

Collateral Consequences of Juvenile Court Involvement: Obstacles to Opportunities

Introduction

This bench card is intended to assist judges in considering the consequences of juvenile court involvement that may adversely affect public safety and positive youth development. The bench card is not intended to impinge upon or alter constitutional or statutory responsibilities of the court. Judges and attorneys have different ethical responsibilities but share the goal of ensuring that youth are acting knowingly and voluntarily when admitting or pleading to an offense.

Juvenile court involvement can result in significant short and long-term consequences. For example, young people may be excluded from school following an adjudication, and research clearly shows that youth who do not graduate high school are at much greater risk to be arrested later in life.¹ Given the mission of the juvenile court to both rehabilitate youth and protect public safety, it is important for judges to understand and recognize the ways in which a young person's life may be significantly altered as a result of their legal decisions. In addition to limiting a young person's opportunity to continue their education, juvenile records can also affect a youth's ability to enter college, secure housing, obtain a job, or join the military.² Furthermore, it is imperative to look at these obstacles to opportunities through a racial justice lens. All youth who experience disparate treatment because of their race or ethnicity have a higher likelihood of experiencing collateral consequences because they are disproportionately represented at every decision point in the juvenile legal system.³ Judges are encouraged to consider, even if not statutorily required to do so, whether youth have been advised of collateral consequences prior to an adjudication and the potential barriers to success created by their legal decisions.

Note: This bench card uses the term "juvenile record" to include records of arrest, adjudication, disposition, and probation. Because collateral consequences vary by state, it is important to stay abreast of the specific barriers created by juvenile court involvement in your individual jurisdiction.

The following are some key considerations that are important for judges and attorneys to keep in mind related to the collateral consequences of juvenile court involvement.

Public Access to Juvenile Records

- ▶ What is the potential for public access to the young person's juvenile record, including review by future employers, colleges, landlords, or the military?

¹ See generally, BILL DEBAUN & MARTENS ROC, ALL. FOR EXCELLENT EDUC., SAVING FUTURES, SAVING DOLLARS: THE IMPACT OF EDUCATION ON CRIME REDUCTION AND EARNINGS (2013).

² See generally, Joy Radice, *The Juvenile Record Myth*, 106 GEO. L. J. 365 (2018).

³ See generally, NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES ET AL., ADDRESSING BIAS IN DELINQUENCY AND CHILD WELFARE SYSTEMS (2018), <https://www.ncjfcj.org/publications/addressing-bias-in-delinquency-and-child-welfare-systems/>.

Record Clearance

- ▶ Have I or the court provided the young person with written information about the eligibility, effect, and process for sealing, expunging, and/or vacating juvenile records?

Local Public Education

- ▶ In order to promote success, consider whether the young person has an educational advocate, especially if they need special education services, tutoring, or English as a second language courses.
- ▶ Can the young person's juvenile record or probation information be shared with their school? Can they be suspended, expelled, or otherwise disciplined because of their juvenile court involvement?
- ▶ Consider whether probation and court requirements are limiting the young person's ability to participate in pro-social activities, like sports, clubs, or after-school programs. If so, can these requirements be removed or limited?
- ▶ Consider whether imposing a protection order (i.e. no contact or stay away) on the young person affects their ability to attend their local school? If so, are there ways to mitigate that harm without putting others in immediate danger?

Higher Education

- ▶ Can the record of the young person's juvenile court involvement appear on background checks completed by colleges? Will the young person have to disclose their juvenile court involvement during the application or interview process? Can the young person seal, expunge, or vacate their record to alleviate the potential need for disclosure during the admissions process?
- ▶ Consider explaining to the young person that they can still get into college, vocational training, or trade programs, or obtain federal student loans with a juvenile record.

Employment

- ▶ If adjudicated of the charged offense, consider whether the young person's juvenile record information may appear on background checks completed by employers and create obstacles to future opportunities.
- ▶ Will the young person's juvenile record information be shared with the FBI? Will that information be available for employers who run FBI background checks?
- ▶ Can the young person's juvenile record be considered by the state occupational licensing agency to determine whether they are eligible for an occupational license?
- ▶ Can the record of the young person's juvenile court involvement restrict their ability to lawfully possess or own a firearm, which could limit their employment opportunities or lawful ability to hunt? If their firearm rights have been restricted, can the young person get their rights restored (if applicable)?
- ▶ Consider how probation and court requirements placed on a young person may limit their ability to obtain or maintain employment.

Military

- ▶ Consider that the military will require an examination of the young person's juvenile record when reviewing their application to join the military.⁴

Immigration

- ▶ Can the young person's juvenile court involvement impact their immigration status?⁵ If so, can that harm be mitigated?

Housing

- ▶ Consider the negative impact that the young person's juvenile court involvement may have on their family's ability to maintain or obtain housing.⁶

Public Benefits

- ▶ Can out-of-home placement impact the family's ability to maintain the public benefits they rely upon, including Supplemental Security Income, Temporary Assistance for Needy Families, housing benefits, or food stamps?
- ▶ When ordering placement for a young person in a secure facility, the young person's Medicaid can be suspended during that time.⁷ Will the young person be able to get help in reinstating Medicaid immediately upon release?

Fines, Fees, Costs, and Restitution

- ▶ Can the young person afford to pay the fines, fees, court costs, and restitution imposed? If not, will the unpaid financial obligations result in the young person's (1) inability to successfully complete probation, (2) probation being extended, (3) incurring additional fees for the extension of probation, (4) facing violation of probation proceedings that could lead to confinement, (5) family incurring debt, or (6) debt being reported to a credit bureau and affect the young person's ability to get a job or housing in the future?⁸

⁴ 32 C.F.R. § 66.6(8) (2020).

⁵ See NAT'L JUVENILE DEFENDER CTR., JUVENILE DEFENDER'S GUIDE TO IMMIGRATION ISSUES IN JUVENILE PROCEEDINGS (2017), https://njdc.info/wp-content/uploads/2017/12/Immigration-Brief_Final.pdf; Padilla v. Kentucky, 559 U.S. 356 (2010).

⁶ See 24 C.F.R. § 982.553(a)(1)(ii)(C)-(a)(2)(i) (2020); 24 C.F.R. § 960.204(a)(3)-(4) (2020); 42 U.S.C.A. § 1437d(k) (2020).

⁷ 42 U.S.C.A. § 1396a(a)(84)(A) (2020).

⁸ See generally, NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES ET AL., ENSURING YOUNG PEOPLE ARE NOT CRIMINALIZED FOR POVERTY: BAIL, FEES, FINES, COSTS, AND RESTITUTION IN JUVENILE COURT (2018), https://www.ncjfcj.org/wp-content/uploads/2019/07/Bail-Fines-and-Fees-Bench-Card_Final-1.pdf.

Sex Offender Registration⁹

- ▶ Will the young person be required to register (sex offender, predator, or other similar listing) if adjudicated of the charged offense? How could that restrict their education, housing, and employment opportunities?
- ▶ What are the specific requirements and length of registration? Who can access the registration information? How long until the young person is eligible to be removed from the registry? What steps would the young person have to take to get removed from the registry?
- ▶ What is the prolonged impact of registration on the young person's opportunities? Are there ways to mitigate that harm?

Driver's License

- ▶ Will an adjudication of the charged offense result in the suspension or revocation of the young person's driver's license? Will restricting the young person's driver's license limit their ability to obtain or maintain employment, get to and from school or other pro-social activities, and attend required court-ordered programs?
- ▶ Can the potential harms of restricting the young person's driver's license be mitigated?
- ▶ When will the young person's driver's license be reinstated (or released from restriction)? What must the young person do in order to get their license reinstated? Will the young person have to pay a fee to get their license reinstated?

Future Court Proceedings

- ▶ Can the record of this young person's juvenile court involvement be used against them in future court proceedings?

**For additional resources regarding these issues,
please visit: www.njdc.info/collateral-consequences.**

⁹ See generally, Maude Beaudry-Cyr et al., *Examining the Continuity of Juvenile Sex Offending into Adulthood and Subsequent Patterns of Sex and General Recidivism*, Int'l J. Offender Therapy & Comp. Criminology, July 2015, at 1.