

PLANNING FOR THE FUTURE

MATERIALS

- 1) Packets of information regarding students' future plans (Ask your students the week before you do this lesson – please search for and provide information about 2- or 4- year colleges, or other information about career/future goals they express)
- 2) Examples of career map – one example provided in the PICC (just take a couple if you need them) but teachers should also make their own to share with the kids).
- 3) List of 707(b) offenses (handout at end of lesson).
- 4) Record-sealing application for San Mateo County to show to your students (enough for each student; in the PICC).
- 5) Blank paper for career maps (enough for each student; in the PICC).

TAKEAWAYS

- Students will be able to envision where they might want to go, what they may want to be, map out how to get there, and discuss their plans with the class.
- Students will be able to understand when records can be sealed, and what specific steps must be taken to make this happen.

INTRODUCTION

(Time Check: 2 minutes)

Introduction

- Tell students that this week we will be learning about record sealing and planning for the future.

- Remind students we are law students and can't discuss their cases with them. Remind them to use hypothetical examples rather than personal stories when they ask questions.

ACTIVITY 1: RECORD SEALINGⁱ (Time Check: 22 minutes)

Goal of the Activity: Students will understand under what circumstances a record may be sealed, and how to go about the process of having a record sealed.

Note: this lesson can be really, really upsetting for kids who discover their record is unsealable. Emphasize the positive. Having an unsealed record does not destroy your future—if you change your life, don't get into trouble again, etc, there is no reason why a record should keep you from going to college, joining the military, becoming a government officer (or running for office) etc. Just because a record can't be sealed doesn't mean that it's not still just a juvenile record—and that's not too bad. As long as a person has no adult convictions, there is absolutely no reason why they can't have all the same options and opportunities as someone with a sealed record, or no record at all.

Materials Needed:

- List of 707b offenses
- Sample record sealing application

Note: This discussion can take place in small groups or with the entire class.

Discussion:

- Now we are going to talk about one important step that youth who have served time for juvenile offenses can take once they have successfully completed their probation – record sealing.
- **Before you get started, ask the kids:** Your friend needs your advice. He is applying for a job and he pled guilty to two felonies and a misdemeanor in juvenile court when he was 15. Neither of the felonies was a strike. Now, he is applying for a job and there's a box on the application that says, "Have you ever been convicted of a felony?"
 - **Should he check yes or no?**
 - **Answer – He should check “no”!** Juveniles are not “convicted” in juvenile court; they are “adjudicated delinquent” or the petition against them is “sustained.” What this means is that if a job application asks if my friend has ever been convicted of a felony, and his only felony was in juvenile court and it was not a 'strikeable' offense, he can (and should) say “no.”¹
- **So now we know that my friend does not have to say he was “convicted.” Why might my friend also want to have his juvenile record sealed? What does it mean to have a record sealed?**
 - When a juvenile record is sealed, it is as though it never existed (except for the exceptions below). If a person has their record sealed, he/she can say that

¹ See <http://www.ebcl.org/documents/juvenilerecordsealingbrochure2005-rvd.pdf>.

he doesn't have any juvenile record at all; he can answer "no" to ANY question about the existence of a prior juvenile offense – he does not need to say that he had a record but it was sealed.²

- Additionally, if anyone asks the court, probation department, or police agencies if this person has a record, they have to say that he has no record.
- But, there are a few exceptions to this:
 - The sealing of a record does not wipe out prior felonies for Three Strikes purposes. The DA has discretion to ask the court to count juvenile crimes as strikes if I am later convicted of a felony.³
 - A juvenile cannot seal the record of an offense for which he/she was tried and convicted in adult court.⁴
 - The record is still available to law enforcement, even after it is sealed. If I am re-arrested, the police can access my juvenile convictions, and so can the DA.⁵

Note: Often, students have trouble keeping clear on what's an adjudication and what's a conviction. Stick to this rule of thumb: if it happened in juvenile court, it's an adjudication. If it happened in adult court, (good way to tell = jury) then it's a conviction.

Record sealing is not automatic, so let's talk about how to seal a record.

If my friend wants to seal her record, she needs to:

(This is attached as a handout at the end of the lesson. Pass this out to the students so they can follow along with you).

1) Meet certain requirements: (note -- these are the requirements for San Mateo County)

My friend must:

- a) Be 18 or older (or for a case where no petition was filed, must be at least 5 years since arrest)
- b) Have not been convicted of a felony after age 18 (as an adult)
- c) Not currently be involved in any adult criminal cases or investigations (including in traffic court)
- d) Not be on any form of adult probation
- e) Have not been convicted as an adult of a misdemeanor involving "moral turpitude" (i.e. lying to a police officer)
- f) Have not committed a 707(b) offense when age 14 or older
Remind the students what counts as a 707(b) offense (see the list included in your materials packet. This requirement is a result of Prop 21.⁶
- g) Have no civil case pending based on any juvenile offense

² See *T.N.G. v. Superior Court*, 4 Cal.3d 767 (1971).

³ See <http://www.ebcl.org/documents/juvenilerecordsealingbrochure2005-rvd.pdf>.

⁴ See <http://www.ebcl.org/documents/juvenilerecordsealingbrochure2005-rvd.pdf>.

⁵ See <http://www.ebcl.org/documents/juvenilerecordsealingbrochure2005-rvd.pdf>.

⁶ See <http://www.ebcl.org/documents/juvenilerecordsealingbrochure2005-rvd.pdf>.

- h) The court may not grant a sealing request if the juvenile committed a strike after age 16

A record-sealing request may also be denied if “rehabilitation has not been attained to the satisfaction of the court.”

- 2) **Fill out an application** – Show the kids the copy of the record-sealing application in your materials bag. You can pass it around the room, as they may be interested in looking through it. Record-sealing applications for San Mateo and Santa Clara County can be accessed in the following ways:
 - a) For Santa Clara County:
<http://www.sccgov.org/SCC/docs%2FProbation%20Department%20%28DEP%29%2FAttachments%2FJuvenile%20Record%20Sealing%20Application.pdf>
 - b) For San Mateo County: (not available online)
You can pick up an application at either 222 Paul Scannell Drive, San Mateo or 2415 University Avenue, East Palo Alto

Applications are also available by calling:

- a) For Santa Clara County – (408) 278-6121
- b) For San Mateo County – (650) 312-5289

- 3) **Pay a fee** – in San Mateo the fee is \$100; in Santa Clara, it’s \$150. Application fees are not refunded if the application is denied.

Once all of this is done, how long does my friend have to wait to have her record sealed? In San Mateo, the processing time can be 4 to 6 months.

Ask the students: Once her record is sealed, can it ever be *unsealed*? A record can be *unsealed* in three circumstances: (1) if I petition to the court to have my record unsealed; (2) if the court orders a record opened in an action based on defamation (then it’s unsealed just temporarily); (3) Insurance companies can still access records retained by the DMV to set premium rates. Otherwise, it can’t be unsealed. The bottom line is, the only way anyone but you can unseal your record is if they’re an insurance company, and even then they can’t tell anyone what they find.

ACTIVITY 2: FUTURE MAPS (Time Check: 22 minutes)

Goal of the Activity: To envision the future, both immediate and distant, and to strategize concrete steps necessary to reach career and life goals.

Activity:

- **Explain:** maps are devices we use to help us get from one place to another. Today, we are going to create maps to help us get to where we want to be in the future.
- Everyone is going to receive paper and a pencil to write with. On one side of the paper, write START and then a brief description of where you are now. On the other side of the paper, write GOAL and a brief description of where you want to be in 10 years. In between, create a map with steps you will need to achieve to become the person you want to be in 10 years. For example, maybe I want to be a lawyer and have a family in 10 years. What would be some of the things I would need to do to reach that goal? (Graduate from law school, find a job as a lawyer in a city I want to be in, work hard, eventually find time to start a family, purchase a home, etc).
- Distribute the materials and ask the students to begin working on their maps.

Notes:

- Each teacher should have a sample career map that he or she has made available to show at the beginning of this exercise. This will help the students visualize what their end product will look like and avoid any confusion. Your example can represent the career map you would have plotted out for yourself at age 15 or so. If you are concerned that teachers' sample maps will be similar (And then I will attend law school...) make a map for a friend who wanted to pursue a different path.
- Teachers should circulate throughout the room and help students come up with practical steps to reach their goals. Winning the lottery is a way to get rich, but should not be the only route on the map because it is not very likely. Additionally, pursuing illegal activities (should students add this to the map) should also route to the appropriate likely legal consequences with additional routes around them to the desired end point.
- If students are on probation, now is a good time to discuss with them the steps they will need to take to get off of probation (e.g., follow the rules of their probation agreement, never carry contraband, remind them that they may be searched at any time (as can their bedroom and common rooms in their house)). Record sealing should also be a step in the maps – and will discuss this at length in just a moment.
- This activity may not be easy for your students. Visualizing positive goals is difficult enough; envisioning concrete steps to achieve those goals, even after activity 1 above, is even more difficult. Also note that some students may not have any ideas yet as to what they would like to do; if they want to map out multiple possibilities, or want to leave some parts as question marks, you should tell them that's completely fine.
Again, just remember to be encouraging.
- NOTE: if there is time, have the students share their maps with the class.

Additional Resources in San Mateo County: Print copies of the directory for the students

1. Youth Services Directory in San Mateo County

- Phone numbers for a range of services including emergency housing, pregnancy and parenting, counseling, employment and civil legal services

<http://www.cityofpacific.org/civica/filebank/blobload.asp?BlobID=2769>

CONCLUSION

(Time Check: 1 minute)

Congratulate the kids on doing a great job today thinking about their future.

StanfordStreetLaw

A PLAIN-LANGUAGE GUIDE TO 707(b) OFFENSES

HOMICIDE

1. Murder
2. Attempted murder.
3. Voluntary manslaughter, upon a sudden quarrel or heat of passion.
4. With the intent to commit murder: Exploding **or** igniting **or** attempting to explode/ignite any destructive device or any explosive.

SEX CRIMES

Quick Key for "FORCE"

"force-1" = force, **or** violence, **or** duress, **or** menace, **or** threat of great bodily harm

"force-2" = force, **or** violence, **or** duress, **or** menace, **or** fear of immediate bodily injury

5. Rape: with force, **or** violence, **or** threat of great bodily harm.
6. Sodomy: by "force-1."
7. Lewd or lascivious act: by "force-2" (with whatever intent) **or** of a dependent in one's care, by "force-2," with intent to arouse/appeal to/gratify either person.
8. Oral copulation by "force-1."
9. An act of sexual penetration done against the victim's will: by "force-2," **or** threat of reasonably-possible retaliation.

KIDNAPPING

10. Kidnapping for ransom.
11. Kidnapping for purpose of robbery.
12. Kidnapping with bodily harm.
13. Kidnapping for purposes of basically any kind of sexual assault (listed in Cal. Penal Code § 209(b)).
14. Kidnapping during the commission of a carjacking, if in order to facilitate the carjacking, and if the victim is moved a substantial distance in such a way as to increase the risk of harm to the victim over and above that necessarily present in the crime of carjacking itself.

ASSAULTS

15. Assault by any means of force likely to produce great bodily injury.
16. Aggravated mayhem, defined as:
 - Under circumstances manifesting extreme indifference to the physical or psychological well-being of another person: intentionally causing permanent disability of another human being, **or** disfigurement of another human being, **or** depriving a human being of a limb, organ, or member of his or her body.
17. Torture, defined as:
 - Inflicting great bodily injury on another person, with the intent to cause cruel or extreme pain and suffering for the purpose of: revenge, **or** extortion, **or** persuasion, **or** for any sadistic purpose.

ARSON

18. Arson: of an inhabited structure/property, **or** that causes great bodily injury.

ROBBERY

19. Any robbery.

WEAPONS-RELATED OFFENSES

20. Assault with a firearm or destructive device.
21. Discharge of a firearm into an inhabited or occupied building.
22. Personally using a firearm while committing a felony or attempted felony.
23. Any felony in which the minor personally used any of the following weapons: cane gun, **or** wallet gun, **or** undetectable firearm, **or** any firearm which is not immediately recognizable as a firearm, **or** any camouflaging firearm container, **or** any ammunition which contains or consists of any fléchette dart, **or** any bullet containing or carrying an explosive agent, **or** any ballistic knife, **or** any multiburst trigger activator, **or** any nunchaku, **or** any short-barreled shotgun, **or** any short-barreled rifle, **or** any metal knuckles, **or** any belt buckle knife, **or** any leaded cane, **or** any zip gun, **or** any shuriken, **or** any unconventional pistol, **or** any lipstick case knife, **or** any cane sword, **or** any shobizue, **or** any air gauge knife, **or** any writing pen knife, **or** any metal military practice handgrenade, **or** any metal replica handgrenade, **or** any instrument or weapon of the kind commonly known as a blackjack, **or** any instrument or weapon of the kind commonly known as a slungshot, **or** any instrument or weapon of the kind commonly known as a billy, **or** any instrument or weapon of the kind commonly known as a sandclub, **or** any instrument or weapon of the kind commonly known as a sap, **or** any instrument or weapon of the kind commonly known as a sandbag, **or** any large-capacity magazine, **or** any explosive substance (other than fixed ammunition), **or** any dirk, **or** any dagger.
24. Carjacking—taking a car against a person’s will, by means or force or fear—while armed with a dangerous or deadly weapon.
25. Willfully and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle.

DRUG OFFENSES

26. Manufacturing, **or** compounding, **or** selling one-half ounce or more of any of the following drugs: Amobarbital, **or** Pentobarbital, **or** Phencyclidines (such as PCP or PCM), **or** Secobarbital, **or** Glutethimide.

OFFENSES RELATED TO CIRCUMSTANCES OF THE VICTIM

27. Any of various violent felonies (listed in Cal. Penal Code § 667.5(c)), if committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members.
28. Various serious/violent crimes (listed in Cal Penal Code § 1203.09) knowingly committed against people with certain characteristics, and causing great bodily injury. Listed victim’s characteristics are: a person at least 60 years old, **or** a blind person, **or** a paraplegic, **or** a quadriplegic, **or** a person confined to a wheelchair.
29. Victim or witness intimidation (when charged as a felony)
30. Witness tampering by bribery, **or** force, **or** threat of force, **or** fraud.

ESCAPE

31. Escape, by the use of force **or** violence, from any county juvenile hall, home, ranch, camp, or forestry camp, where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

ⁱ Unless otherwise cited, all of the information provided regarding Juvenile Record Sealing can be found at the following addresses:

a) For San Mateo County:

http://www.smhealth.org/vgn/images/portal/cit_609/9/21/62737731Juvenile_Sealing.pdf

b) For Santa Clara (follow link to information about record sealing procedures):

<http://www.sccgov.org/portal/site/probation/agencyarticle?path=%2Fv7%2FProbation%20Department%20%28DEP%29%2FJuvenile%20Probation%20Services%2FRecord%20Sealing%20Procedure&contentId=e9c6bb3166b34010VgnVCM2200049dc4a92>

Note that the specific information provided in this activity applies to record-sealing procedures in San Mateo County. Rules and procedures may differ in other counties. Also, if someone has a record in multiple counties, they probably need to go through the record-sealing process in *each* of these counties.

HOW TO SEAL YOUR RECORD

Record sealing is not automatic, so let's talk about how to seal a record.

If my friend wants to seal her record, she needs to:

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SAMPLE CAREER MAP:

WRITER

