

## **GETTING YOUR RECORD EXPUNGED**

The record of your arrest and charges in Juvenile Court will be kept by the court, the police, DHS or the Oregon Youth Authority, and any other agency to which your records have been given (group homes, counselors, etc.). The law requires that these records be kept confidential, and that the public be given only very limited information about your juvenile court record, but in reality, it is impossible to assure that information about your record will not get out. Many persons have been discriminated against in employment, educational opportunities, and enlistment in the military service because of having a juvenile court record. The best way to make sure that your record won't haunt you in the future is to go through the process called expunction. This process is almost never automatic; you must request it. Expunction means the destruction of your records.

Some juvenile records cannot be expunged. If found guilty in juvenile court of one of the following crimes, you cannot get that record expunged: Criminal Mistreatment I; Rape I, II or III; Sodomy I, II or III; Sexual Penetration I or II; Sex Abuse I, II or III; Promoting Prostitution or Compelling Prostitution, Aggravated Murder, Murder attempt, Solicitation or Conspiracy to Commit Murder or Aggravated Murder; Assault I, Kidnapping I, any attempted crime to commit a crime listed (other than Manslaughter II and Criminally Negligent Homicide), Manslaughter I and II, and Criminally Negligent Homicide.

You may apply to have your record expunged at any time if you have some specific reason for needing it expunged, i.e., in order to get a job, to get into the military service, to get into college or get financial aid for college, or for some other reason you would be unfairly limited by having the record. If you apply for this type of expunction called "expunction in the public interest," it is basically up to the judge to decide whether or not your record will be expunged.

You can apply for an expunction, even when you have no particular need for the expunction after your probation or other supervision by the court has expired for a certain period of time. If you were never placed out of your own home by the court, you can get your record expunged if you have not been in trouble for five years since the court terminated its jurisdiction over you. (Usually this means 5 years from the end of your probation).

It is a simple process to ask for your record to be expunged. It only requires that you fill in the blank spaces on the form attached to this sheet and send it to the Juvenile Court. Most expunctions are processed without a court hearing. However, if the judge does not want to grant your application or if the District Attorney objects to your record being expunged, a hearing will be held. You will be notified of this hearing and you should request that an attorney be appointed to represent you in the hearing.

Records that can be expunged include fingerprint or photograph files, reports, exhibits or other material which contains information relating to a person's contact with any law enforcement agency or juvenile court or juvenile department and is kept manually, through the

use of electronic data processing equipment, or by any other means by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon. "Record" does not include:

(A) A transcript of a student's academic record at MacLaren School [for Boys] or Hillcrest School of Oregon;

(B) Material on file with a public agency which is necessary for obtaining federal financial participation regarding financial assistance or services on behalf of a person who has had a contact;

(C) Records kept or disseminated by the Department of Transportation, State Marine Board and State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

(D) Police and court records related to an order of waiver where the matter is still pending in the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

(E) Records related to a support obligation;

(F) Medical records;

(G) Records of a proposed or adjudicated termination of [parent-child relationship] parental rights and adoption;

(H) Any law enforcement record of a person who currently does not qualify for expunction or of current investigations or cases waived to the adult court;

(I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals.

Once the court orders your record expunged, all the charges against you are treated as though they never occurred. This means that you may answer questions or talk about your past as though you never had any contact with the police, juvenile court or other agency. If an employer or other person somehow finds out that you had a juvenile record and discriminates against you in employment, you may have a right to sue. However, if you are applying for the military or a federal job, you will have to acknowledge that you did have a juvenile court record.

\*Further, if you are convicted of a crime as an adult, your juvenile record can be used to increase the sentence you receive by as much as several years, depending on the crime.