motions made orally or orders issued orally in the courtroom when directed by the court; a notation of every judicial proceeding, continuance, and disposition; the location of exhibits made part of the record during the proceedings; and the date of receipt in the clerk's office of the order or court notice; the date appearing on the order or court notice; and the date and manner of service of the order or court notice; and any other information required by the filing and service rules. Pa.R.J.C.P. 166 (2005)
3. Some governmental authorities retain access to expunged records, *See eg.* F.B.I., C.I.A., and Military regulations.
4. See IJA/ABA Juvenile Justice Standards, Standard 10.1(a), cited in Laval Miller-Wilson, *Pennsylvania: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings*, ABA Juvenile Justice Center, Juvenile Law Center, National Juvenile Defender Center, Northeast Juvenile Defender Center (2004).
5. 42 Pa.C.S. § 6340.
6. Pa.R.J.C.P. 160; 42 Pa.C.S. §§ 6307 and 6308(b).
7. Pa.R.J.C.P. 163.
8. Pa.R.J.C.P. 163; 42 Pa.C.S. § 6341(b.1); JCJC Standards Sec. 3.9.2.
9. 42 Pa.C.S. § 6307.
10. 42 Pa.C.S. § 6307(2).
11. Most counties follow the AOPC rules that provide for automatic expungement after 10 years have passed, or the juvenile has reached the age of 25. There are few, if any, other instances where expungements occur automatically if not for consent decrees.
12. 42 Pa.C.S. § 6355.
13. 42 Pa.C.S. § 6308.
14. The Statewide Training Coordinator keeps track of inappropriate county practices, including when juvenile court is open to the public, either by way of court proceedings or records. The Statewide Training Coordinator, once notified, will contact the county and make efforts to assure that confidential information will remain such. Call (267) 765-6884 and ask to speak with Michael Moore, the Statewide Training Coordinator.
15. 42 Pa.C.S. § 6308(c).
16. 42 Pa.C.S. § 6308.
17. 44 Pa.C.S. § 2316.
18. *See Commonwealth v. Derk*, 913 A.2d 875 (Pa. Super. 2006).

19. Juvenile history record information refers to information collected pursuant to this section concerning alleged delinquents and adjudicated delinquents whose fingerprints and photographs are taken pursuant to section 6308(c) and arising from the filing of a petition of delinquency, consisting of identifiable descriptions, dates and notations of arrests or other delinquency charges and any adjudication of delinquency or preadjudication disposition other than dismissal arising therefrom. This information shall also include the last known location and the juvenile court jurisdiction status of each adjudicated delinquent. Juvenile history record information shall not include intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information, or presentence investigation information. 42 Pa.C.S. § 6309(e).
20. 42 Pa.C.S. § 6308(c).
21. 42 Pa.C.S. § 6308.
22. 42 Pa.C.S. § 6307.
23. 42 Pa.C.S. § 6354(b).
24. 204 Pa.Code 303.7; 204 Pa.Code 303.7(a)(4). *See* 204 Pa.Code 303.7 for a listing of the points attached to enumerated felonies.
25. 42 Pa.C.S. § 6307(7) requires leave of court for any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.
26. JCJC Standards Governing the Release of Information Contained in Juvenile Court Records and Juvenile Probation Records and Reports at 37 Pa. Code § 200.802 (b)(1) require a court order to release information to military recruiters, officials from the Immigration and Naturalization Service (INS), the Department of Homeland Security, and others (including employers).
27. 18 Pa.C.S. § 9125(b) (2005).
28. An order of disposition or other adjudication in a proceeding under the Juvenile Act is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. 42 Pa.C.S. § 6354(a).
29. Any applicant convicted of federal or state law involving the possession or sale of a controlled substance is banned from receiving federal aid for a specified amount of time. Higher Education Act, Pub. L. No. 89-329.
30. 42 Pa.C.S. § 6307(7) requires leave of court for any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system; JCJC Standards Governing the Release of Information Contained in Juvenile Court Records and Juvenile Probation Records and Reports at 37 Pa. Code § 200.802 (b)(1) require a court order to release information to military recruiters, officials from the Immigration and Naturalization Service (INS), the Department of Homeland Security, and others.
31. AR 610-210 (2-10).
32. "Adverse dispositions" include all law violations which resulted in an arrest or citation for criminal misconduct followed by the formal disposition of penalties or any other requirements upon the offender by any government agency or court. Specifically, they include being "tried as a youthful offender," AR 601-210(4-36), and "judgment as a juvenile delinquent,

wayward minor, youthful offender, delinquent child or juvenile offender, and declaration of the juvenile as a ward of the court." 32 § C.F.R. 571.3(c)(iv)(C). Charges disposed of through pretrial intervention or deferment are also processed as adverse dispositions. AR 601-56.

33. A waiver is required for an applicant who has: received a conviction or other adverse disposition for six or more minor traffic offenses; received three or more convictions or other adverse dispositions for minor (non-traffic) offenses; received two, three or four convictions or other adverse dispositions for misdemeanor offenses; received a total of three convictions or other adverse dispositions for a combination of minor (non-traffic) offenses and misdemeanor offenses; received one conviction or other adverse disposition for a DUI/DWI; received a conviction or other adverse disposition for a felony offense; received two convictions or other adverse dispositions for DUI/DWI. AR 601-56(Appendix E)(E-2).
34. A juvenile who has any of the following will not be allowed to enlist (and will not be permitted to request a waiver): pending adult or juvenile charges; currently on juvenile or adult probation; two or more felony offenses when it's been less than five years since the last offense; conviction of a felony and three or more other convictions or adverse dispositions; adjudication or conviction for any drug offense other than possession. AR 601-210(4-24).
35. AR 601-56(Appendix E)(E-2), 34 C.F.R. § 571.3(c)(1).
36. AR 601-56(2-2)(i).
37. See Air Force Regulations at AETC136-2002 4.5.4; Navy Recruiting Manual at 2K-1; Marine Corps Regulations at (MCO) P1020.34F.
38. 75 Pa.C.S. § 1532.
39. 75 Pa.C.S. § 1532(c).
40. 75 Pa.C.S. § 1532; 18 Pa.C.S. § 2706; 18 Pa.C.S. §§ 6307, 6308, 6310.3; 24 Pa.C.S. §13.
41. Federal Welfare Reform Law. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, as amended by the Balanced Budget Act of 1987, P.L. 105-33; 23 Pa.C.S. § 6344.
42. 42 Pa.C.S. § 6351(f.1).
43. 42 U.S.C. § 67(a)(20(A)(i) and (ii).
44. 18 Pa.C.S. § 6105; 204 Pa. Code § 303.6 (relating to Prior Record Score – prior juvenile adjudications).
45. 204 Pa.Code 303.7; 204 Pa.Code 303.7(a)(4). See 204 Pa.Code 303.7 for a listing of the points attached to enumerated felonies.
46. Supreme Court Record Retention and Disposition Schedule pursuant to R.J.A. 507.
47. Some governmental authorities retain access to expunged records, See e.g., F.B.I., C.I.A., and Military regulations.
48. 18 Pa.C.S. § 9123.
49. 18 Pa.C.S. § 9123(a)(1).
50. 18 Pa.C.S. § 9123(a)(2).
51. 18 Pa.C.S. § 9123(a)(3).
52. 18 Pa.C.S. § 9123(a)(4).
53. Pa.R.J.C.P. 170.

54. See Appendix B for sample notification letters from Allegheny and Cumberland Counties.
55. See Appendix C for sample motions to expunge and sample orders of expungement.
56. See Pa.R.J.C.P. 170.
57. Pa.R.J.C.P. 170(B).
58. Pa.R.J.C.P. 170(C) and Pa.R.J.C.P. 345.
59. Pa.R.J.C.P. 170(D).
60. 18 Pa.C.S. § 9123(a) and (b).
61. 18 Pa.C.S. § 9123(a)(4).
62. Pa.R.J.C.P. 170(E). In determining whether to grant or deny the petition, the Court will consider the type of offense in the record; the individual's age, history of employment, criminal activity and drug and alcohol problems; adverse consequences that the individual may suffer if the records are not expunged; and whether retention of the record is required for purposes of protection of public safety. 18 Pa.C.S. § 9123(a)(4).
63. Although the Code does not specifically state that the District Attorney must grant or deny his or her consent to the expungement using any specified criteria, there is a common understanding among practitioners and juvenile court judges that the criteria that the judges use in granting or denying the expungement in 18 Pa.C.S. § 9123(a)(4) is the same criteria that should be used by District Attorneys when determining whether to provide consent to an expungement.
64. Pa.R.J.C.P. 172.
65. See, e.g., *In Interest of Jacobs*, 334 Pa.Super. 613, 483 A.2d 907 (Pa. Super. 1984); *In Interest of John W.*, 300 Pa.Super. 293, 446 A.2d 621 (Pa. Super. 1982).
66. 44 Pa.C.S. §2321.
67. DNA Detection of Sexual and Violent Offenders Act (1st Sp. Sess., P.L.1009, No. 14) [or] 35 P. S. §§ 7651.101-7651.1102 (2006).
68. *Commonwealth v. M.M.M.*, 779 A.2d 1158 (Pa. Super. 2001).

Appendices

Appendix A

Model Expungement Policies

- Cumberland County
- Westmoreland County
- Allegheny County

Appendix B

Sample Notification Letters

- Allegheny County
- Cumberland County
- Northumberland County

Appendix C

Sample Expungement Petitions and Orders

- Westmoreland County
- Cumberland County
- Philadelphia County
- Allegheny County

Appendix D

Sample PSP Expungement Affidavit



Appendix A

Model Expungement Policies

Cumberland County
Westmoreland County
Allegheny County

CUMBERLAND COUNTY JUVENILE PROBATION DEPARTMENT

POLICY AND PROCEDURE MANUAL

SUBJECT: Retention of Juvenile Records

EFFECTIVE DATE: December, 2001
Amended May 1, 2006

EXPUNGEMENT POLICY

General Policy

It shall be the policy of the department to assist any juvenile interested in obtaining an expungement of their juvenile record. However, unless the juvenile has attained the age of eighteen (18), the department will not favor, support, or recommend an expungement. Limited exceptions to the department's "age 18" position are noted in this document.

In part, the policy is created to:

Acknowledge and continue the department practice of uniformly notifying every juvenile, during initial official contact, of the importance of working toward a successful discharge from juvenile probation jurisdiction, and to avoid being arrested and referred again; further, to inform and notify every juvenile in writing of the expungement of juvenile records procedure concerning the law and the department policy, specifically informing each juvenile that the department will not favorably recommend to the Court any expungement until the juvenile has attained the minimum age of eighteen (18).

Allow every juvenile the opportunity to prove, upon successful discharge from juvenile probation jurisdiction, that until reaching age eighteen (18) they have established a pattern of behavior revealing they are not in need of further treatment, supervision, or rehabilitation.

Prevent the destruction of potentially important documents, records, and information that may assist the Court, the District Attorney's Office, and other agencies having to work with a juvenile offender within either the juvenile or adult criminal justice system.

Retain juvenile records until at least the age of eighteen (18) to address potential referrals that are related to escalating penalty offenses such as DUI, Retail Theft, certain drug offenses, etc.

Assist the department in its responsibility to address graduated sanctions, relevant and important in the juvenile justice system, that should be considered and imposed at times against those juvenile offenders who present themselves to juvenile court jurisdictions on numerous and multiple occasions.

EXCEPTIONS:

There are three general areas of exception when the department will support the expungement of a juvenile record prior to the juvenile attaining the age of eighteen (18):

In a case where, before the Court (Judge), the Court finds the youth did not commit the alleged offense(s). In these cases, the probation department will immediately prepare an expungement order and recommend the Court's approval.

In a case where a complaint (referral) is received and the District Attorney rules that the charge(s) is/are

not to be considered substantiated. In these cases, the probation department will immediately prepare an expungement order and recommend the Court's approval.

Unusual and occasional cases that call for an exception to the department's policy.

CLASSIFICATION OF JUVENILES:

For the purpose of this expungement policy, there are two (2) categories covering all juvenile offenders:

Category 1 – Juvenile offenders, never adjudicated delinquent. These youth will be identified and tracked at closeout and upon reaching age eighteen (18), will automatically have their expungement processed by the Juvenile Probation Department.

Category 2 – Juveniles who have been adjudicated delinquent. These youth will be identified and tracked at close-out and upon reaching the age of 18, and, with at least a minimum of five (5) years from the final close-out order, will automatically have their expungement paperwork processed by the Juvenile Probation Department.

STANDARD MEMO AND EXPUNGEMENT ORDER:

In the case of an adjudicated delinquent juvenile, the Juvenile Probation Department will prepare a standard memo and court order to cover every case. The memo will reveal to the Court the recommendation of both the Probation Department, the District Attorney's Office, and the Public Defender's Office and any other relevant data for the Court's review.

The standard court order for the expungement of a juvenile record will list identifying factors and information needed for the Court's knowledge and to satisfy required data needed to successfully expunge a juvenile record. Finally, a full and complete distribution list will be on each court order.

AUTHORIZED SIGNATURES FOR EXPUNGEMENT OF ADJUDICATED DELINQUENTS:

Only the Chief Juvenile Probation Officer or the Chief's designee shall sign memos attached to the order of expungement. A District Attorney representative shall sign on behalf of its office. The Juvenile Defender shall sign on behalf of the Public Defender's Office.

PROCESSING EXPUNGEMENT CASES:

The usual procedures for the processing of juvenile expungement cases shall be as follows:

In cases involving non-adjudicated delinquent juveniles who have attained the minimum age of eighteen (18), the department shall automatically process the expungement court order for the Judge's signature.

In cases involving adjudicated delinquent juveniles who have attained the age of 18 and five (5) years after the final closeout court order date, the department shall automatically process the expungement documents for routing through the approval process.

Once a juvenile is eligible for expungement, the Juvenile Probation Department shall:

Review the case.

Obtain a current Pennsylvania Criminal History Record.

Assure that no money, including costs, fines, and restitution, is outstanding.

Prepare the expungement court order for non-adjudicated delinquent juveniles and submit to the Judge for signature.

In the case of adjudicated delinquent expungements, (1) obtain recommendation from the Juvenile Probation Department's representative, (2) forward paperwork to the District Attorney's Office for its review and recommendation, requesting that the packet be returned to juvenile probation within thirty (30) days, and (3) forward paperwork to the Public Defender's Office for its review and recommendation. Unanimous favorable recommendations by all parties in this category of expungement will result in the Juvenile Defender's return of said paperwork to the Juvenile Probation Department for submission to the Court. Disagreement by involved parties in the recommendation for expungement can result in the Juvenile Defender's initiation of a formal hearing before the Juvenile Court.

In a case where the Court signs the expungement order, the normal distribution of a court order shall occur. Juvenile Probation shall distribute expungement orders that do not include a petition number. The Clerk of Court's Office shall distribute expungement orders that include petition numbers.

When the Probation Department receives its copy of a signed expungement order, the department shall:

Immediately destroy all juvenile case information related to the expungement order

Retain a copy of the expungement order in a secure area.

DISTRIBUTION LIST FOR EXPUNGEMENT ORDERS:

The probation department, in preparing expungement orders, shall include a full and complete listing of distribution points. The county Clerk of Court's Office shall assure delivery for all designated listings under its authority, otherwise, juvenile probation shall assure distribution.

Distribution locations, other than Cumberland County departments, agencies, offices, etc., shall include full and complete mailing addresses.

MISCELLANEOUS:

Generally, juveniles who have failed to pay off costs, fines, or restitution will not be processed.

It is expected that this policy will be subject to change.

Reference: The Juvenile Act, 42 PA C.S. Sec. 6301 et seq. with appendix Appendix II, Expungement of Juvenile Records, 18 PA C.S. 9123.

See Attachments:

- Appendix 9.1A Letter to Category 1, non-adjudicated delinquent juveniles, who have completed supervision indicated as E.L.1
- Appendix 9.1B Letter to Category 2, adjudicated delinquent juveniles, who have completed supervision indicated as E.L.2
- Appendix 9.1C Juvenile expungement recommendation memo
- Appendix 9.1D Prevention of processing letter
- Appendix 9.1E Expungement court order – non-petition cases
- Appendix 9.1F Expungement court order – petition cases

CUMBERLAND COUNTY JUVENILE PROBATION DEPARTMENT

EXPUNGEMENT INFORMATION AND PROCEDURES

May 1, 2006

All juveniles, upon completing probation supervision, receive a closeout letter, and depending on their status, will also receive a form letter that addresses expungement of their juvenile record. These clients are known as Category 1 juvenile offenders (never adjudicated delinquent) or Category 2 juvenile offenders (adjudicated delinquent). The Category 1 and Category 2 expungement letters are known as E.L.1 and E.L.2. The supervisor that approves the closeout of a case will note on the closeout memo the specific expungement letter that the juvenile is to receive.

PREPARING CASES FOR EXPUNGEMENT

When a case is ready for expungement consideration, the juvenile's file will be pulled by the department's designee.

The following are the steps in preparing juvenile's cases for expungement:

- Check for money owed.
- Run PA State Police Rap Sheet.
- Prepare court order(s)
- Prepare memo (for adjudicated delinquent cases only)

If any debts are owed, the department's designee will forward a standard prepared letter to the youth marking appropriate box, and placing a copy of the letter in the file. The juvenile's file will then be placed in the normal file drawer.

In non-adjudicated delinquent cases, court orders are forwarded to the Judge for signature. Court orders with petition numbers and court orders without petition numbers are sent to the Judge separately.

In adjudicated delinquent cases, all paperwork, including the memo, rap sheet, and court order(s) are given to the Juvenile Probation Officer designated to approve such cases for his/her recommendation. After Juvenile Probation's recommendation, the paperwork is sent to the District Attorney's Office for their recommendation. Upon return, the paperwork is then forwarded to the Juvenile Defender in the Public Defender's Office for his/her recommendation.

In the case of expungement orders without petition numbers, probation will receive the original from the Judge's secretary. Support staff will assure that copies of these court orders are made and then sealed in the Clerk of Court's Office, brought back to probation, and distributed accordingly.

Once probation receives its copy of an petition number expungement order, the appropriate information can be destroyed.

Normally, an expungement order will result in the entire file and all contents being destroyed.

Support staff will go through the file's contents, removing paperclips, staples, and any other hard objects. The name label will be removed from the file jacket and destroyed. All papers, including the file jacket, not revealing an association with the youth may be placed in normal trash bins. All other papers will be shredded.

In expungement cases where only certain materials are ordered destroyed, the department's designee will assure that all relevant expunged materials are removed from the file.

DEPARTMENT'S DESIGNEE'S RESPONSIBILITIES:

Assure the case is eligible for expungement consideration.

Determine whether a case is partial or total expungement.

Verify each case by comparing file documents such as stat card, face sheet, court orders, police referrals.

When listing the charge(s) on the expungement court order, compare all file documents that are relevant so as to assure a complete and total expungement of all charges.

For all outside distribution points, complete addresses are required to be listed on the expungement order.

Assure that the distribution list is complete for every case. A number of locations are routine but certain cases may call for additional distribution locations.

WESTMORELAND COUNTY
Adoption of Juvenile Rule WJUV 1; No. 2 Civil of 2004

Order

And Now, this 3rd day of May, 2004, *It Is Hereby Ordered* that Westmoreland County Rule of Juvenile Procedure WJUUVI and accompanying Petition And Order for Expungement of Juvenile Records are hereby adopted. The effective date of this Order is July 1, 2004.

By the Court

DANIEL J. ACKERMAN,
President Judge

WJUV 1 Expunging Juvenile Records

Expungement under "The Criminal History Record Information Act," 18 Pa.C.S.A. § 9101 et. seq.

Petitions for Expungement of juvenile records pursuant to 18 Pa.C.S.A. § 9123, shall be initiated by the defendant's filing of a Petition and Order for Expungement of Juvenile Records found in the Forms section of these local rules, or by filing a petition containing the information required under Pa.R.Crim.P. 722.

The Clerk of Courts shall provide the Westmoreland County District Attorney and the Westmoreland County Juvenile Probation and Parole Department with a copy of the Petition.

The juvenile probation and parole department will forward the expungement petition and order to the court thirty (30) days after the defendant files the petition. The Court will direct that argument be scheduled on the Petition if the Commonwealth files an objection within thirty (30) days of the filing of the petition; otherwise, the court will Order expungement of the juvenile record.



BULLETIN #7 of 2004
Revised 12/2/04

ALLEGHENY COUNTY JUVENILE COURT
 POLICY BULLETIN

APPROVED: James Rieland
2004

EFFECTIVE DATE: December 2,

TITLE: Filing a Petition for Expungement Following Successful Completion of a Consent Decree

POLICY: Upon successful completion of a Consent Decree, a petition for expungement of the Juvenile Court record may be filed per the following conditions:

1. Six (6) months have elapsed since the final discharge (expiration) of the decree and no action is pending in either Juvenile Court or Criminal Court that could result in an adjudication or conviction **and**
2. At least 30 days notice is provided to the district attorney's office from the time of filing the petition until the petition is scheduled to be heard.

The Probation Department will ensure that all parties have access to the Court. The Probation Department will assist individuals attempting to access the Court for the purpose stated within the context of this policy. Along with the Consent Decree Termination Notice sent to parents, a "Pro Se Petition for Expungement of juvenile Records" form shall also be sent.

PROCEDURE: The individual reports to the On-Call Intake Officer with their completed petition and two (2) copies.

The On-Call Intake Officer schedules the case per the following manner.
 If the case was heard by a sitting Juvenile Court Judge, the case shall be listed with that Judge.
 If the case was heard by a Judge no longer sitting at Juvenile Court or by a Hearing Officer, the case shall be listed with the Motions Judge.

After scheduling the case, the On-Call Intake Officer provides a hearing notice to the individual for their records.

The On-Call Intake Officer forwards a copy of the petition to the Information Management Department for inclusion in the youth's record.

Upon presenting the filing party with their copy of the hearing notice, the On-Call Intake Officer shall direct the filing party to Prothonotary's Office, Juvenile Division to file the petition.

The On-Call Intake Officer shall provide the Assistant District Attorney's Office with a copy of the petition and a hearing notice.

f:\policy\2004/
 Filing a Petition for
 Expungement
 Following
 Successful
 Completion of a
 Consent Decree
 Revised 12/2/04



Appendix B

Sample Notification Letters

Allegheny County
Cumberland County
Northumberland County

Eugene F. Scanlon, Jr.
Administrative Judge

Kim Berkeley Clark
Supervising Judge

James Rieland
Administrator
Juvenile Section



COURT OF COMMON PLEAS OF ALLEGHENY COUNTY
FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
FAMILY DIVISION - JUVENILE SECTION
550 FIFTH AVENUE
PITTSBURGH, PENNSYLVANIA 15219
(412) 350-0200
FAX (412) 350-0176



Consent Decree Termination Notice

December 1, 2006

Probation Offices

Central Probation
5231 Penn Avenue
Suite 100
Pittsburgh, PA 15224
(412) 441-9000
Fax (412) 361-6471

Eastern Probation
907 West Street
Penn West Building
Wilkinsburg, PA 15221
(412)-241-1842
Fax (412) 242-7324

Intake/Investigations
550 Fifth Avenue
Pittsburgh, PA 15219
(412) 350-0170
Fax (412) 350-0130

Mon-Yough Probation
120 Fifth Avenue
McKeesport, PA 15132
(412) 673-7167
Fax (412) 673-3832

Northern Probation
906 Western Avenue
Pittsburgh, PA 15233
(412) 321-0365
Fax (412) 321-0181

**School-Based
Probation**
1700 East Carson Street
4th Floor
Pittsburgh, PA 15203
(412) 431-5505
Fax (412) 432-7085

Shuman Intake
7150 Highland Drive
Pittsburgh, PA 15206
(412) 665-4104
Fax (412) 363-7654

Southern Probation
1700 East Carson Street
4th Floor
Pittsburgh, PA 15203
(412) 431-5500
Fax (412) 431-6386

Dear _____ :

This is to advise you that the case of _____
has been closed.

Because your child has completed a Consent Decree, you may petition the court for an expungement of the Juvenile Court record through your child's attorney or on your own. Expungement is not an automatic process. The PA Juvenile Act establishes the following conditions for an expungement after successful completion of a Consent Decree:

1. At least 30 days notice to the district attorney's office **and**
2. Six (6) months have elapsed since the final discharge of the decree and no action is pending in either Juvenile Court or Criminal Court that could result in an adjudication or conviction.

You may complete the enclosed forms and take them to the Juvenile Court Intake Department Room 2066, where someone will assist you..

Sincerely,

Probation Officer



Frick Building
437 Grant Street
Suite #700
Pittsburgh, PA 15219

T: 412-391-3100
F: 412-391-3588
www.kidsvoice.org

Date _____

Name _____
Address _____

Dear _____:

This letter is to advise you that your consent decree has expired. You and/or your parent(s) may have also received a letter from your probation officer explaining this process. KidsVoice will continue to represent you in CYF dependency matters.

Because you have completed the terms of your consent decree, you may petition the court for an expungement of your *Juvenile Court* record. Expungement is not an automatic process. Expungement means you will not have a juvenile record as you enter into adulthood and it will make it easier to obtain employment, secure housing and apply to college and for financial aid.

Enclosed is the paperwork that must be completed in order to have your record expunged, detailed steps on how to complete the paperwork, a sample expungement petition and A Guide to the Expungement Process for your review. This guide contains valuable information regarding why you should expunge your juvenile record.

Although KidsVoice did not represent you in delinquency matters, we can represent you in the expungement process. If you wish for KidsVoice to represent you in this matter, please call me as soon as possible so that we may prepare and file an expungement petition on your behalf. If you do not wish for KidsVoice assistance, you or your parent/guardian may proceed *Pro Se* (without legal representation). Please be advised that if you decide to proceed *Pro Se*, KidsVoice cannot represent you in expungement matters.

Nothing in this expungement packet is intended to constitute legal advice.

Sincerely,

Lynn Knause
Child Advocacy Specialist

Instructions for Preparing and Filing a *Pro Se* Petition for Expungement of a Consent Decree

- 1) Fill out the cover page (page 1) completely.
 - A. Fill in the child's name in the space below "IN THE INTEREST OF:".
 - B. Fill in the child's Caselog Number, JID Number, Docket Number, Date of Birth and Social Security Number. The Caselog, JID and Docket numbers can be found on the child's court order.
 - C. Repeat steps A and B on each page of the expungement packet.
 - D. Fill in the child's name in the space below "Filed on Behalf of:".
 - E. If you are the parent or guardian of the child filing the petition on your child's behalf, fill in your name and address in the space provided for name and address of petitioner. If you are the child/adult and filing on behalf of yourself, fill in your name and address.

- 2) Fill out the caption page (page 2) completely.
 - A. When the on-call probation officer schedules the hearing, he/she will complete the "Notice of Presentation" by filling in the name of the Judge and the date and time of the hearing (this step will be discussed in more detail below). **Sign your name above "Petitioner"**.
 - B. Under "Certificate of Service", fill in the date that you will provide a copy of the expungement packet to the District Attorney, Juvenile Probation Intake Office and Head Juvenile Probation Officer (this step will be discussed in more detail below). **Sign your name above "Petitioner"**.

- 3) Complete the *Pro Se* Petition for Expungement of Juvenile Records (pages 3 & 4).
 - A. If you are the parent/guardian filing on behalf of your child, fill in your name as the petitioner. If you are filing on behalf of yourself, fill in your own name as the petitioner.
 - B. On line number (1), fill in the date of the arrest, child's name and the criminal charge(s).
 - C. On line number (2), fill in the arresting law enforcement agency.
 - D. On line number (4), fill in the date the consent decree expired.
 - E. On line number (6), fill in the reference number of the police report. This number can be found on the child's police report. If you do not have a copy, contact the child's probation officer. If the probation officer no longer has your child's file with the police report in it, you must contact the arresting law enforcement agency to obtain the reference number.
 - F. **Finally, be sure to sign the petition on page 4.**

- 4) Complete the order of the court (page 5).
 - A. Fill in the name of the arresting law enforcement agency.
 - B. Fill in the name of the school district(s) that the child attended at the time of the arrest and while the child was under the supervision of probation.
 - C. Fill in the name of any providers with whom the child was placed while under the supervision of probation.

- 5) Report to the on-call juvenile probation office with your completed *Pro Se* Petition packet. The on-call probation officer is located in room 2066 at 550 Fifth Avenue, Pittsburgh, PA 15219 (second floor of the juvenile court house). The phone number 350-0170.
 - A. The on-call probation officer (PO) schedules the hearing and completes the "Notice of Presentation" (on page 2) by filling in the name of the judge and the date and time of the hearing. Before you leave the probation office, verify that this section has been filled out completely by the on-call PO. If you have not already signed your name above "Petitioner", do so after the PO completes the section.
 - B. After the on-call PO fills in the "Notice of Presentation" section, ask the PO to make four (4) copies of the entire expungement packet. If the PO does not make copies, you must take the completed packet to the 3rd floor of the court house and make your own copies. If the PO makes copies, leave one (1) copy with the PO. If you make the copies, return to the on-call PO's office and provide him/her with a copy of the expungement packet.
 - C. Before leaving the court house, you must also provide a copy of the completed expungement packet to the head probation officer, Jim Reiland. His office is located on the second floor of the court house in room 2001. You may give a copy of the expungement packet to his administrative assistant, Connie Pryzyby.
 - D. Next, take the original expungement packet along with the two (2) remaining copies that you have left, to the Juvenile court Prothonotary's Office located in the City County Building, 414 Grant Street, Room 209, Pittsburgh, PA 15219. The phone number is 350-4492. File the original expungement packet with the Prothonotary and ask the clerk to time stamp the two (2) copies.
 - E. Finally, provide a copy of the expungement packet to the District Attorney's Office, Juvenile Division, located in the Allegheny County Courthouse, 436 Grant Street, Room 401, Pittsburgh, PA 15219. The phone number is 350-3111.
 - F. Keep the final copy of the expungement packet for yourself to bring with you to the expungement hearing.

- 6) If the court grants your petition for expugement, you must file the signed order (page 5) with the Juvenile Court Prothonotary and retain a copy for your records.

Enclosed is a sample *Pro Se* Petition for you to use as a sample as you fill out your petition.

Eugene F. Scanlon, Jr.
Administrative Judge

Kim Berkeley Clark
Supervising Judge

James Rieland
Administrator
Juvenile Section



COURT OF COMMON PLEAS OF ALLEGHENY COUNTY
FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
FAMILY DIVISION - JUVENILE SECTION
550 FIFTH AVENUE
PITTSBURGH, PENNSYLVANIA 15219
(412) 350-0200
FAX (412) 350-0176



Consent Decree Termination Notice

December 1, 2006

**Probation
Offices**

Central Probation
5231 Penn Avenue
Suite 100
Pittsburgh, PA 15224
(412) 441-9000
Fax (412) 361-6471

Eastern Probation
907 West Street
Penn West Building
Wilkinsburg, PA 15221
(412)-241-1842
Fax (412) 242-7324

Intake/Investigations
550 Fifth Avenue
Pittsburgh, PA 15219
(412) 350-0170
Fax (412) 350-0130

Mon-Yough Probation
120 Fifth Avenue
McKeesport, PA 15132
(412) 673-7167
Fax (412) 673-3832

Northern Probation
906 Western Avenue
Pittsburgh, PA 15233
(412) 321-0365
Fax (412) 321-0181

**School-Based
Probation**
1700 East Carson Street
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(412) 431-6505
Fax (412) 432-7085

Shuman Intake
7150 Highland Drive
Pittsburgh, PA 15206
(412) 665-4104
Fax (412) 363-7654

Southern Probation
1700 East Carson Street
4th Floor
Pittsburgh, PA 15203
(412) 431-5500
Fax (412) 431-6386

Dear _____ :

This is to advise you that the case of _____
has been closed.

Because your child has completed a Consent Decree, you may petition the court for an expungement of the Juvenile Court record through your child's attorney or on your own. Expungement is not an automatic process. The PA Juvenile Act establishes the following conditions for an expungement after successful completion of a Consent Decree:

1. At least 30 days notice to the district attorney's office **and**
2. Six (6) months have elapsed since the final discharge of the decree and no action is pending in either Juvenile Court or Criminal Court that could result in an adjudication or conviction.

You may complete the enclosed forms and take them to the Juvenile Court Intake Department Room 2066, where someone will assist you..

Sincerely,

Probation Officer

CUMBERLAND COUNTY JUVENILE PROBATION DEPARTMENT

IMPORTANT NOTICE

EXPUNGEMENT OF JUVENILE RECORDS

You have officially concluded your period of supervision with this department as directed by the Juvenile Court of Cumberland County.

The law provides an opportunity for most juveniles to obtain an expungement of their juvenile records. Generally, expungement means to do away with, to erase, to delete.

Your involvement with the juvenile criminal justice system may have included having your fingerprints and photograph taken. There would usually be police department records on your case along with the probation department reports. For the most part, juveniles are protected by confidentiality rules as they pertain to juvenile records of information retained by police departments, probation departments, and other law enforcement agencies related to juvenile cases.

An expungement court order, signed by a Cumberland County Court Judge, is the only means by which all of your records can be ordered destroyed.

Because of the manner in which your case was handled, and if you remain out of trouble with the law and do not again come under juvenile court jurisdiction, the processing of your expungement will begin automatically upon you attaining age eighteen (18).

On the other hand, you also need to realize that if you are again arrested and come under future juvenile court jurisdiction and are adjudicated delinquent, the expungement benefits provided to you within this letter may no longer apply.

E.L.1

Rev. 05/06

CUMBERLAND COUNTY JUVENILE PROBATION DEPARTMENT

IMPORTANT NOTICE

EXPUNGEMENT OF JUVENILE RECORDS

You have officially concluded your period of supervision with this department as directed by the Juvenile Court of Cumberland County.

This notice is to inform you of the law as it relates to the expungement of juvenile records. Generally, expungement means to do away with, to erase, to delete.

Because you have been adjudicated delinquent, the following information is provided to you in this notice.

Generally, there are two avenues available that you may pursue in an effort to obtain an expungement of your juvenile records.

You must wait until five (5) years after you have been released from juvenile probation jurisdiction, provided that during that period of time you have not been convicted of a felony, misdemeanor, or adjudicated delinquent and no proceeding is pending seeking such conviction or adjudication. If you qualify under this avenue and you are at least eighteen (18) years of age, the Juvenile Probation Department will automatically process your expungement paperwork. If approved for expungement, you will receive a copy of the signed court order. If the expungement is denied, you will be notified by the Cumberland County Juvenile Defender.

2. If you do not qualify under #1, but are eighteen (18) years of age or older, you have the right to seek legal advice from an attorney.

E.L.2

Rev. 05/06

JUVENILE COURT SERVICES

NORTHUMBERLAND COUNTY, PA

ROBERT B. SACAVAGE
PRESIDENT JUDGE

WM. HARVEY WIEST
JUDGE

CHARLES H. SAYLOR
JUDGE

JUVENILE PROBATION

316 N Second Street, Bldg 320
Sunbury PA 17801
Telephone: (570) 495-2174
Fax: (570) 988-4574

C.L.A.N.C.Y.

314 N Second Street, Bldg 320
Sunbury, PA 17801
Telephone: (570) 495-2305
Fax: (570) 988-4470

DATE

NAME
STREET
CITY, STATE ZIP

RE: EXPUNGEMENT OF JUVENILE RECORDS

Dear NAME:

Please find enclosed a proposed petition to expunge your juvenile record with this agency and all other criminal justice related departments.

You must take the petition to a Notary Public, sign **BOTH LINES** in front of him/her as directed, and have the petition notarized. Once this is done, please send it back to this agency, along with a check or money order in the amount of \$25.00, made payable to the Juvenile Court Services, to cover the costs of the expungement. We will then, in accordance to current Juvenile Law, schedule this matter before the Court for approval. The District Attorney's Office will be notified of your request to have your records expunged. They will have the opportunity in Court to respond to your request as to whether or not they object to the records being destroyed. The major objections occur if you have any current adult charges pending. If no objection exists, a Court Order will be signed by the presiding Northumberland County Judge to have all juvenile delinquency records destroyed, wherever kept.

Once this agency has verified that all agencies and departments have destroyed their records, the Juvenile Court Services will then proceed to destroy all records on you, including removal from the Juvenile Court Case Management Computer

System. The whole process should take approximately sixteen (16) weeks to complete once the Court Order is signed.

One of the biggest misconceptions that individuals have with the expungement process is that the Court Order will destroy records with other non-criminal justice agencies. While this Officer is not implying that you are in any way involved with other social service agencies or have other criminal involvement, **PLEASE BE AWARE THAT THIS PROCESS DOES NOT DESTROY ANY ADULT CRIMINAL RECORDS OR ANY OTHER SOCIAL SERVICES AGENCY RECORDS. THESE RECORDS WILL STILL REMAIN.**

Additionally, some records at the Department of Transportation will not be destroyed. A driver's license is considered civil in matter, not criminal, and the expungement process does not reinstate one's license if suspended or destroy most driving records. However, effective January 28, 2005, Act 173 enables those individuals, age 21 or older, who have been found guilty of PACC § 6308 (relating to UNDERAGE DRINKING) to have those records expunged if they have satisfied all conditions imposed for the offense, including Suspension of Operating Privileges.

Sincerely,

William J. Rossnock
Chief Juvenile Probation Officer

JUVENILE COURT SERVICES

NORTHUMBERLAND COUNTY, PA

ROBERT B. SACAVAGE
PRESIDENT JUDGE

WM. HARVEY WIEST
JUDGE

CHARLES H. SAYLOR
JUDGE

JUVENILE PROBATION

316 N Second Street, Bldg 320
Sunbury PA 17801
Telephone: (570) 495-2174
Fax: (570) 988-4574

C.L.A.N.C.Y.

314 N Second Street, Bldg 320
Sunbury, PA 17801
Telephone: (570) 495-2305
Fax: (570) 988-4470

DATE

NAME
STREET
CITY, STATE ZIP

RE: EXPUNGEMENT OF JUVENILE RECORDS

Dear NAME:

Please be advised that all of your juvenile records, wherever kept or retained, have been expunged as Ordered by the Court. Enclosed, you will find all original documents pertaining to the expungement of your juvenile records. These documents include the Petition, Court Order, notification to District Attorney, and statements of expungement from the Clerk of Court, the District Attorney, Juvenile Court Services, the Center for Juvenile Justice Training and Research (CJJTR), State Police Repository, and local police and/or magistrates.

Sincerely,

William J. Rossnock
Chief Juvenile Probation Officer

**NORTHUMBERLAND COUNTY
JUVENILE COURT SERVICES**

EXPUNGEMENT STATEMENT

IN THE INTEREST OF

NAME

JV-06-

I, William J. Rossnock, Chief Juvenile Probation Officer, hereby Certify that any and all original and duplicate records noting or relating to the above mentioned individual, wherever kept or retained by the Northumberland County Juvenile Court Services, have been destroyed in compliance with the Order of Expungement, which I received.

SIGNATURE

TITLE

DATE

SWORN TO AND SUBSCRIBED

Before me this _____ day of _____, 2006

NOTARY PUBLIC



Appendix C

Sample Expungement Petitions and Orders

Westmoreland County
Cumberland County
Philadelphia County
Allegheny County

Westmoreland County Expungement Petition and Order

**IN THE COURT OF COMMON PLEAS
WESTMORELAND COUNTY, PENNSYLVANIA -- JUVENILE DIVISION**

Commonwealth of Pennsylvania)
 v.) **No. xx-xxxx**
)
Juvenile Name)

PETITION AND ORDER OF EXPUNGEMENT FOR JUVENILE RECORDS

AND NOW this ____ day of _____, 20 ____,

the petitioner avers to the following and requests that an expungement be granted for the following reasons:

Governor’s Pardon (Copy attached)

An unsubstantiated complaint was filed or the complaint was dismissed by the court 18 Pa.C.S.A. § 9123(a)(1)

Six months have elapsed since the final discharge from supervision pursuant to a consent degree 18 Pa.C.S.A. § 9123(a)(2)

Five years have elapsed since discharge from commitment, placement, probation or other disposition under the terms in 18 Pa.C.S.A. § 9123(a)(3)

The individual is 18 years of age or older, the Commonwealth consents and the Court orders expungement after consideration of the Terms found at 18 Pa.C.S.A. § 9123(a)(4)

The petitioner is at least 21 years of age and wishes to have records of dependency adjudication expunged pursuant to 18 Pa.C.S.A. § 9123(c).

Petitioner’s Name _____

Petitioner’s Date of Birth _____

Social Security Number _____

Petitioner’s Address _____

Petitioner’s Telephone Number _____

Petitioner’s Juvenile Case Number _____

Original Complaint Date _____

List ALL charges at above Juvenile Case Number including Section, subsection and complaint number, and the disposition. Include a copy of the Court Order for disposition.

Charge	Disposition

Disposition Date of Above Charges _____

The expungement of the within juvenile record will not prejudice the position of the Commonwealth.

WHEREFORE, petitioner, respectfully requests this Honorable Court to order the expungement of all records pertaining to the aforementioned charges, wherever they may be located and by whom they may be retained.

Respectfully submitted,

Petitioner's Signature

VERIFICATION

The undersigned, petitioner, avers that the statements of fact contained in the foregoing PETITION FOR EXPUNGEMENT, are true and correct to the best of the petitioner's knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Petitioner's Signature

Date

**IN THE COURT OF COMMON PLEAS
WESTMORELAND COUNTY, PENNSYLVANIA – JUVENILE DIVISION**

Commonwealth of Pennsylvania)

v.)

No. xx-xxxx

Juvenile Name)

ORDER OF COURT

AND NOW, this ____ day of _____, 20____,

the Commonwealth having filed objections to the Defendant's Petition for Expungement of Juvenile Records in the above captioned case it is HEREBY ORDERED that a hearing on the petition be held on the ____ day of _____, 20 __, at ____ m. in Courtroom # ____ of the Sample County Courthouse.

BY THE COURT:

_____ J.

ATTEST:

Cumberland County Expungement Order

IN THE COURT OF COMMON PLEAS

CUMBERLAND COUNTY, PENNSYLVANIA

IN THE MATTER OF _____, A JUVENILE, BORN _____

ORDER OF COURT – EXPUNGEMENT OF JUVENILE RECORD

AND NOW, this _____ day of _____, 200____, the juvenile having satisfied the requirements of the Court's Expungement Policy, it is hereby ordered that the above named juvenile's record, identified herein, including fingerprints, photographs, any and all other information pertaining to the arrest of this juvenile for the charge(s) listed below, **IS EXPUNGED**, pursuant to 18 PA C.S.A. § 9123.

DOB: _____ SS #: _____ SID #: _____

Date of Arrest: _____ Arrested By: _____

Charge(s): _____

Disposition/Date: _____

By the Court,

Kevin A. Hess, J.

Distribution:

Juvenile Probation

District Attorney

Public Defender

Children & Youth

Domestic Relations

Clerk of Court – Costs & Fines

Linda Bender, CJJT&R, Horton Hall, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257

PA State Police Central Repository, ATTN: Bureau of Records & ID, 1800 Elmerton Ave., Harrisburg, PA 17110

Police Department

Juvenile

**IN THE COURT OF COMMON PLEAS
CUMBERLAND COUNTY, PENNSYLVANIA**

IN THE MATTER OF _____, A JUVENILE, BORN _____

ORDER OF COURT – EXPUNGEMENT OF JUVENILE RECORD

AND NOW, this _____ day of _____, 200____, the juvenile having satisfied the requirements of the Court’s Expungement Policy, it is hereby ordered that the above named juvenile’s record, identified herein, including fingerprints, photographs, any and all other information pertaining to the arrest of this juvenile for the charge(s) listed below, **IS EXPUNGED**, pursuant to 18 PA C.S.A. § 9123.

DOB: _____ SS #: _____ SID #: _____

Date of Arrest: _____ Arrested By: _____

Charge(s): _____

Disposition/Date: _____

REASON FOR EXPUNGEMENT: Unsubstantiated complaint was filed or complaint was dismissed by the Court, 18 Pa.C.S.A.§9123(a)(1).

By the Court,

Kevin A. Hess, J.

Distribution:

Juvenile Probation
District Attorney
Public Defender
Children & Youth
Domestic Relations
Clerk of Court – Costs & Fines
Linda Bender, CJJT&R, Horton Hall, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
PA State Police Central Repository, ATTN: Bureau of Records & ID, 1800 Elmerton Ave., Harrisburg, PA 17110
Police Department
Juvenile

**IN THE COURT OF COMMON PLEAS OF
CUMBERLAND COUNTY, PENNSYLVANIA
CP-21-JV- PROBATION REFERRED JUVENILE
IN THE MATTER OF _____, A JUVENILE, BORN _____**

ORDER OF COURT – EXPUNGEMENT OF JUVENILE RECORD

AND NOW, this _____ day of _____, 200____, the juvenile having satisfied the requirements of the Court’s Expungement Policy, it is hereby ordered that the above named juvenile’s record, identified herein, including fingerprints, photographs, any and all other information pertaining to the arrest of this juvenile for the charge(s) listed below, **IS EXPUNGED**, pursuant to 18 PA C.S.A. § 9123. Clerk of Court shall affix his seal thereto.

DOB: _____ SS #: _____ SID #: _____

Date of Arrest: _____ Arrested By: _____

Charge(s): _____

Disposition/Date: _____

REASON FOR EXPUNGEMENT: Individual is 18 YOA or older, the Commonwealth consents and the Court orders expungement after consideration of the terms found at 18 Pa. C.S.A. §9123(a)(4).

By the Court,

Kevin A. Hess, J.

Distribution:

- Juvenile Probation
- Clerk of Court - Costs & Fines
- District Attorney
- Public Defender
- Children & Youth Services
- Domestic Relations
- Linda Bender, CJJT&R, Horton Hall, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257
- PA State Police Central Repository, ATTN: Bureau of Records & ID, 1800 Elmerton Ave., Harrisburg, PA 17110
- Police Department
- Juvenile

Allegheny County Expungement Petition and Order

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA FAMILY DIVISION – JUVENILE SECTION

IN THE INTEREST OF:

Minor

Caselog No. _____
JID No. _____
Docket No: _____
D.O.B. _____
S.S.N. _____

PRO SE PETITION FOR EXPUNGEMENT OF JUVENILE RECORDS

Filed on Behalf of:

Minor

(name and address of petitioner)

WHEREFORE, the Minor respectfully requests that this Honorable Court grant the within petition and order the expungement of said Minor's juvenile records pursuant to 19 Pa. C.S.A. §9123.

I verify that the statements made within this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S.A. §4903, relating to False Swearing.

Petitioner

550 Fifth Avenue, Room 2001
Pittsburgh, PA 15219

KINDLY TAKE NOTICE THAT THE WITHIN petition will be presented before the _____ (name of judge), Family Court Division Juvenile Section of the Allegheny County Court of Common Pleas, 440 Ross Street, Pittsburgh, PA 15219, on the ____ day of _____ 2005 at ____ a.m./p.m., at which time you should appear to voice any objection.

Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Notice and Petition was hand delivered to the District Attorney's Office and Juvenile Probation Intake Office at the above addresses on this ____ day of _____ 2005.

Petitioner

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION – JUVENILE SECTION

IN THE INTEREST OF:

Minor

Caselog No. _____
JID No. _____
Docket No: _____
D.O.B. _____
S.S.N. _____

PRO SE PETITION FOR EXPUNGEMENT OF JUVENILE RECORDS

AND NOW comes _____ (petitioner), who respectively requests this Honorable Court to grant the within petition, and in support of the petition states as follows:

1. On or about ___/___/___, _____, a Minor, (hereinafter “Minor”) was arrested and charged via juvenile petition with:

(hereinafter “allegation”).
2. The law enforcement agency that initiated the above allegation is:
_____.
3. The Minor was placed on a Consent Decree with regard to the aforementioned juvenile petition pursuant to 42 Pa. C.S.A. §6340.
4. The Minor successfully completed the conditions of the Consent Decree and was discharged from supervision on or about ___/___/___.
5. Pursuant to 18 Pa. C.S.A. §9123(a)(2), the Minor is entitled to expungement of the Minor’s juvenile delinquency records because:
 - a. Six (6) months have elapsed since the expiration of the aforementioned Consent Decree and the Minor’s discharge from supervision; and
 - b. No matters seeking either juvenile delinquency adjudication or criminal conviction are pending against the Minor.
6. The reference number of the police report or written allegation initiated by the aforementioned law enforcement agency and to be expunged is: _____.

WHEREFORE, the Minor respectfully requests that this Honorable Court grant the within petition and order the expungement of said Minor's juvenile records pursuant to 19 Pa. C.S.A. §9123.

I verify that the statements made within this petition are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are made subject to the penalties of 18 Pa. C.S.A. §4903, relating to False Swearing.

Petitioner

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION – JUVENILE SECTION

IN THE INTEREST OF:

Minor

Caselog No. _____
JID No. _____
Docket No: _____
D.O.B. _____
S.S.N. _____

ORDER OF COURT

AND NOW, this ____ day of _____, 2005, after hearing argument on the within petition, it is ORDERED that the Juvenile Court Prothonotary/Clerk of Courts of Allegheny County shall serve a certified copy of this Order and attached Petition, hereby incorporated as a part of the Order, upon the following persons, keepers of records pertaining to the above-captioned proceedings:

- | | |
|---|--------------------------------------|
| 1. Allegheny County Juvenile Court Prothonotary | 9. Pennsylvania State Police Central |
| 2. Allegheny County District Attorney | Repository |
| 3. Allegheny County Juvenile Probation | 10. _____ |
| 4. Juvenile Probation Intake Office | (arresting law enforcement agency) |
| 5. Federal Bureau of Investigation | 11. _____ |
| 6. Shuman Detention Center | (school district) |
| 7. Allegheny County Sheriff's Office | 12. _____ |
| 8. Bureau of Criminal Investigation | (placement) |

IT IS ALSO ORDERED that the aforementioned keepers of juvenile records shall expunge and destroy the official and unofficial arrest and other criminal records, files, computer records, and other documents pertaining to the captioned proceedings, and that each shall request the return of such records which its agency made available to county, state or federal agencies, and immediately upon receipt thereof shall destroy such records.

IT IS FURTHER ORDERED that said keepers of such records shall file with the Juvenile Court Prothonotary/Clerk of Court within 30 days the attached Affidavit stating that the mandate of this order has been fulfilled. The Juvenile Court Prothonotary/Clerk of Court, upon receipt of said Affidavit, shall seal and impound the Affidavit together with the information, complaint and the original and all copies of this Order, and no person or agency shall be permitted to examine such documents without Order of Court.

BY THE COURT:

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
FAMILY DIVISION – JUVENILE SECTION

IN THE INTEREST OF:

Minor

Caselog No. _____
JID No. _____
Docket No: _____
D.O.B. _____
S.S.N. _____

AFFIDAVIT OF EXPUNGEMENT

This is to certify that the official detention and juvenile delinquency/criminal records and other documents filed pertaining to the particular detention or prosecution or both of the above named minor in the above captioned juvenile delinquency/criminal proceedings, which are in custody of and in control of this Office, have been expunged and destroyed.

Date

Certifying Officer



Appendix D

Sample Pennsylvania State Police Expungement Affidavit

Pennsylvania State Police Expungement Affidavit

SP 4-106



PENNSYLVANIA STATE POLICE
CENTRAL REPOSITORY - EXPUNGEMENT UNIT
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110-9758

This is to certify that on _____, all criminal history record information in the custody of this agency pertaining to the arrest of:

NAME:	_____	AKA:	_____
DOB:	_____	SSN:	_____
SID:	_____	OCA:	_____
ARRESTING AGENCY:	_____	ORI:	_____
DATE OF ARREST:	_____	OTN:	_____
CHARGES:	_____		

has/have been, to the best of my knowledge and belief:

- Expunged as directed by Order of your Honorable Court, and in compliance with the Criminal History Record Information Act, 18 Pa.C.S.A., Sections 9122 or 9123.
- Expunged from the file of criminal history record information available for routine dissemination under the provisions of the Criminal History Record Information Act, 18 Pa.C.S.A., Section 9121. This expungement effected under the provisions of the Controlled Substance, Drug, Device and Cosmetic Act, Act 64 of 1972, as amended, Section 19.
- Expunged from the file of criminal history record information available for routine dissemination under the provisions of the Criminal History Record Information Act, 18 Pa.C.S.A., Section 9121. This expungement effected under the provisions of 18 Pa.C.S.A. Section 9122 upon successful completion of conditions of ARD, or any other pretrial or post-trial diversion or probation program.
- The fingerprints, name, and criminal history record information pertaining to the above captioned case are being retained solely for the purpose of determining subsequent eligibility of any pretrial or post-trial diversion or probation program and shall be made available to any court only upon request, in accordance with 18 Pa.C.S.A., Section 9122.

Agencies and individuals that were previously furnished, by this Department, criminal history record information pertaining to the above case were notified in accordance with 18 Pa.C.S.A., Section 9122.

Sincerely,

Director, Operational Records Division

An Internationally Accredited Law Enforcement Agency

