

HAPPENINGS

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President's Message:

It's finally, truly spring — and now, nearly summer! I'm thrilled and honored to serve as the MCCA board president this year and I'd like to take the opportunity to tell you a bit about myself and give you a quick look at 2014 — where MCCA's been and where we're going.

I work at the Council on Crime and Justice, a nonprofit located one block north of the now-deflated and demolished Metrodome. We were created in 1957 by a parole agent to help men upon release from prison. We've grown significantly since that time — in part to keep up with the burgeoning criminal and juvenile justice systems.

Among other initiatives at the Council, we assist all people with criminal and juvenile record issues (men, women, and youth — with records ranging from felonies to petty misdemeanors, convictions to mere arrests); we staff a 24-hour crime victim hotline that works to address the unmet needs of people impacted by crime throughout the state; we teach healthy parenting skills to incarcerated men; we provide group mentoring to men who have been recently released from prison; we study the disparate impact of the criminal and juvenile justice systems on communities of color and American Indian communities and we seek to reduce those disparities.

I work in the advocacy department, where we identify, address, and reduce the collateral consequences related to criminal and juvenile records. We do so through public education and public policy — speaking to legislators and landlords, employers, licensing boards, and the general public about the need to create capacity for second chances. Last year, we worked hard to help pass Ban the Box — legislation that prohibits public and private employers from inquiring about criminal backgrounds until the job applicant has reached the interview/condition offer stage. This year, we advocated for improved and expanded expungement reform — so that people who have successfully rehabilitated have the opportunity to seal their criminal records and receive a meaningful shot at a second chance. We don't just stop at legislative reform, though: for example, we bring the law back to the community by providing seminars to employers, employment specialists, and job seekers that demystify criminal records and the hiring process.

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www.mnmcca.com

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President's Message, continued:

Prior to joining the Council, I worked as an assistant public defender with the Regional Native Public Defense Corporation, serving the Leech Lake and White Earth Bands of Ojibwe. I am currently a fellow at the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota School of Law and a former Bush Leadership Fellow. It was through the Bush Foundation that I began developing a project called We Are All Criminals (WAAC). WAAC seeks to illustrate the blurry line between 'criminal' and 'clean'. More information on the project can be found at www.weareallcriminals.org. Let me know what you think of the site and the project!

In our 38th year, MCCA is still going strong by continuing to provide excellent training and professional development opportunities for Minnesotans working in corrections and reentry. Already this year, we've tackled professional burnout with Michael Kinzer, worked to create cultural competence with Andre Koen, looked at the legislative process with lobbyists and legislative liaisons from the Council, the Minnesota Corrections Association, and the Minnesota Association of County Probation Officers, explored trauma informed care with Saprina Mathney, and reviewed and expanded our vision of domestic violence among women who have offended.

Coming up, we'll provide a crash-course on the new expungement law and we'll revisit creating cultural competence. Trainings for the fall and winter months are currently being scheduled — so stay tuned!

I look forward to meeting or seeing you again at our trainings this year. You make MCCA an outstanding organization — thank you.

Take care,

Emily



MCCA Board of Directors

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The MCCA *Happenings* newsletter is prepared by Amanda Nowack and Jerrod Brown, Marketing and Communications chair.

The statements contained in *Happenings* are the views of the authors and do not constitute MCCA policy or endorsement by the Association or its Board of Directors, unless so indicated.

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EDUCATION and TRAINING EVENTS

Expungements and Beyond

Friday, June 20, 2014, 9:00 till noon
Goodwill Easter Seals: 553 Fairview Ave N, St Paul, MN 55104

Governor Dayton has signed expungement reform into law! This opens the door for many Minnesotans to petition the court for meaningful relief from the burdens that criminal records cause for employment, housing, education and civic engagement.

Join us for a legislative update on criminal records, collateral sanctions, expungement, and more. To register, go to the [MCCA website](#) or contact our Membership Chair, Christen Munn, directly at cmunn@goodwilleasterseals.org.

Trauma Informed Care (May's training)



Presenter Saprina Matheny (above, left) discussed the relationship of childhood trauma to interactions with the juvenile and criminal justice system. Ms. Matheny provided us with effective ways to work with youth whose lives have been impacted or shaped by trauma, and how to work across systems to create trauma-informed structures and networks of care.

Many thanks to those who attended — from service providers to probation officers, teachers to students. It was a lively and informative discussion!



Information on past, present, and future trainings can be found online at www.mnmcca.com.

EDUCATION and TRAINING EVENTS, continued

Creating Cultural Competence

Friday, July 18, 2014, 9:00 AM to 12:00 PM

Goodwill Easter Seals: 553 Fairview Ave N, St Paul, MN 55104

Description:

This work session helps organizations create cultural competence plans as a means to meet affirmative action goals. Often people talk about how to reach affirmative action goals, but often don't talk about the culture of the organization. Anoka County, Minnesota, has implemented the cultural competence model and has found great improvement in how its staff has changed its thoughts about diversity and diversity training. This workshop closes that gap.

Objectives:

- Learn definitions and guiding assumptions about race, racism and cultural competence.
- Increase awareness and understanding of individual, institutional and societal manifestations of culture.
- Understand conscious and unconscious mores in a culture.
- Understand the experiences of people from different racial heritages.
- Explore the costs and benefits of working to end racism through building on cultural strengths.

Presented by:

Andre Koen: Andre Koen is an energetic presenter, a powerful communicator, and a dynamic teacher. Andre integrates his abilities as an improvisational comedian, large group facilitator, keynote speaker, and classroom teacher to captivate and educate his audience. Andre currently is owner and chief facilitator of AM Horizons Training Group where he educates businesses and Government agencies about the law and diversity issues. Prior to this he worked for Anoka County as their Diversity Coordinator.

Andre was also the Academic Dean at the National American University, where he inspired mid-career adults to live their dreams and reach their potential. Andre believes that people possess the ability to empower themselves, and that belief is manifest by his unique style of teaching. There are many words that define Andre Koen, but the most definitive is "Andre, the Enkindled Spirit."

Member Spotlight: Success Stories

Author: Ladonna Seely, Goodwill Easter Seals

Released from prison after 16 years, Carl reentered a world he didn't recognize. His future was hindered by a criminal record and loss of sight. His Employment Support Consultant at Goodwill/Easter Seals Minnesota helped him with more than a thousand job applications and arranged a culinary demonstration. Carl displayed his kitchen skills at a Minneapolis Chipotle restaurant. Carl landed a full-time job on the spot. Now he has a new apartment, a significant other and is training to be a manager.

"It gave me back my identity," Carl said. "Having work meant that I had the independence of purchasing things, making more decisions."

Carl Nimis accepted the prestigious Participant of the Year award at our 2013 Power of Work event May 9. The award recognizes exceptional effort and accomplishment by a Goodwill/Easter Seals participant.

"Carl represents the dedication and perseverance we try to instill in each of the thousands of people we serve every year," said Dr. Michael Wirth-Davis, President and CEO of Goodwill/Easter Seals. "We're thrilled to give him this award and we know he will inspire many others to succeed as he has."

Moving forward, Carl will focus on his future career and advancement opportunities with his employment support consultant, James Houston.

"I've worked with hundreds of people and he is the hardest worker I've ever seen at trying to get a job," Houston said. "Now when we talk, it's mostly about him becoming a leader. Carl wants to be a manager at Chipotle and we spend most of our time working on his communication skills and how he can improve on his leadership ability."

Good things happening at your organization or agency? Let us know!

From clients' success stories to organizational awards -- email Jerrod Brown at

jerrod01234brown@live.com to share the good news with all of MCCA.

Motivational Interviewing in the Criminal Justice System

Authors: Leslie Barfknecht & Ernest Marshall

Contributor: Jerrod Brown

Having had the pleasure of training Motivational Interviewing (MI) to hundreds of criminal justice (CJ) professionals over the years, a couple of critical concerns have emerged among the authors.

First, CJ professionals often feel that they do not have the time to utilize MI in its “pure” form, due to large caseloads, short interactions, and the need to inform clients of various rules and stipulations.

Second, some CJ professionals report that they do not feel confident delivering MI because it does not feel genuine. In fact, to become proficient in using MI techniques, training and practice are required, sessions should be recorded. Coaching and feedback are essential. The problem is that not everyone has access to these resources.

Finally, in the role of supervising agents, some CJ staff struggle with how to inform clients of stipulations and deliver sanctions in an MI consistent fashion. This article offers several brief “takeaway” interventions consistent with MI.

What Is Motivational Interviewing?

Motivational Interviewing (MI), developed by Miller & Rollnick, is an intervention, or a form of collaborative conversation, designed to assist a person in resolving ambivalence and increase motivation and commitment to change (Miller & Rollnick, 2012). In other words, MI is a way to assist clients in weighing the “pros” and “cons” of changing or maintaining a behavior by eliciting their own internal motivations through specific techniques. Originally utilized in the field of substance abuse, MI has been validated in other fields including medical, mental health and criminal justice settings. MI can lead to improved treatment retention, improved treatment engagement, and a reduction in recidivism (McMurrin 2009). MI is recognized by the National Registry of Evidence-based Programs and Practices (NREPP) as an evidence based intervention and as an intervention that attends to Responsivity in the Risk Needs Responsivity Model (Andrews & Bonta, 2010). MI is a foundational component in criminal justice both federally and in most state systems.

Motivational Interviewing is comprised of the “spirit” and the techniques. The “spirit” of MI is described by the acronym PACE (Partnership, Autonomy, Compassion and Evocation) (Miller & Rollnick, 2012). All of these must be present when practicing MI. For some in the criminal justice system, this can be challenging. Challenges arise due to beliefs or values that lend themselves to judgment of clients in the criminal justice system. In fact, many clients have done behavior worthy of judgment. Yet, MI calls for non-judgmental compassion. In addition, MI presents a shift from a more authoritative style of supervision.

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Motivational Interviewing in the Criminal Justice System, continued

The techniques within MI are OARS (Open-ended questions, Affirmations, Reflections and Summaries) (Miller & Rollnick, 2012). These guide the professional in the types of verbal responses to utilize in an interaction with a client. In recent years of study on the effectiveness of MI, it has become quite clear that the use of affirmations is quite powerful and effective (Farber & Doolin, 2010). These terms are common and associated with Carl Rogers' Client Centered Therapy. Where MI really departs from traditional Client Centered Therapy is one of the keys to MI: that is, the professional's ability to subtly keep the direction of the conversation toward resolution of the problem.

Persuasion Remains Ineffective

Having the knowledge about what is harmful versus beneficial is not necessarily effective in bringing about change. Ask anyone who is trying to lose weight, quit smoking or exercise more if they know what they need to do. It is highly unlikely they will tell you one strategy to accomplish this feat, but likely several. They probably can recite all the dangers of smoking, overeating or lack of exercise too!

Ask a client within the criminal justice system and it is likely that they can tell you what they should do and even how to go about it. Our interaction style and systems are set up to motivate them to change, right? When they do not do what we want them to, we tend to give them a list of reasons as to why they should or use external motivators to get them to comply.

So what is the barrier? Generally, there are two reasons people do not follow through with change: it is either not important enough or they lack the confidence that they can pull it off. For instance, with clients within the criminal justice system, there may be more reward in the criminal behavior than pro-social behavior or they may not believe they can make or maintain the changes.

Resolving Ambivalence

Ambivalence is having mixed feelings or contradictory ideas about something or someone, and it often keeps people "stuck." Motivational Interviewing helps individuals resolve ambivalence for their own reasons and not for others. Attempting to persuade change for our reasons or relying on external motivators is ineffective to sustain change. The clients must figure out for themselves if the change is important to them. No one else can impose that on them.

What Works?

Research has demonstrated that the most important component professionals have an effect on in the change process is the therapeutic alliance (Wampold, 2001). The therapeutic alliance (also referred to as helping or working alliance) includes the relationship between the helping professional and the client. The client's perception of this alliance is the biggest predictor of change (Baldwin et al., 2007; Brown et al, 2005; Lubrosky et al., 1986; Wampold & Brown, 2005).

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Motivational Interviewing in the Criminal Justice System, continued

The alliance is comprised of agreed upon goals, methods to achieving those goals within the client's preferences, agreed upon role of the helping professional, and the client's perception of that relationship (Bordin, 1979; Norcross, 2009). A non-judgmental, compassionate professional generally develops a stronger alliance with the client.

Clients within the criminal justice system are highly influenced by their environments (i.e., prison units, jails, half-way houses, treatment programs). "Perceptions of fairness and care appear to create positive outcomes, and when clients perceive that they have a voice in decisions, more positive outcomes are likely to occur" (Taxman & Ainsworth, 2009). Systems which implement evidence-based programs and do not attend to the relationships within those systems are incomplete and potentially misleading (Norcross, 2010). Motivational Interviewing, by default, operationalizes the formation of a therapeutic alliance. Respecting the client's autonomy, working in a partnership, and acting compassionately and non-judgmentally adheres to the components of the therapeutic alliance. These have been proved to be most valuable in the change process.

What Motivational Interviewing is Not

Some clients naturally show resistance to the structure of the criminal justice system and some are skilled at getting professionals caught up in rhetorical discussions that can become power struggles. Entering into these interactions from a place of non-judgment and compassion can enable professionals to avoid the power struggle and will be less stressful for both parties. Another significant challenge for those practicing MI is to resist giving advice or other pitfalls that may move the client away from resolving ambivalence or commitment to change. We refer to these traps as ACID.

Advising without Permission:

"you should," "why don't you," "consider this," "try this," "you could do this"

Confronting:

Directly and unambiguously disagreeing, arguing, correcting, shaming, blaming, criticizing, labeling, moralizing, ridiculing or questioning honesty

Invalidating:

Dismissing the feelings or size of the issue
"What's the big deal?" "It's nothing to get upset over." "It'll be fine." "At least it wasn't ..."

Directing before you need to:

Orders, commands, imperatives
"Don't do that," "you need to"

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Motivational Interviewing in the Criminal Justice System, continued

ACID behavior produces reactance. Suggesting or making another feel as though they are obliged to adopt a particular opinion or engage in a specific behavior can naturally produce an emotional response. This is triggered when free behavior (act or choice) is restricted and causes one to reject or act in opposition to the imposed threat (Brehm, 1966).

Professionals finding themselves engaged in an ACID behavior or a power struggle that may have ruptured an alliance should work to repair that rupture. Responding in an empathic and non-defensive fashion and acknowledging any personal responsibility or contribution for the interaction can repair and strengthen the therapeutic alliance (Safran et al., 2010).

Consistent Strategies

Validate, Affirm, Elicit:

Validate

Validate the emotion or experience with a reflection.

"It must be hard." "You're really upset." "That sounds confusing."

Affirm

Recognize strengths, values, accomplishments, positive actions, and new behaviors.

"I appreciate your willingness to talk about this." "Even though you're angry, you're really trying to deal with this in a productive way."

Elicit

Reasons for change; problem-solving ideas or options; how past success was achieved?

"What are your options?" "What worked in the past?" "How would this be helpful for you?"

Elicit, Provide, Elicit:

Elicit

Ask what they know or would like to know.

"What are you experiencing?" "How can I be helpful?" "What information do you need?"

Provide

Offer information in a non-judgmental manner.

"Would you like me to share what I know about that?" "I have some information that may be useful." "Would you like me to make some suggestions?"

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Motivational Interviewing in the Criminal Justice System, continued

Elicit

Ask how that applies to them: "how do you think that would apply for you?"

Delivering Sanctions in an MI Consistent Fashion

Within criminal justice, a large part of job responsibilities include enforcing rules and delivering sanctions. Initially one questions, "How can delivering a sanction be consistent with MI?" This may lead some to ask: "Won't that rupture the alliance you keep stressing?" Here are some simple things to remember to help stay consistent with MI:

1. Follow the Rules. Although with good intent, many of us have been in the situation in which we have been "light" on enforcing the rules or have bent the rule. This may be due to rules being ineffective or a lack of agreement about the rules. Going light on or bending the rules is not beneficial. Clients within the criminal justice system are in the situation because they have bent the rules. When professionals model and allow rule bending to occur within our systems, it causes inconsistency and confusion. A rule is a rule. If you don't agree with it, then speak with leadership to consider changing it, but unless it is changed, follow it.

2. Transparency. Be upfront about the client's situation regarding rules, conditions, and consequences. Be sure they understand all of the expectations. Also explain any dual roles that may exist (e.g., the professional's role as both the advocate for the client and the supervising agency) (Walters et al., 2007).

3. Know your role. The professional's role is to enforce the rules. The system creates the rules, as the professional you don't make them up. The sanction is the natural consequence for the rule violation. When providing a consequence use that language: "The rule states..."

4. Neutral attitude. Remain calm and non-judgmental. Don't take the reaction of the client to enforcement of a rule personally (Walters et al., 2007). "Seek to understand" versus seek to find wrong doing. When implementing a sanction, beware of the choice of words and tone.

Summary

Motivational Interviewing is an evidence-based intervention utilized to assist clients in making positive choices in their lives. To become truly competent a professional must dedicate a great deal of time and resources to learning, practicing, and receiving coaching on their MI skills. Yet even without extensive resources, by avoiding certain traps, and employing some MI consistent interventions criminal justice professionals can make the most out of the time spent with clients.

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Motivational Interviewing in the Criminal Justice System, continued

About the Authors:

Leslie Barfknecht, LCSW, currently supervises a treatment program for civilly committed sexual offenders. She is a member of the Motivational Interviewing Network of Trainers (MINT) and a certified trainer for Feedback Informed Treatment (FIT). Leslie's career has focused on working with adolescents and adults who are at risk to or have committed criminal offenses, specializing in providing treatment for high risk sexual offenders.

Ernie Marshall, LCSW, currently supervises the development and delivery of treatment for high risk sex offenders with elevated levels of psychopathy. He has worked in the non-profit and public sectors in both clinical and administrative roles since 1996. His work has focused on populations traditionally considered resistant and hard to treat including: criminal justice, substance abuse, sexual offenders and multiply diagnosed individuals. He is a member of the Motivational Interviewing (MI) Network of Trainers and been conducting MI training for 15 plus years.

About the Contributor:

Jerrold Brown, MA, MS, MS, MS, is the Treatment Director for Pathways Counseling Center, Inc. and the founder and CEO of the American Institute for the Advancement of Forensic Studies (AIAFS). Jerrod has done extensive research, conducts trainings, and teaches graduate level courses on the topic of sleep.

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The Collateral Consequences of Juvenile Records¹

Author: Joshua Esmay, Council on Crime and Justice²

Thousands of Minnesota youth are adversely impacted by juvenile delinquency records, and due to the racial disparities in our juvenile justice system a disproportionate number of them are youth of color. Minnesota's greatest asset is its youth. We depend upon them for a thriving and diverse citizenry, and juvenile delinquency records threaten that potential.

The purpose of this article is to identify which juvenile records are publicly accessible and examine some of the collateral consequences – legal disabilities and practical barriers – of a juvenile record in Minnesota.

WHEN ARE JUVENILE RECORDS PUBLIC?

The general rule, which is established by Minn. Stat. §260B.171³, is that records of juvenile delinquency cases are private. This means that they can be shared amongst government agents in statutorily defined situations and can be disseminated to the child's parents and the juveniles themselves when they become adults, (unless doing so would interfere with an ongoing police investigation) but they cannot be accessed by the general public. However, there are three important ways that juvenile records can be made publicly accessible: through extended jurisdiction juvenile prosecution (EJJ), by certification to adult criminal court, and in certain instances of felony-level offenses.

An EJJ disposition is a sentencing option for felony-level juvenile offenses (when the juvenile is 14 or older) that blends adult criminal consequences with juvenile court protections. Minn. Stat. §260B.130. Under an EJJ sentence the youth receives a stayed adult prison sentence and is placed on juvenile probation until they turn 21 years old. If the youth successfully completes probation they will retain their juvenile delinquency disposition and avoid an adult criminal conviction, which would create a public record.⁴

However, if they fail to successfully complete probation, their case will result in an adult conviction and a public record.

A juvenile offense can also lead to a public record if the juvenile is certified as an adult. Pursuant to Minn. Stat. §260B.125, a court may order that a juvenile who was charged with a felony offense that occurred when they were at least 14 years of age be certified as an adult and tried in criminal court. The effect of adult certification is that jurisdiction for the case is transferred from juvenile court to adult criminal court. The subsequent adult case would generate a public record just like any other criminal case.

Finally, if a juvenile is charged with a felony-level offense relating to an incident that occurred when they were 16 or 17 years old, their court proceedings and any physical records of the case will be open to the public. Minn. Stat. §260B.163. This is no small number of youth affected: for example, in 2010, 2,646 felony-level juvenile adjudication petitions involving 16 or 17 years olds were filed in Minnesota courts. Note that even if the case is later dismissed or reduced, the mere fact that the juvenile was charged with a felony-level offense will lead to publicly accessible records.

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The Collateral Consequences of Juvenile Records, continued

WHEN ARE JUVENILE RECORDS PUBLIC? CONTINUED

Recognizing that there are unintended consequences for youths with public records, in 2013 the state legislature passed a law intended to provide some protection by amending the statutory language in order to prevent direct public access to juvenile delinquency records maintained in the court's electronic database, Minnesota Court Information System (MNCIS)⁵. Under the new law, the MNCIS records of many juvenile delinquency cases that receive public hearings would not be publicly accessible. However, in May of 2014, the Minnesota Supreme Court found that the legislature had overstepped its authority to create court records policy and instead decided that the MNCIS records would remain available to the public. The court did amend the rules governing access such that public juvenile delinquency records would not be remotely accessible through the court's website, but the records will remain publicly accessible through any courthouse MNCIS terminal⁶.

WHAT IS THE EFFECT OF A JUVENILE RECORD?

The term "collateral consequences" is a catch-all used to describe the barriers that a person might experience due to a juvenile or criminal record. Some collateral consequences are collateral sanctions – government imposed barriers that prevent people with both criminal and juvenile delinquency records from engaging in certain activities. These barriers arise in employment, housing, education, family contexts, and in the exercise of civil rights. They arise out of state and federal laws as well as municipal ordinances, and they govern a wide range of career paths: from practicing medicine, to working at a betting race track, to providing massage therapy. Several of the state's collateral sanctions can be found in Minn. Stat. §609B. Collateral sanctions can often affect people with private juvenile records, as many of the government agencies enforcing these restrictions have access to private juvenile records.

Collateral consequences can also result simply from the stigma associated with involvement in the juvenile justice system, but not due to legal barriers created by the application of law. Such consequences typically result from the general public accessing an individual's criminal or juvenile records. When accessible to the public, juvenile records may create severe difficulty for young adults seeking to obtain employment and housing; the stigma associated with the record can lead employers and landlords to exclude applicants even when there is no reasonable basis to do so.

EMPLOYMENT BARRIERS

Advances in information technology have made it both easy and inexpensive for employers to make heavy use of criminal background screening in their hiring decisions. According to a 2012 survey published by the Society of Human Resources Management⁷, 87% of employers surveyed conduct criminal history checks for some positions and 69% reported that they run criminal background checks on every position they fill.

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The Collateral Consequences of Juvenile Records, continued

EMPLOYMENT BARRIERS, CONTINUED

This is a dramatic increase from 20 years ago when an estimated 40-50% of employers utilized criminal background studies.

Both publicly accessible juvenile records and private records that are released through informed consent will show up on criminal history checks, thus putting the applicant at risk of being denied employment due to incidents that occurred when the applicant was a child. According to studies originally conducted in Milwaukee, and replicated in Minneapolis, the presence of a criminal history more than halves an applicant's chances of receiving a job interview⁸.

There are some regulations on an employer's use of these records in the hiring process. For example, Minnesota's Ban-the-Box statute prohibits employers from considering criminal history prior to selecting an applicant for an interview or provisional job offer; generally speaking, public sector employers may not consider non-conviction records or cases that have been expunged or pardoned⁹. Federal civil rights law, enforced by the Equal Employment Opportunity Commission (EEOC) and the Minnesota Department of Civil Rights prohibits any employment practice, including some instances of criminal records screening that have a discriminatory effect on applicants or employees of protected classes. It is the position of the EEOC that criminal records screening, while racially neutral, may nonetheless violate the Civil Rights Act because of the disparate impact that the criminal justice system has on minority communities¹⁰. Additionally, employers are generally protected from negligent hiring liability for employing someone with a juvenile record by Minn. Stat. §181.981 because they are not criminal convictions.

Despite these regulations, employers are afforded a great deal of discretion in making decisions based on an applicant's criminal or juvenile records. Often this means that otherwise qualified applicants who pose no danger to the employer are shut out of employment opportunities due to overly risk-averse and discriminatory employment practices. This problem is further compounded by the fact that many employers are ill-equipped to fully understand the nuances of juvenile records. For example, an employer may not understand that a juvenile who received a stay of adjudication¹¹ was never adjudicated delinquent by the court, or that a youth who was adjudicated delinquent does not stand convicted of a criminal offense. Confusion on the part of the employer may lead them to conclude that an applicant is being deceitful by failing to disclose the results of juvenile cases in response to questions about criminal convictions.

In addition to the burden created by the stigma of a public juvenile delinquency record, Minnesota has more than 350 laws creating specific employment barriers for people with criminal and juvenile records. Some of these laws allow government agencies such as the Department of Human Services (which conducts background checks for most health care and childcare jobs) and the Board of Police Officer Standards and Training to access even private juvenile records and disqualify applicants based on a wide range of juvenile offenses.

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The Collateral Consequences of Juvenile Records, continued

HOUSING BARRIERS

Like employers, private landlords have almost unfettered discretion in making decisions based on public juvenile records; accordingly, a majority of private landlords do make use of background checks as a screening mechanism for applicants¹². Juvenile records may result in denials of housing applications for individuals with past records and families that include juveniles with recent delinquency cases. Moreover, unlike employers, it is common practice for landlords to charge fees for background checks.

Additionally, families can also lose rental housing and be forced to move due to a child's juvenile delinquency records. In recent years, many private landlords have begun to include supplemental crime free addenda with their rental contracts. These binding lease provisions allow the landlord to terminate the rental agreement and evict the tenant based on the suspicion of criminal activity.

Legal barriers to housing arise predominantly within public housing programs; certain juvenile offenses bar applicants and their families from taking advantage of government housing assistance. Municipal public housing authorities have a great deal of discretion in creating policies that bar tenants based on juvenile records.

For more information on juvenile records in Minnesota, including the generation and retention of juvenile records by state agencies, a discussion of the myriad other collateral consequences beyond employment that they create, and information on legal remedies available to people who are burdened by such records, please see the [Council on Crime and Justice report entitled Juvenile Records in Minnesota](#).¹³

References:

¹ This article is for informational purposes only and not to be used as legal advice. Each situation is unique. It can be difficult to determine the long-term consequences of a juvenile record. If you have questions about the effect of a particular juvenile record, please consult a lawyer. For more information, including dates and times of upcoming criminal records workshops, please call the Council on Crime and Justice's Criminal Records Information Hotline: 612.353.3024.

² Joshua Esmay is a staff attorney at the Council on Crime and Justice. His focus is on criminal and juvenile records, their consequences and sanctions, and their potential remedies.

³ See Minn. Stat. §260B.171subd. 4, relating to juvenile court records, and Minn. Stat. §260 B.171 subd. 5 relating to peace officer records.

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The Collateral Consequences of Juvenile Records, continued

References, continued:

- ⁴ Note that youth who successfully complete EJJ probation will still have a publicly-accessible record if they were 16 or older at the time of the offense.
- ⁵ Minn. Stat. §260B.171 subd. 9.
- ⁶ Minn. Sup. Ct. Administrative Order ADM10-8003, May 14, 2014.
- ⁷ Background Checking—The Use of Criminal Background Checks in Hiring Decisions. Society of Human Resources Management. Accessed Sept. 25, 2013. <http://www.shrm.org/research/surveyfindings/articles/pages/criminalbackgroundcheck.aspx>.
- ⁸ Pager, Devah. *The Mark of a Criminal Record*. PDF file. The University of Chicago, 2003. Accessed Sept. 25, 2013. http://www.princeton.edu/~pager/pager_ajs.pdf.
Note that the impact of that record is most profoundly felt by black applicants.
- ⁹ Minn. Stat. §364.021. Effective Jan. 1, 2013.
- ¹⁰ *Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*. Equal Employment Opportunity Commission. Accessed Sept. 25, 2013. http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.
- ¹¹ A stay of adjudication is a disposition available in both juvenile and criminal court wherein the defendant is placed on probation without ever having a judgment of guilty entered against him. Successful completion of probation leads to the case being dismissed.
- ¹² *Tenant screening agencies in the Twin Cities: An overview of tenant screening practices and their impact on renters*. PDF file. HousingLink. 2004. Prepared for the Minnesota Housing Finance Agency and the Fair Housing Implementation Council. Accessed Sept. 25, 2013. http://www.housinglink.org/Files/Tenant_Screening.pdf.
- ¹³ <http://www.crimeandjustice.org/pdffiles/Juvenile%20Records%20in%20Minnesota.pdf>