

Email Testimony

Committee on the Judiciary
House Committee on Ways and Means
The State House
Boston, MA 02133

Subject: Testimony on S.2820 Reforming Police Standards

Dear Chair Cronin, Chair Michlewitz, Vice Chair Day, Vice Chair Garlick and House members of the Judiciary and the House Ways and Means Committees,

Thank you for the opportunity to submit this testimony.

My name is Jay D. Blitzman. I served as a juvenile court judge for twenty-three and a half years. At the time of my retirement on November 28, 2019 I was the First Justice of the Middlesex County Division of the Massachusetts Juvenile Court. Prior to serving as a judge I was the founder and the first director of the Roxbury Youth Advocacy Project. As an attorney I represented adolescents for twenty years. I am writing to strongly recommend that the expungement provisions first enacted in 2018 be expanded. I believe that this course of action will be an important step in addressing issues of racial inequity and reducing recidivism. I support the proposed eligibility for expungement changes as passed in Sections 59-61 of S. 2820.

Bryan Stevenson, renowned lawyer and civil rights activist has observed that each one of us is more than the worst thing we have ever done. This is especially true for adolescents. None of us are the same people we were as teenagers. Yet years later many youths who enter the juvenile system are still haunted by the poor decisions they made as teenagers. It is a common misconception that once a person reaches the age of eighteen their records vanish and then have a clean slate. This is mythology. As you know, in 2018 this state passed legislation creating an opportunity to expunge juvenile and criminal records for first offenses committed prior to the age of twenty-one. While this was an important first step the enactment has had limited impact. The 2018 law was limited to only one charge, did not differentiate between dismissed cases and those that led to dismissal and those that led to adjudication, and had waiting periods and a complicated application process. As many persons who are arrested are accused of multiple charges the limitation to one offense effectively precludes expungement in such circumstances. The research shows that after almost two years less than 19% of expungement applications have been approved.

Young adults have the highest recidivism rates of any group but as they grow older and mature a natural process of natural desistance from criminal behavior occurs. Meaningful opportunities for expungement are necessary vehicles for allowing individuals to re-integrate into society without the burden of a criminal record. This entails supporting public policy which allows for consideration of expungement for more than one offense prior to age twenty-one as doing so will better protect long-term public safety. There is

also a need to allow for relief in cases which result in dismissal without an adjudication. Several years ago, I heard a case involving an adolescent with no prior record who received a continuance without a finding. But the mere fact of his arrest precluded him from being able to join the National Guard. Opponents of expungement argue that sealing a record, which is designed to preclude public access to records, is an adequate remedy. However, experience and reality have proved that a wide range of public entities do indeed have access to sealed records, including the military, child serving organizations, state colleges, law enforcement, and licensed private entities.

Perhaps most compellingly, expanding expungement is a critically important tool in redressing systemic racial and ethnic inequities at every systemic level. The Sentencing Project notes that black youths are six times more likely to be arrested than white peers and that black people are six times more likely to go to jail in this state. While criminal records are supposed to be used to better protect public safety they have little empirically validated prognostic value and often adversely affect people of color. The collateral consequences of a record are often more profound than the adjudication itself. These consequences can include expulsion from school, eviction of families from public housing, and limiting access to higher education, employment opportunities or entering law enforcement positions or joining the military. The stigmatization of a court record creates a continuous form of penalization. This is especially true for youth of color who are dramatically overrepresented in our juvenile and criminal systems. As Michelle Alexander notes in *The New Jim Crow*, it doesn't matter if an offense results in a D.Y.S. commitment or a jail sentence. The record itself "is the badge of inferiority...that relegates people for their entire lives to second class status. Myriad laws, rules and regulations operate to discriminate against ex-offenders and effectively prevent their reintegration into the mainstream of society and the economy" leading to re-arrests and a cycle of probation and parole violations that fuel mass incarceration.

Expanding expungement opportunities is an important component of being smart on crime. The pending proposals would allow for expungement in cases that were dismissed, change the eligibility based on length of time since the last offense (three years for misdemeanors and seven years for felonies), allow for more than one offense to be considered, and limit the list of offenses that currently are ineligible for expungement to only those that result in a felony conviction. Individualized judicial determinations would allow for victim input. I support, without reservation, these changes.

Thank you for considering my testimony. Please feel free to contact me at (617) 823-4487 or via email at jayblitzman@gmail.com if you have any questions or would like to discuss these issues in greater detail.

Sincerely,

Jay D. Blitzman
First Justice, Middlesex Division of the Juvenile Court (Retired)