

## **Safeguarding the Confidentiality of Youth in the Justice System**

### **RECOMMENDATIONS AND RESOURCES**

**AUGUST 2016**

The National Juvenile Justice Network (NJJN) recommends that the law enforcement and court records and related information associated with youth under the age of 18 who come into contact with the justice system be kept from any and all public disclosure. Our recommendation pertains to the records, wherever they are kept, of youth in contact with both the juvenile and adult systems. We recommend, further, that limits be put in place regarding the sharing of information between government agencies, law enforcement, courts, and schools. Any records that are made as a result of a youth's justice system involvement should be automatically sealed and reviewed for expungement when the youth is discharged from court supervision. Furthermore, we recommend that juvenile court proceedings be kept presumptively closed.

Because confidentiality for youth encompasses a broad range of issues from arrest and court records to placement on gang databases and registries for youth who have committed sex offenses, we have created specific recommendations with accompanying rationales, below, for each area of concern. Resources for further information are provided at the end of the document.

## Law Enforcement and Court Records\*

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Protecting the confidentiality of a youth's law enforcement and associated court records is key to furthering their lives as productive members of their communities, by reducing barriers to employment, higher education, housing, and military service. Without special protections, a juvenile record can "act like a symbolic millstone around a youngster's neck."<sup>1</sup>

When records are not kept strictly confidential, this information can proliferate -- particularly when available online, making it difficult, if not impossible, to remove evidence of a youthful mistake. Youth seeking college admission or employment can be thwarted by background checks by private companies that maintain online databases of offense information. This information often contains inaccuracies, is out of date, or doesn't reflect the fact that the record has been sealed or expunged.<sup>†</sup> Even FBI and state police background checks can be inaccurate and incomplete, with the burden on the individual to correct inaccuracies.<sup>2</sup> Laws that tightly restrict access to juvenile records, both during and after court proceedings, and that seal or expunge juvenile records after the case has been closed, provide youth with the best opportunities for a successful future.

### Recommendation

NJJN concurs with the core principles recently proposed by the Juvenile Law Center for confidentiality and access to juvenile record information.<sup>3</sup> The key points that NJJN recommends are summarized below:

- Law enforcement, court, juvenile facility, and adult jail records for youth should not be available for inspection by the public and should never be available online.

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\* **Definition of Law Enforcement and Court Records:** Law enforcement records generally include records created or stored by a law enforcement agency, such as arrest records, victim and witness statements, photographs, fingerprints, and DNA samples. Court records include records that the juvenile court or the juvenile probation office create and store and in addition to records of what transpired at trial, they can include detailed personal information to assist the court in planning for the youth's treatment and supervision such as a youth's psychological, educational, and family information and the result of risk and needs assessments and behavioral health evaluations. *Riya Saha Shah and Lauren Fine, "Failed Policies, Forfeited Futures: A National Scorecard on Juvenile Records" (Philadelphia, PA: Juvenile Law Center, 2014): 6, <http://bit.ly/1xvmhYY>.*

<sup>†</sup> **Definition of sealing and expungement:** "Sealing" a juvenile record generally means that the records are closed to the general public but remain accessible to certain agencies and individuals, although criteria for access differs by jurisdiction. "Expungement" generally refers to erasing a juvenile record as if it never existed so that it is no longer accessible to anyone. In some cases, though not in all, both physical and electronic records are destroyed. *Riya Saha Shah and Lauren Fine, "Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement" (Philadelphia, PA: Juvenile Law Center, 2014): 22-24, <http://bit.ly/28uGNty>.*

- Access to records should be limited to individuals connected to the case with a reason to learn the information, such as youth and their parents/guardians/legal custodians, the youth's defense attorney, juvenile court and probation personnel, and prosecutors.
- Limitations should be placed on the type of juvenile record information released to government agencies, including: schools; child welfare and other social services agencies, and adult courts (once youth age out of the juvenile court system). Limitations should also be placed on access by law enforcement to juvenile court records.
- Juvenile record information that is released should be safeguarded -- access should be limited to a small number of necessary personnel; limitations should be placed on how the information can be used; and sanctions should be applied for disclosure of information to inappropriate personnel. These protections should remain in place even if the youth turns 18 years old while the case is ongoing.
- Law enforcement and court records for youth should be automatically sealed when the youth is discharged from court supervision, even if the youth is over 18 years old at that point. Sealed records should be completely closed to the general public.
- Youth records should become eligible for expungement at the time youth are discharged from court supervision.
- Both sealing and expungement should be available free of charge; youth should not be responsible for initiating the process; and youth should be notified when the process is complete. If the state determines that the youth's records can't be sealed or expunged, the youth should be notified and appointed an attorney to assist in appealing the decision.

Additionally, NJJN recommends that identifiable juvenile court records be excluded from all public record requests, including those under state right-to-know laws or the Freedom of Information Act (FOIA), and only aggregate data and statistical information without individual identifiers be released for the purpose of research and/or data analysis. States should have policies in place to track who is accessing these records, what records are released, when, and why, to make sure there is accountability for any improper release of records.<sup>4</sup> Lastly, NJJN recommends that states and localities prohibit sending juvenile arrest record information to the FBI, as it then becomes available to a wide array of parties conducting background checks. FBI rap sheets generally don't differentiate between juvenile and adult arrests and don't always indicate how the case was resolved, such as if the case was dismissed, increasing the challenges posed to youth seeking employment, admission to college, and professional licensing.<sup>5</sup>

## Access by Schools

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One of the most common exceptions to record confidentiality is the release of arrest and court records to schools – statutes in at least 33 states and the District of Columbia allow for the release of juvenile record information to school personnel.<sup>6</sup> While some states require school officials to request this information, in other states, law enforcement or the courts notify school officials of certain types of arrests and/or juvenile court involvement of youth.<sup>7</sup> Once the

information is provided to the schools, some jurisdictions provide no safeguards on who has access to the information and how it can be used.<sup>8</sup>

Providing this confidential information to schools can cause significant negative consequences to the youth, such as outright expulsion. In other cases, the stigma of juvenile court involvement can cause negative reactions by school staff and alienation from staff and students that leads many youth to drop out.<sup>9</sup> These negative consequences can result from notification of arrest information alone, even though a youth has not even gone through the court process. Yet further information about the case, such as if it is dismissed or that the youth will be adjudicated as an adult, may not be automatically provided to the school.<sup>10</sup>

### ***Recommendation***

NJJN recommends that law enforcement and courts not be required or permitted to notify schools of youth arrests or juvenile justice involvement, and that records only be released to schools when they concern the youth's educational needs. Schools should only be allowed to access information necessary to provide for the youth's educational planning or reentry. Additionally, schools should strictly limit access to this information and require that the information is only shared with school officials on a need-to-know basis, with sanctions applied for disclosure of information to inappropriate personnel.

## **Court Proceedings**

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NJJN recognizes that opening the juvenile court to certain members of the public can promote system accountability, and that public understanding of the system is beneficial. However, as with juvenile records, confidentiality of court proceedings is necessary in order to safeguard a youth's privacy and protect them from the stigma and collateral consequences of juvenile justice involvement. If the court proceedings are open, community knowledge of and attendance at the event can foreclose future education and work options for youth. Additionally, open court proceedings invite media attention, which not only may make the case common knowledge, but will likely lead to direct identification of individual youth. Even if the media is requested to respect the confidentiality of the youth participants, they may not feel bound to adhere to this request if the proceedings are presumptively open to the public.

Confidential court proceedings are needed to safeguard a youth's privacy whether tried in juvenile or adult court. However, confidentiality is very difficult to attain in the adult court setting because adult courts are not geared towards accommodating private proceedings. For this and the other reasons detailed in our policy platform, "[Youth in the Adult System](#)," NJJN opposes processing youth in adult courts.

### **Recommendation**

NJJN recommends that juvenile court proceedings be presumptively closed to the public. Judges may open proceedings to researchers, media, individuals that the youth wishes to attend, and others with a bona fide interest in the workings of the juvenile court system, under the following circumstances: the youth who is before the court agrees and the judge, after hearing from counsel for the youth, determines that there would be no harm to the youth or the fairness of the process. Even when the proceedings are opened, the names, addresses, telephone numbers, photographs or other identifying information of the children and families in question should not be made public in any way.<sup>11</sup> A decision to keep the proceedings closed should never be made in order to benefit the judge. For minors proceeding in the adult court system, the court should take steps to protect the youth's confidentiality to the greatest extent possible and the names of youth being tried as adults should not be publicly released.

## **Registration and Notification of Youth Who Commit Sex Offenses**

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Placing youth who have committed sex offenses on registries and notifying communities of their status clearly undermines the confidentiality of the juvenile justice system. Furthermore, the consequences to youth of being placed on the registry – sometimes for life -- are profound; these youth are frequently ostracized and they and their families are threatened with violence,<sup>12</sup> prevented from attending school, and are subject to such strict residency requirements that “many are in effect banished from their neighborhoods.”<sup>13</sup> Often denied education, housing, and jobs, it can become nearly impossible for these young people to ever live a normal, productive life.

Rather than offering youth an opportunity for rehabilitation, registration can saddle them with penalties that last well into adulthood and compromise their long-term chances of gaining employment, cultivating positive social networks, and developing into mentally and emotionally healthy adults.<sup>14</sup> Additionally, most youth who commit a sex offense will never commit another.<sup>15</sup> Multiple studies on juvenile registration show no evidence that registering youth adjudicated for sex offenses reduces the already very low recidivism rate for such youth, or deters future sexual offenses.<sup>16</sup> Rather, registration and notification policies have been noted to “stigmatize and isolate children with no identifiable public benefits.”<sup>17</sup> Registering and notifying the public about these youth is quite costly,<sup>18</sup> clogs databases, squanders valuable law enforcement time and resources, and distracts law enforcement from attending to more serious public safety concerns.<sup>19</sup>

### **Recommendation**

NJJN recommends that all youth (and adults who committed sexual offenses as youth) be exempt and/or removed from sex offense registries, public notification laws, and residency restriction laws.

In order to implement NJJN’s policy recommendation, we recommend the following best practices:

- Youth currently on sex offense registries should be removed and no longer subject to public notification requirements. No additional youth should be placed on registries or subjected to public notification.
- Any statutory change to remove youth from sex offense registries should be automatically applied retroactively.
- A process should be put in place for individuals to petition to be removed from a registry in cases where they have been inappropriately placed on it in contravention of the above policy and counsel should be appointed to represent these individuals.

## DNA Records

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The government’s collection of DNA from youth involved in the juvenile and criminal justice system has become widespread. Twenty-nine states require DNA collection from youth adjudicated delinquent in juvenile court (20 of these states collect it for all felonies and 9 states for a subset of felonies). Of these states, 19 even require youth arrested for a variety of misdemeanor offenses to submit DNA.<sup>20</sup> Law enforcement also collects DNA from youth by consent in some cases, without the knowledge or permission of the youth’s parents.<sup>21</sup>

A youth’s DNA profile is generally not subject to the same protective rules extended by many states to a youth’s court record, such as the expungement of records and destruction of physical records such as fingerprints. Once collected, a youth’s DNA is entered into one or more government databases, such as the federal Combined DNA Information System (CODIS) or state databases. While federal law provides for expungement of DNA profiles from CODIS under certain circumstances, there is no mechanism for destruction of the DNA sample. Once in CODIS, “law enforcement presumptively retains the seized genetic sample indefinitely, and available expungement mechanisms that put the burden on juveniles to seek expungement are almost never utilized.”<sup>22</sup> For expungement from state databases, the burden is on the youth in every state except Montana to request expungement; in practice, few DNA profiles are ever expunged.<sup>23</sup>

DNA collection from youth serves to entangle the youth in the criminal justice system indefinitely, harming the protective confidentiality of the juvenile justice system.<sup>24</sup> The collection of the DNA sample itself may stigmatize youth and lead to self-labeling by communicating to them that the state believes they will commit crimes in the future. Finally,

youth exhibit “deference to authority figures” and have a “diminished ability to understand and exercise their legal rights,” which limits their ability to knowingly and voluntarily waive their constitutional rights and consent to DNA collection.<sup>25</sup>

### ***Recommendation***

NJJN recommends DNA not be collected from youth. Where already collected, NJJN recommends strong protections against the sharing of this information, storing records locally rather than in state and federal databases, and requiring the sealing and expungement of these records when a youth’s juvenile or criminal record is sealed or expunged.

## **Fingerprints and Photographs**

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Currently all states and the District of Columbia require the fingerprinting of youth alleged or adjudicated delinquent, though most states have various restrictions on youth fingerprinting, including restrictions based on age, the type of offense, previous prosecution as an adult, and court order requirements.<sup>26</sup> Photographing youth is often done at the same time as fingerprinting.<sup>27</sup> At least 30 states allow the names and photos of youth they consider likely to repeat violent offenses to be released to the public.<sup>28</sup>

In 2006, the FBI expanded its fingerprint database to include misdemeanor and juvenile offenses.<sup>29</sup> While state law enforcement agencies are not required to provide the FBI with these records, the FBI is now permitted to store them in its National Crime Information Center (NCIC) database on the same basis as adult records.<sup>30</sup>

The Department of Justice has stated that fingerprinting youth is “one of the most intrusive procedures in the juvenile justice process.”<sup>31</sup> Fingerprinting also makes youth more vulnerable to being treated suspiciously by law enforcement based on past mistakes and past unwarranted investigations of the youth. This is particularly important as some states now keep fingerprint information in central state and federal repositories, making the youth’s information available to an ever-widening law enforcement community.

### ***Recommendation***

NJJN recommends against the collection of youth fingerprints and photographs. Where collected, NJJN recommends strong protections against the sharing of this information, storing records locally rather than in state and federal databases, and requiring the sealing, expungement, and destruction of these records when a youth’s juvenile or criminal record is sealed or expunged.

## Gang Databases

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Local, state, and federal databases on gangs and gang members have proliferated,<sup>32</sup> raising significant concerns around violations of youth privacy, due process, lack of accountability, and racial disparities, as well as confidentiality. Increasingly, law enforcement agencies create gang databases for intelligence purposes; thus the information in the database is not tied to a youth's arrest, conviction, or even an investigation.<sup>33</sup> Depending on the jurisdiction, youth can be placed on a gang database by law enforcement, school police, school security, and school staff, based on mere suspicion of gang involvement, such as having a particular hairstyle or jewelry.<sup>34</sup>

For youth, many negative consequences flow from being placed on a gang database. "Known gang members" are the first to be questioned for offenses without a known assailant, are more likely to be charged in criminal court rather than juvenile court, and are likely to receive a more severe sentence.<sup>35</sup>

While gang databases are not public, they are generally accessible to police officers, probation and parole officers, schools, and social services personnel. The California gang database ("CalGang") was expanded statewide in 1997 and is now accessed by over 6,000 law enforcement officers in at least 58 counties.<sup>36</sup> In addition, there are concerns that this information is occasionally sent to employers and others, either purposefully or inadvertently.<sup>37</sup> The California Youth Justice Coalition surfaced information that CalGang was shared with employers, landlords, and public housing and school administrators, causing evictions and exclusion from services.<sup>38</sup>

As with DNA profiles and fingerprints discussed above, gang databases further enmesh youth in the criminal justice system. However, there are even fewer protections for youth regarding gang databases than there are regarding DNA profiles and fingerprints. Many youth are unaware that they have been placed on a gang database unless they wind up in court, and once they find out, there generally is no process to have themselves removed.<sup>39</sup>

### **Recommendation**

NJJN recommends that youth not be placed on gang databases. For those states that already have youth on gang databases, NJJN recommends the following protections while they work to change this practice:

- Only place youth on local law enforcement databases, not statewide or federal databases.
- Provide strong penalties for sharing this information outside of the law enforcement community.
- Provide notification to youth that they are on a gang database and information on how they can file a petition with the court to be removed. Youth should be provided with legal counsel to assist them with this process.



## For More Information

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For additional information on these topics, we encourage you to review the following resources:

- American Bar Association, [“Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records”](#) (August 2015)
- Benjamin Chambers and Annie Balck, [“Because Kids are Different: Five Opportunities for Reforming the Juvenile Justice System”](#) (December 2014)
- Kevin Lapp, [“As Though They Were Not Children: DNA Collection from Juveniles”](#) (December, 2014)
- Kristin N. Henning, [“Eroding Confidentiality in Delinquency Proceedings: Should Schools and Public Housing Authorities be Notified?”](#) Georgetown University Law Center (2004; reprinted January 2010)
- Human Rights Watch, [“Raised on the Registry: the Irreparable Harm of Placing Children on Sex Offender Registries in the US”](#) (May 2013)
- Illinois Juvenile Justice Commission, [“Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois”](#) (January 2016)
- James B. Jacobs, [“Juvenile Criminal Record Confidentiality”](#) (NELLCO Legal Scholarship Repository, New York University School of Law, June 1, 2013)
- Juvenile Justice Information Exchange, “Juvenile Justice Resource Hub: Re-entry,” <http://jjie.org/hub/reentry/>
- [Juvenile Law Center](#) has several helpful publications on this topic:
  - [“Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement”](#)
  - [“Failed Policies, Forfeited Futures: A National Scorecard on Juvenile Records”](#)
  - [“Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records”](#)
- Melissa Sickmund, Charles Puzzanchera, eds., [“Juvenile Offenders and Victims: 2014 National Report”](#) (Office of Juvenile Justice and Delinquency Prevention; the National Center for Juvenile Justice, December 2014)
- National Juvenile Justice Network [“Perils of Registering Youth Who Commit Sex Offenses”](#) (Washington, DC: November 14, 2014)
- Youth Justice Coalition, [“Tracked and Trapped”](#) (RealSearch Action Research Center, December, 2012)

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<sup>1</sup> Riya Saha Shah and Lauren Fine, “Juvenile Records: A National Review of State Laws on Confidentiality, Sealing and Expungement,” 9, n. 17, <http://bit.ly/28uGNtv>.

<sup>2</sup> Inaccurate private databases: Riya Saha Shah & Jean Strout, “Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records” (Juvenile Law Center, 2016), 7-8, 12, <http://jlc.org/future-interrupted>. In extreme cases, some states have sold juvenile record information to private companies. Inaccurate FBI and police records: Shah and Strout, “Future Interrupted,” 17-18.

<sup>3</sup> Riya Saha Shah and Lauren Fine, “Juvenile Records,” 20, 43, <http://bit.ly/28uGNtv>; Riya Saha Shah and Lauren Fine, “Failed Policies, Forfeited Futures: A National Scorecard on Juvenile Records” (Philadelphia, PA: Juvenile Law Center, 2014), 4, <http://bit.ly/1xvmhYY>.

<sup>4</sup> Shah & Strout, “Future Interrupted,” 8-9; Illinois Juvenile Justice Commission, “Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois,” 50, <http://bit.ly/1OjBdDG>, citing Model Act Governing the Confidentiality and Expungement of Juvenile Delinquency Records § V(e) (American Bar Association 2015).

<sup>5</sup> Illinois Juvenile Justice Commission, “Burdened for Life,” 36-7.

<sup>6</sup> Shah and Strout, “Future Interrupted,” 10, n. 80.

<sup>7</sup> As of the end of the 2008 legislative session, 46 states had school notification laws. See Melissa Sickmund & Chaz Puzanchera, “Juvenile Offenders and Victims: 2014 National Report,” 98, <http://1.usa.gov/1DhEoyR>.

<sup>8</sup> Shah & Fine, “Juvenile Records,” 16-17.

<sup>9</sup> David S. Kirk and Robert J. Sampson, “Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood,” *Sociology of Education* 86(1) (American Sociological Association, 2013), 39, <http://bit.ly/1U2Dn7r>.

<sup>10</sup> Illinois Juvenile Justice Commission, “Burdened for Life,” 47-8.

<sup>11</sup> National Association of Counsel for Children, “Policy Statement: Confidentiality of Juvenile Court Proceedings and Records” (April 25, 1998), <http://bit.ly/28uG37O>.

<sup>12</sup> Fifty-two percent of youth experienced violence or threats of violence against them or their families, which they directly attributed to their registration. Nicole Pittman, “Raised on the Registry: The Irreparable Harm of Placing Children on Sex Offender Registries in the US” (Human Rights Watch, May 2013), 51, <http://bit.ly/107hYSm>.

<sup>13</sup> Pittman, “Raised on the Registry,” 50.

<sup>14</sup> National Juvenile Justice Network, “Perils of Registering Youth who Commit Sex Offenses” (Washington, DC: November 14, 2014), 2, <http://bit.ly/1vatrSk>; see also, “The Negative Impact of Registries on Youth: Why Are Youth Different than Adults?,” *Justice Policy Institute* (September 2, 2008), <http://bit.ly/1XPYmBf>.

<sup>15</sup> Pittman, “Raised on the Registry,” 30. A study of registered and non-registered male youth found a sexual offense reconviction rate of less than one percent over four years. E.J. Letourneau and K.S. Armstrong, “Recidivism Rates for Registered and Nonregistered Juvenile Sexual Offenders,” *Sexual Abuse: A Journal of Research and Treatment*, 20 (2008), 393-408. Another study of male youth with sex crime convictions found a sexual offense reconviction rate of less than three percent over nine years. E. J. Letourneau, et al., “The Influence of Sex Offender Registration on Juvenile Sexual Recidivism,” *Criminal Justice Policy Review*, 20 (2009), 136-153. Also see J.R. Worling, et al., “20-Year Prospective Follow-Up Study of Specialized Treatment for Adolescents Who Offended Sexually,” *Behavioral Science and the Law*, 28 no. 1 (2010): 46-57, finding that fewer than one in ten youth sexually reoffend after completing sex-specific treatment.

<sup>16</sup> Comments on the Proposed Supplemental Guidelines for Juvenile Registration Under the Sex Offender and Registration and Notification Act, submitted by Youth Justice Alliance (June 9, 2016): 5, n. 13, <http://bit.ly/28Qa4sy>, citing Elizabeth J. Letourneau, Dipankar Bandyopadhyay, Debajyoti Sinha, and Kevin S. Armstrong, “The influence of sex offender registration on juvenile sexual recidivism,” *Criminal Justice Policy Review* 20:2 (2009): 136-153; Elizabeth J. Letourneau, Dipankar Bandyopadhyay, Kevin S. Armstrong, and Debajyoti Sinha, “Do sex offender registration and notification requirements deter juvenile sex crimes?” *Criminal Justice & Behavior* 37:5 (2010): 553-569; Michael F. Caldwell and Casey Dickinson, “Sex Offender Registration and Recidivism Risk in Juvenile Sexual Offenders,” *Behavioral Sciences & the Law* 27:6 (Nov/Dec 2009) 941-95.

<sup>17</sup> Comments on the Proposed Supplemental Guidelines for Juvenile Registration (Youth Justice Alliance), 5, n. 16, citing Mark Chaffin, “Our Minds Are Made Up – Don’t Confuse Us with the Facts: Commentary on Policies Concerning Children with Sexual Behavior Problems and Juvenile Sex Offenders.”

<sup>18</sup> National Juvenile Justice Network, “Perils of Registering Youth Who Commit Sex Offenses,” 2; citing National Conference of State Legislatures (NCSL), “Cost-Benefit Analyses of SORNA Implementation,” NCSL Report (2010), <http://bit.ly/1oNZZdD>; There is an even higher net cost when there is public notification of the youth’s sexual offense as well as being placed on the registry. In terms of public notification, no economic benefits could be identified, so the net benefit was identified as -10 to -40 billion dollars per year. Richard B. Belzer, “The Costs and Benefits of Subjecting Juveniles to Sex-Offender Registration and Notification,” *R Street Policy Study* No. 41 (Sept. 2015): 8, <http://bit.ly/1U7Xdnk>.

- <sup>19</sup> “Testimony: Detective Bob Shilling,” *House Judiciary Committee, Subcommittee on Crime, Terrorism and Homeland Security, Sex Offender Registration and Notification Act (SORNA)* (March 10, 2009), 4.
- <sup>20</sup> Note that some states only collect DNA from youth over a certain age or who have been adjudicated delinquent for particular offenses. Kevin Lapp, “As Though They Were Not Children: DNA Collection from Juveniles,” *Tulane Law Review*, 89 (2014): 437-8, 454, <http://bit.ly/1Xhf63k>.
- <sup>21</sup> Note that youth have a “diminished ability to exercise their rights and understand the consequences of consenting.” Lapp, “As Though They Were Not Children: DNA Collection from Juveniles,” 486.
- <sup>22</sup> Lapp, 465, 476-77.
- <sup>23</sup> Lapp, 445, n. 54.
- <sup>24</sup> Lapp, 476.
- <sup>25</sup> Lapp, 465.
- <sup>26</sup> Linda A. Szymanski, “Fingerprinting of Alleged or Adjudicated Juvenile Delinquents,” *NCJJ Snapshot*, Vol. 10, No. 12 (Pittsburgh, PA: National Center for Juvenile Justice, Dec. 2005), <http://bit.ly/28uVjBr>; Sickmund & Puzanchera, “Juvenile Offenders and Victims: 2014 National Report,” 98.
- <sup>27</sup> James B. Jacobs, “Juvenile Criminal Record Confidentiality,” *New York University Public Law and Legal Theory Working Papers*, paper 403 (2013), 16-17, <http://bit.ly/2atH4op>; Office of Juvenile Justice and Delinquency Prevention, “Juvenile Justice Reform Initiatives in the States, 1994-1996: Juvenile Proceedings and Records,” <http://1.usa.gov/1Pn62SM>.
- <sup>28</sup> Jacobs, “Juvenile Criminal Record Confidentiality,” 18.
- <sup>29</sup> James B. Jacobs, *The Eternal Criminal Record* (Boston, MA: Harvard University Press, 2015), 100.
- <sup>30</sup> Lapp, 481, n. 253; Fox News, “FBI Expands Fingerprint Database to Misdemeanors, Juvenile Offenders,” Sept. 26, 2006, <http://fxn.ws/1sAPKky>.
- <sup>31</sup> U.S. Dept. of Justice, National Institute of Justice, Bureau of Justice Statistics “Juvenile Records and Recordkeeping Systems,” (Nov. 1988): v, <http://1.usa.gov/21gxqbk>.
- <sup>32</sup> James B. Jacobs, “Gang Databases: Contexts and Questions,” *Criminology and Public Policy*, vol. 8, issue 4 (The American Society of Criminology, 2009), 705, <http://bit.ly/1XQb2Ia>; Units to collect and disseminate gang data present in roughly 1 in 4 jurisdictions with gang problems including 51 percent of larger cities. Rebecca Rader Brown, “The Gang’s All Here: Evaluating the Need for a National Gang Database,” *Columbia Journal of Law and Social Problems* (2009): 300, <http://bit.ly/1U2Tylt>; 1995 study found that 70 percent of the police departments and 20 percent of the prosecutors’ offices studied used an automated system for storing gang information and of the police departments reporting a gang problem, 78 percent used a database. Julie Barrows & C. Ronald Huff, “Gangs and Public Policy: Constructing and Deconstructing Gang Databases,” *Criminology and Public Policy*, vol. 8, issue 4 (The American Society of Criminology, 2009), 683, <http://bit.ly/21gxJ5Y>.
- <sup>33</sup> Jacobs, “Gang Databases: Contexts and Questions,” 705; An individual can be added to a gang database without having ever been charged or convicted of a crime. Brown, “The Gang’s All Here: Evaluating the Need for a National Gang Database,” 299.
- <sup>34</sup> Youth Justice Coalition, “Tracked and Trapped” (Dec. 2012), 4, 15, <http://bit.ly/1UoNGq4>; Jacobs, “Juvenile Criminal Record Confidentiality,” 19-20.
- <sup>35</sup> Jacobs, “Juvenile Criminal Record Confidentiality,” 19.
- <sup>36</sup> Youth Justice Coalition, “Tracked and Trapped,” 3.
- <sup>37</sup> Jacobs, “Juvenile Criminal Record Confidentiality,” 19-20.
- <sup>38</sup> Youth Justice Coalition, “Tracked and Trapped,” 6.
- <sup>39</sup> Youth Justice Coalition, “Tracked and Trapped,” 5.