



## HEALTH IMPACT ASSESSMENT

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# MASSACHUSETTS PROPOSED EXPUNGEMENT BILL

JULY 2016

## About this Rapid Health Impact Assessment

Health Impact Assessment (HIA) is a tool that helps identify and address the health impacts of plans, policies, and projects undertaken by non-health sectors. HIA also provides recommendations for preventing or mitigating adverse health outcomes associated with these decisions and maximizing potential health benefits.

Despite the promise of HIA, crucial health implications of decisions made outside the health sector go unexamined in Massachusetts each year. A lack of funding dedicated to HIA, limited staff capacity to conduct HIA, and low levels of grassroots demand for HIA all stymie use of the tool.

With support from the Health Impact Project, the Department of Urban Studies and Planning (DUSP) at the Massachusetts Institute of Technology (MIT) and the Metropolitan Area Planning Council (MAPC) established a program to bring HIA training to urban planning students and community-based organizations. This program was conceptualized as a way to increase local capacity to integrate health considerations into urban policymaking and planning. The aims of this pilot program were threefold: 1) cultivate greater grassroots awareness of, and capacity for, conducting HIA, 2) engage socially vulnerable populations in selecting HIA topics and conducting assessments, and 3) advance assessment methodologies across a broad range of sectors and health outcomes.

A key component of this program was developing a public health course for planners, called "Healthy Cities: assessing health impacts of policies and plans," which was offered at DUSP for the first time in the spring of 2016. DUSP and MAPC also offered a workshop for community based organizations that introduced HIA to local community-based groups working on issues with the potential to impact health. Through this process, we identified critical and timely pending decisions that would warrant examination through HIA and assigned students to explore these decisions through a health lens. This Rapid Health Impact Assessment (RHIA) of Massachusetts Bill S.900, which proposes to expunge juvenile criminal records throughout the state, is the first pilot HIA conducted by "Healthy Cities" students at DUSP.

The report was authored by a group of undergraduate and master-level planning students, with critical edits by a team of research assistants. We are grateful to a panel of external reviewers who volunteered their time to provide thoughtful comments on the RHIA, although their involvement does not imply an endorsement of the findings. Our goals in producing this report were: first, to pilot a process by which urban planning students apply a social determinants of health lens to pressing urban challenges using a HIA methodology; and second, to inform public discourse on the issue of expungement of youth criminal records in Massachusetts.

## Acknowledgements

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### Disclaimer

The views expressed in this report are those of the author(s) and do not necessarily reflect the views of the Health Impact Project, The Pew Charitable Trusts, the Robert Wood Johnson Foundation, the Metropolitan Area Planning Council, or the Massachusetts Institute of Technology.

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## EXECUTIVE SUMMARY

This report is a Rapid Health Impact Assessment (RHIA) of Massachusetts Bill S.900, which proposes to expunge juvenile criminal records throughout the state. This RHIA was conducted by a group of students in the Healthy Cities course in the Department of Urban Studies and Planning at MIT between February and June 2016.

Health Impact Assessment (HIA) is a method of assessing the potential health impacts of a proposed policy, plan or project. This RHIA focuses on the population that would be directly influenced by the proposed expungement bill: individuals in Massachusetts who obtained a criminal record before the age of 21. We focus on the mental health outcomes of expungement in this population, as conversations with UTEC, of Lowell, MA (formerly known as the United Teen Equality Center), identified this as an important area within their work with at-risk youth.

Methods used for this report include a comprehensive literature review, informal interviews, and a survey. We reviewed literature and analyzed secondary data to estimate the size of the target population and its existing mental health profile. We worked with UTEC to understand the context of the legislation and the current quality of life of individuals with juvenile criminal records. Through this partnership, we spoke with two youth workers and one young person involved with UTEC programs. With UTEC's aid, we administered a survey to 14 young people (under age 25) to evaluate the current process of sealing criminal records and the experience of being a record-holder. UTEC also provided us with de-identified qualitative data from interviews they conducted with three record-holding youth. Based on the literature review and the survey, we identified four likely consequences of expungement that are relevant to mental health. These included reductions in perceived discrimination, unemployment, and recidivism, and changes in police encounters with record-holding youth. We then used the literature to assess how changes in these four outcomes would affect the mental health of the target population.

Our baseline assessment demonstrates that in Massachusetts, young record-holders have a higher rate of mental health problems compared to the general population. In the assessment section of this report, we project that the proposed expungement bill will help reduce disparities in mental health outcomes by reducing perceived discrimination, recidivism, and changing experiences with police encounters, while increasing access to employment for young record-holders. Overall, we anticipate that expungement will reduce the incidence of anxiety and depression and improve overall mental health within the target population. Our assessment finds the following:

### *Perceived discrimination has negative mental health effects:*

- Studies show that perceived discrimination generally negatively affects mental health.
- Based on our interpretation of survey responses from youth with criminal records, we expect that expungement will decrease perceived discrimination.
- We predict this reduction in perceived discrimination to be a likely outcome, affecting a large portion of the population of interest.

### *Police stops are correlated with negative mental health effects:*

- Being stopped by law enforcement is correlated with increased anxiety and PTSD.
- We predict that expungement may minimally decrease the frequency and intrusiveness of interactions with law enforcement, as well as the anticipation of these interactions, for youth with criminal records.
- There is not enough evidence available to ascertain how many individuals this will affect and the magnitude of the impact.
- The decrease in police encounters due to expungement is likely limited, since research shows that other factors, such as race, more so than criminal records, are linked to the nature of police stops.

*Employment has positive mental health effects:*

- Studies show that employment is correlated with lower rates of depression and improved mental health outcomes.
- Evidence from other states shows that expungement makes obtaining a job easier by reducing hiring discrimination.
- We expect that the positive effects of expungement on employment will be disproportionately benefit those with higher education and with less time served (shorter gap in work history).

*Recidivism has negative mental health effects:*

- The relationship between mental health and recidivism is complex and bidirectional.
- Imprisonment is correlated with increased mood disorders and exacerbates pre-existing mental health conditions.
- Research also shows that poor mental health can lead to additional crimes, resulting in recidivism.
- The only empirical study on the connection between expungement and recidivism shows that expungement is correlated with a lower likelihood of recidivism. By keeping people out of prison, expungement is likely to improve mental health.

Given the anticipated mental health benefits of expungement on youth with criminal records, we recommend that the Massachusetts legislature pass Bill S. 900. In order to maximize mental health and minimize mental illness, we also make several recommendations to strengthen the bill, and for supplemental initiatives to tackle the fundamental goals of the expungement policy. For example, studies show that when people have to apply for expungement, they rarely do so.<sup>1</sup> We suggest extending automatic expungement to non-violent felonies to ensure that all individuals who are eligible for expungement benefit from the policy. In addition, currently the bill proposes expungement for crimes committed under the age of 21. Research suggests that the brain does not become fully developed until the age of 25.<sup>2,3,4</sup> Therefore, we recommend expanding the bill to include crimes committed before the age of 25. If the bill is passed, we recommend making expungement retroactive based on an appropriate length of time with no new criminal activity.

<sup>1</sup> Litwok, D., (2014) Have You Ever Been Convicted of a Crime? The Effects of Juvenile Expungement on Crime, Educational, and Labor Market Outcomes, Job Market Paper, <http://econ.msu.edu/seminars/docs/Expungement%20112014.pdf>

<sup>2</sup> Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., & Schwartz, R. (2003). Juveniles' competence to stand trial: a comparison of adolescents' and adults' capacities as trial defendants. *Law and human behavior*, 27(4), 333.

<sup>3</sup> Bryan-Hancock, C., & Casey, S. (2010). Psychological maturity of at-risk juveniles, young adults and adults: Implications for the justice system. *Psychiatry, Psychology and Law*, 17(1), 57-69.

<sup>4</sup> Monahan, K. C., Steinberg, L., Cauffman, E., & Mulvey, E. P. (2009). Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Developmental psychology*, 45(6), 16543.

## INTRODUCTION

### WHAT IS HIA?

Health Impact Assessment (HIA) is a method of assessing the potential health impacts of a proposed policy, program or project. Rapid Health Impact Assessments (RHIA) such as this report are written on an expedited timeline and are usually shorter in length and less resource-intensive, but have similar goals to HIA.

This RHIA evaluates the mental health impacts of Massachusetts Bill S.900, which proposes expungement of juvenile criminal records, on individuals in Massachusetts who obtained a criminal record before the age of 21. The RHIA was conducted by a group of students in the Healthy Cities course in the Department of Urban Studies and Planning at MIT between February and June 2016.

Like most HIAs, this report takes a broad view of the factors that influence one's health. Rather than looking at healthcare or environmental exposures, we investigate the bill's impact on social characteristics that have been shown to affect one's health, including employment, socioeconomic status, and relationships with others.

### OVERVIEW OF EXPUNGEMENT BILL

Massachusetts Bill S.900<sup>5</sup> as introduced proposes automatic expungement of criminal records for misdemeanors committed prior to the age of 21 for individuals who have a record of juvenile or criminal court appearances and dispositions in Massachusetts on file with the Office of the Commissioner of Probation. While expungement for misdemeanors will occur automatically upon the termination of the individual's sentence or period of commitment or probation, to expunge a record of a felony a petition must be submitted to a judge.

The term 'expunge' is defined in the bill as 'permanent erasure or destruction' of records in both physical and electronic form. Expunged records will be reported as 'no record' to police, court agencies, employers, or other authorized persons who are seeking information about an individual's criminal record.

### SCREENING

The screening step of an HIA determines whether the HIA could add value to a decision-making process. At this step, we evaluated whether the expungement bill would have a substantial impact on health, as well as whether this RHIA had the potential to provide new information to decision-makers, stakeholders and the general public.

In 2014 UTEC, formerly known as the United Teen Equality Center, of Lowell, MA and partner organizations identified expungement as a legislative priority for advancing community work with youth offenders. This led to a widespread support for Massachusetts Bill S.900. UTEC, along with Teens Leading the Way, a statewide youth coalition, has focused on raising awareness about the potential social and economic benefits of expungement. However, the health impacts of Bill S.900 remained unexplored.

UTEC works with youth in Lowell and Lawrence, MA who have a criminal record, are gang-involved, have no high school credential, and/or are pregnant or parenting. It aims to help these youth "trade violence and poverty for social and economic success".<sup>6</sup> Through discussions with Teens Leading the Way coalition members, UTEC identified youth mental health as a priority issue. Youth that have entered the justice system express significant levels of distress tied to the experience of holding a criminal record. This, along with substantial research documenting the link between mental health and criminal records, influenced UTEC's interest in conducting an HIA focused on the mental health effects of Bill S.900.

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<sup>5</sup> Massachusetts General Court, Bill S.900 - Massachusetts, <https://malegislature.gov/Bills/189/Senate/S900>

<sup>6</sup> UTEC. How We Engage Impact Youth. [https://www.utec-lowell.org/uploads/uploads/utec\\_factsheet\\_3.30.16.pdf](https://www.utec-lowell.org/uploads/uploads/utec_factsheet_3.30.16.pdf)

MIT's Spring 2016 Healthy Cities course presented an opportunity to establish a community partnership and harness student resources for the completion of the RHIA prior to the end of the legislative session on July 31, 2016. The mental health impacts of expungement represented an important perspective that had not yet been explored, one that could greatly enrich the public conversation on expungement in the state of Massachusetts. MIT students and UTEC staff were able to work collaboratively to identify questions of importance for the RHIA. Students then conducted secondary research and stakeholder surveys to develop a final report. Ultimately, the purpose of this RHIA is to inform the public and decision-makers about the potential health consequences of Bill S.900.



## UNDERSTANDING THE CURRENT CONTEXT

### WHO HAS ACCESS TO ONE'S CRIMINAL RECORDS?<sup>7</sup>

Understanding the current context of record access in Massachusetts can help demonstrate the motivations for assessing the potential health impacts of Massachusetts Bill S. 900.

A Criminal Offender Record Information (CORI) report is a list of one's criminal charges. It includes all cases, even ones in which a defendant was found not guilty or in which the case was dismissed. Today, any person who has ever been arraigned on a criminal charge in a Massachusetts court will have a CORI report (CORI reports do not include pre-court information, such as orders to show cause or arrest records).

In 2010, Massachusetts reformed CORI to restrict access to records, in order to "improve employment and housing opportunities for ex-offenders — thereby easing their reintegration into society and reducing recidivism."<sup>8</sup>

Today, CORI is governed by a fairly complex set of access levels. Different entities and/or people can request access to an individual's CORI. However, the kind of information that is shown depends on:

- (A) Who the CORI owner is;
- (B) Whether the record is sealed;
- (C) Who is requesting the CORI;
- (D) What kind of offense was committed.

(A) Who the CORI owner is:

The Massachusetts criminal justice system categorizes offenders into three groups based on age:<sup>9</sup>

- 1) Juvenile offenders are individuals between 7 and 17 years of age who have committed a felony, committed a misdemeanor, or violated a city ordinance or town by-law. The Massachusetts Department of Youth Services (DYS) is charged with the detention and custody of juvenile offenders.
- 2) A youthful offender is an individual between 14 and 17 years of age who has committed a felony offense AND has at least one of the following:
  - Previous DYS commitment
  - Committed a firearms offense
  - Committed an offense that involves the infliction or threat of serious bodily harm

A youthful offender can receive a commitment to DYS until age 21, a combination DYS commitment and adult sentence, or an adult sentence.

- 3) Adults are individuals age 18 and above. For very serious acts like murder, a youth can be charged as an adult, but this is a rare event in Massachusetts.

Generally speaking, access to juvenile records is fairly restricted, available only to those with top-level access, such as the courts. In contrast, youthful offender records and adult criminal records are more easily accessible to the general public.

<sup>7</sup> Department of Youth Services "Juvenile Justice Legal Issues", Mass Gov website, <http://www.mass.gov/eohhs/gov/laws-regs/dys/juvenile-justice-legal-issues.html>; Administrative Office of the District Court, (2013) A Guide to Public Access, Sealing & Expungement of District Court Records, Commonwealth of Massachusetts, Pg 45.

<sup>8</sup> Priest, G., Finn, J, Engel, L. (2012) The Continuing Challenge of CORI Reform, Implementing the Groundbreaking 2010 Massachusetts Law, Understanding Boston, <http://www.prisonpolicy.org/scans/CORI-May2012.pdf>

<sup>9</sup> Department of Youth Services "Juvenile Justice Legal Issues", Mass Gov website, <http://www.mass.gov/eohhs/gov/laws-regs/dys/juvenile-justice-legal-issues.html>

**(B) Whether the record is sealed:**

Some records are eligible for sealing, but only after a significant period of time after the termination of any court disposition (e.g. court supervision, probation, commitment or parole) and after the person was adjudicated as a delinquent, found guilty of any criminal offense, or sentenced to prison/ committed as a delinquent. Those with juvenile or youthful offender records have to wait a minimum of three years for record sealing, while those with adult criminal records have to wait upwards of five years and for certain offenses up to 15 years.<sup>10</sup> Records are almost never sealed automatically, and unlike expungement sealing does not erase the record, but simply hides it.<sup>11</sup> Sealed records are also still available at court sentencing and to law enforcement agencies.

**(C) Who is requesting the CORI:**

There are five broad levels of access for anyone other than the owner of the CORI him/herself. The general public is given the least open access to CORI records, while higher levels of access are granted to select groups, such as public / subsidized housing management companies and a subset of employers like state agencies and municipalities.

**(D) What kind of offense was committed:**

Generally, access increases with the severity of the offense. For instance, convictions involving murder, manslaughter and sex offenses are generally more visible compared to minor misdemeanors.

Appendix C provides details of sealing criteria and an illustration of the different levels of access.

## OTHER MEANS TO ACCESS RECORDS

Despite the 2010 reforms to the CORI system to restrict access, the current restrictions are still not airtight. Employers, landlords and others often rely on private companies, called Consumer Reporting Agencies (CRAs), to obtain criminal background reports. CRAs collect criminal records information and compile it into reports that they sell. CRAs are not subject to state law and are able to disseminate information outside of the state guidelines as well as information about non-convictions.<sup>12,13</sup> While CRAs technically have limited access to CORI, their databases may include information on sealed records. While there are some protections under the federal Fair Credit Reporting Act, CRAs may still release incorrect or outdated information about criminal records.<sup>14,15</sup>

## SCOPING:

<sup>10</sup> Administrative Office of the District Court, (2013) A Guide to Public Access, Sealing & Expungement of District Court Records, Commonwealth of Massachusetts, Pg 45, <http://www.mass.gov/courts/docs/courts-and-judges/courts/district-court/pubaccesscourtreords.pdf>

<sup>11</sup> Elikann, P. (2012) "A primer on sealing criminal records." Lawyers Journal. <http://www.massbar.org/publications/lawyers-journal/2012/april/a-primer-on-sealing-criminal-records>

<sup>12</sup> Priest, G., Finn, J, Engel, L. (2012) The Continuing Challenge of CORI Reform, Implementing the Groundbreaking 2010 Massachusetts Law, Understanding Boston, <http://www.prisonpolicy.org/scans/CORI-May2012.pdf>

<sup>13</sup> Bender, A. and Crowley, S., (2015) "Haunted by the Past: A Criminal Record Shouldn't Ruin a Career" The Atlantic. <http://www.theatlantic.com/business/archive/2015/03/haunted-by-the-past-a-criminal-record-shouldnt-ruin-a-career/388138/>

<sup>14</sup> Sussman, E.,(2013) Criminal Records and Employment Rights: A Tool for Survivors of Domestic Violence, <http://nnedv.org/downloads/Thousing/EmptRightsForSurvivorsWithCriminalRecords.pdf>

<sup>15</sup> Greater Boston Legal Services, (2015). Who Can See My Record, MassLegalHelp, <http://www.masslegalhelp.org/cori/who-can-see-it>

## EXPUNGEMENT AND MENTAL HEALTH

In the scoping stage of an HIA, researchers choose the range of issues that will be covered in the HIA, including the population of interest and the health outcomes evaluated. Given our broad conception of health as something that is influenced by many aspects of one's life, we needed to limit the scope in some way to prevent this RHIA from quickly becoming unwieldy. Not all populations affected by the health impacts of expungement could be considered with the time and resources available. Therefore, based on stakeholder input and available research, we narrowed our scope to focus on the mental health of the individuals directly impacted by the bill, and four pathways through which expungement may affect mental health.

We focused on mental health outcomes for several reasons. First, the need to address mental health problems among youth in Massachusetts is a major challenge and priority for the state.<sup>16,17</sup> In addition, our initial examination of research studies during the scoping process showed that the expungement bill's target population – youth with criminal records – is more likely to suffer from poor mental health compared to the general population. UTEC also highlighted mental health as an important concern. Although expungement may have an effect on physical health, such as through chronic diseases or injuries, given the significance of mental health for youth with criminal records, the state of Massachusetts, and UTEC, we maintained mental health as the focus for this RHIA.

For the purpose of this RHIA, we focused on the population most directly affected by the proposed bill: individuals in Massachusetts who obtained a criminal record before the age of 21 and who will have their records expunged if the bill passes. Given our time limitations, we were not able to evaluate the impact of expungement on other groups who may be indirectly affected either positively or negatively, such as police officers, employers, the general public in high crime areas, and family members of those who have their records expunged. Future analysis would be needed to assess the health effects of expungement on these populations.

With this focus on mental health and people with records for crimes committed before age 21, we developed a pathway diagram showing the different ways we conceptualized that the expungement bill might affect mental health (see Figure 1). We identified several potential intermediate outcomes of the bill, and based on stakeholder input and a literature review narrowed it down to four for the purposes of this RHIA: reduced perceived discrimination, changes in police encounters, increased employment and reduced recidivism.

Other pathways considered included access to housing and education. These were not included in the final RHIA due to limited time and limited data available relative to the other pathways. As a result, this RHIA does not consider every possible way in which expungement might affect mental health, but rather provides detailed information on some of the pathways.

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<sup>16</sup> Massachusetts Department of Public Health (2013), Health Survey Program, Division of Research and Epidemiology, A Profile of Health Among Massachusetts Middle and High School Students, 2013

<sup>17</sup> Massachusetts Department of Elementary and Secondary Education: Massachusetts Department of Public Health, "Health and Risk Behaviors of Massachusetts Youths, 2013"

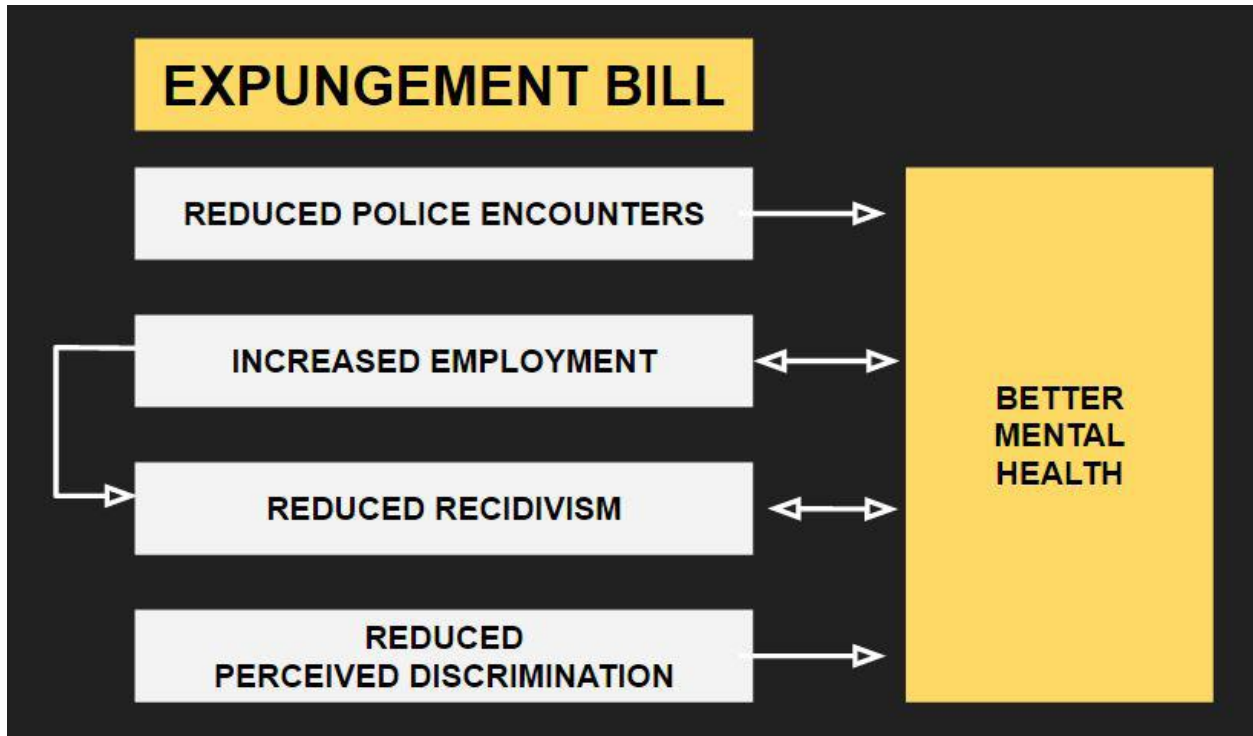


Figure 1. Pathway diagram showing intermediate outcomes of expungement

## METHODS

Methods for this RHIA included using secondary data to estimate the size and current characteristics of the population that will be directly affected by the expungement bill, conducting a literature review to determine the likely impacts of expungement on mental health, and conducting a survey of people who received criminal records before age 21 to determine how expungement may affect their lives.

For the baseline assessment, we relied on secondary data to estimate the number of people in Massachusetts under age 21 with criminal records and to determine the existing mental health profile of this population. We worked with UTEC to understand the context of the legislation and the quality of life of individuals with juvenile records. Through this partnership, we also informally interviewed two youth workers and one young person involved in UTEC's programs.

For the assessment portion of this RHIA, we conducted a literature review to evaluate the impacts of four likely outcomes of expungement identified in the scoping section – reduced perceived discrimination, police encounters, unemployment, and recidivism – on mental health. We evaluated the mental health outcomes of these pathways based on the following:

- The *likelihood* that the effect would be seen based on the strength of the literature, both in terms of the number of studies supporting a particular pathway and the quality of those studies;
- The *severity*, or size of the effect;
- The *size* of the affected population.

To better understand the current process of sealing criminal records and how expungement may affect those with criminal records, we conducted a survey of people under age 25 with juvenile and adult criminal records received prior to age 21 (See Appendix A for the survey instrument and Appendix B for the survey results). Survey respondents were asked about record access and the record sealing process, how having a criminal record impacts their lives, their experience with police encounters, and how the expungement bill would affect them. The team sent the online survey to UTEC, who assisted with administering the survey to the youth that they work with. 14 people responded to the survey. Given the low number of respondents and the fact that this was not a random sample, we do not expect that the survey results are representative of the entire population of youth with criminal records. However, the survey did allow us to collect limited data about the challenges that youth with criminal records face and how expungement may affect those challenges.

The survey received approval from the Massachusetts Institute of Technology Committee on the Use of Humans as Experimental Subjects (COUHES). The survey responses were anonymous, and no identifying information was collected about the survey respondents.

UTEC also provided us with de-identified qualitative data from interviews they conducted with three record-holding youth.

## BASELINE ASSESSMENT

### SIZE OF THE TARGET POPULATION

The expungement bill would directly affect Massachusetts residents who obtain a criminal record prior to the age of 21. Data on the size of this population is unavailable, so we estimated the total number of people convicted prior to age 21 using census and arrest prevalence and conviction rate data.

Based on 2014 census projections, there are approximately 1.7 million Massachusetts residents under 21 years of age.<sup>18</sup> A portion of these individuals has an arrest record, but this data is not available for Massachusetts. National studies estimate that about a quarter of people under age 18 and 30% of people under age 23 have been arrested.<sup>19</sup> Since the imprisonment rate in Massachusetts is significantly lower than the national average<sup>20</sup>, we expect that the number of youth who have been arrested in Massachusetts is also lower than the national rate.

Moreover, not every arrest results in a conviction. According to the Bureau of Justice Statistics, approximately 68% of felony cases in the US have gone to trial and resulted in a criminal record.<sup>21</sup> The expungement bill would also affect those who appeared in court but did not receive a conviction, as they would be able to expunge records of the court appearance from the CORI system. Nationally, 89% of felony cases go to trial<sup>22</sup>, meaning that an additional portion of those who have been arrested do not have criminal records but may have records of court appearances expunged as a result of the bill.

### CURRENT MENTAL HEALTH TRENDS IN TARGET POPULATION

Multiple studies concur that individuals involved with the justice system, whether as juveniles or as adults, have poorer mental health than the general population. For instance, a 2013 survey of incarcerated adults in Massachusetts by the Department of Corrections (DOC) found that approximately 25% of males and 63% of females, or about 28% of the whole incarcerated population, had open mental health cases, which was defined as being diagnosed with a mental illness or determined to be in need of mental health intervention on an ongoing basis.<sup>23,24</sup> In 2012, 20% of prisoners age 17-29 had an open mental health case.<sup>25</sup>

In contrast, as of 2011-2012, 17.38% of people in Massachusetts had experienced any mental illness in the past year.<sup>26</sup>

While these figures are not directly comparable due to differences in methodology and definition, they give a sense of the magnitude of difference between the mental health status of those involved in the criminal justice system and the general public. On average, those who are incarcerated have worse mental health than the general population.

<sup>18</sup> American Community Survey 2014 (1-Year Estimates).

<sup>19</sup> Brame et al. Cumulative Prevalence of Arrest From Ages 8 to 23 in a National Sample. 2011 <http://pediatrics.aappublications.org/content/early/2011/12/14/peds.2010-3710>

<sup>20</sup> The Sentencing Project. State-by-State Data. <http://www.sentencingproject.org/the-facts/#detail?state1Option=U.S.%20Total&state2Option=Massachusetts>

<sup>21</sup> Bureau of Justice Statistics. <http://www.bjs.gov/index.cfm?ty=qa&iid=403>

<sup>22</sup> Bureau of Justice Statistics. <http://www.bjs.gov/index.cfm?ty=qa&iid=403>

<sup>23</sup> Massachusetts Department of Correction, Prison Population Trends 2013 (2014) <http://www.mass.gov/eopss/docs/doc/research-reports/pop-trends/prisonpop-trends-2013-final-5-21-2014.pdf>

<sup>24</sup> Massachusetts Department of Correction. "Mental Health Services." (2015). <http://www.mass.gov/eopss/docs/doc/policies/650.pdf>

<sup>25</sup> Lockmer, E. (2012). Open Mental Health Cases in the Massachusetts Doc. Massachusetts Department of Corrections.

<http://www.mass.gov/eopss/docs/doc/research-reports/mental-health-brief-finaldoc.pdf>

<sup>26</sup> Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. (2014). The NSDUH Report: State Estimates of Adult Mental Illness from the 2011 and 2012 National Surveys on Drug Use and Health. Rockville, MD.

<http://www.samhsa.gov/data/sites/default/files/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014/sr170-mental-illness-state-estimates-2014.htm>

However, there are several shortcomings of the data on mental health from the Massachusetts DOC. First, there is no data on youth under age 21, the bill's target population. In addition, the Department of Youth Services (DYS) does not have publically available data on mental health, so the percentages above may not apply to people who are convicted as juvenile offenders. The data also does not include people who are incarcerated in county jails and prisons. Finally, all mental health problems may not be included in the open mental health cases reported by DOC, as some mental health issues may go unreported or undetected.

Several studies from other states describe the mental health outcomes for youth involved with the juvenile system, the bill's target population. A 2006 study of the prevalence of mental health challenges among youth involved with the juvenile justice system examined data from over 1,400 youths from 29 different programs and facilities in three states – Louisiana, Texas, and Washington – and found that approximately 70% of those who had contact with the juvenile justice system (community-based programs, detention centers, and secure residential facilities) had at least one mental health disorder.<sup>27</sup> An earlier study from 2002 examined 1,829 randomly selected youth who were arrested and detained in Cook County, Illinois, and found that, of those surveyed, 66% of males and 75% of females met the criteria for one or more psychiatric disorder.<sup>28</sup> The most common mental health issues reported in these studies were substance use disorders, anxiety disorders, and mood disorders such as depression.

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<sup>27</sup> Shufelt, J., Coccozza, J.J. (2006) Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-State Prevalence Study, National Center for Mental Health and Juvenile Justice Research and Policy Briefs, [http://www.unicef.org/tdad/usmentalhealthprevalence06\(3\).pdf](http://www.unicef.org/tdad/usmentalhealthprevalence06(3).pdf)

<sup>28</sup> Teplin, A., McClelland, Dulcan & Mericle. (2002). "Psychiatric Disorders in Youth in Juvenile Detention", <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2861992/>

## ASSESSMENT

### ESTIMATED IMPACTS OF EXPUNGEMENT ON MENTAL HEALTH

As shown in the previous section, youth involved with the justice system are disproportionately affected by mental illness compared to the general population. This high prevalence of mental health challenges suggests an opportunity to improve mental health outcomes within this population. This section assesses the anticipated intermediate outcomes of the expungement bill: a reduction in perceived discrimination, the frequency of police encounters and recidivism, and an increase in access to employment. We use data from a literature review and surveys and interviews of youth with criminal records to project the changes in mental health as a result of changes to these intermediate outcomes.

### PERCEIVED DISCRIMINATION

Perceived discrimination involves experiencing behavioral manifestations of negative attitudes, judgments, or unfair treatment because one is part of a group.<sup>29</sup> While we may often think of groups that experience discrimination as racial, ethnic, or religious, youth with criminal records can experience discrimination based on their record-holding status. We use the term “perceived discrimination” to clarify that an individual can be impacted by experiences regardless of another’s intent to discriminate. In addition, measures of perceived discrimination typically rely on self-reported information rather than observation of actual events.<sup>30</sup> Regardless of intent, perceived discrimination is significant because if an individual believes they are being discriminated against they can experience negative effects.

### EXPUNGEMENT AND PERCEIVED DISCRIMINATION BASED ON RECORD-HOLDING STATUS

We know from survey and interview results that youth with criminal records are frequently discriminated against due to their record-holding status, including in employment, education and interpersonal relationships. One youth said that because of this discrimination, having a record “affects my life very negatively where I feel that I cannot make further progress with my life.” Another said that people act differently “when I tell them I have a record.”

Expungement will likely reduce experiences in which youth perceive discrimination because people will not be aware that a person with an expunged record previously committed a crime, and therefore will not be able to use that as the basis for discrimination. As one youth noted in an interview, others “would see me as a normal human being and not a felon or criminal.”

However, the benefits of reducing perceived discrimination through expungement may be limited. For example, expungement may not reduce discrimination from entities that were aware of a person’s record-holding status prior to expungement.



Figure 2

<sup>29</sup> Banks KH, Kohn-Wood LP, Spencer M. An examination of the African American experience of everyday discrimination and symptoms of psychological distress. *Community Mental Health Journal*. 2006;42(6):555–569.

<sup>30</sup> Pascoe, E.A., Richman, R.S. Perceived Discrimination and Health: A Meta-Analytic Review. *Psychological Bulletin* 2009; 135(4): 531–554. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2747726/pdf/nihms134591.pdf>



## PERCEIVED DISCRIMINATION AND MENTAL HEALTH OUTCOMES

Social stress theory provides a mechanism to understand the relationship between perceived discrimination and health outcomes. The theory suggests that socioeconomic conditions, including income, education, and social status, evoke stress.<sup>31</sup> Stress, in turn, is linked with negative mental health outcomes. Studies of young people have shown that experiencing chronic stress, whether from exposure to daily hassles or more serious situations like war, is correlated with anxiety, depression and post-traumatic stress symptoms.<sup>32,33,34</sup>

Experiencing discrimination is one such social factor that can lead to stress. However, there are many other factors that also lead to stress for youth with criminal records. For example, social and economic challenges that expungement will not directly address (e.g., living in poverty) may have a bigger impact on stress and its resulting health impacts than perceived discrimination.

The mental health effects of perceived discrimination are well studied. Studies have found that experiencing or perceiving discrimination is correlated with stress, a diminished sense of control, lower self-esteem, and feelings of hopelessness, which have all been linked to mental health problems.<sup>35,36</sup> Pascoe and Richman (2009) conducted a meta-analysis of 110 studies on perceived discrimination and mental health. They concluded that on average, studies find that perceived discrimination is correlated with a 16% reduction in mental health. The studies reviewed in this meta-analysis used different measures of mental health, including depressive, anxiety and post-traumatic stress symptoms, psychological distress, and indicators of general well-being such as self-esteem, life satisfaction, perceived stress, anger and perceived quality of life.<sup>37</sup>

Other studies have also found that experiencing or perceiving discrimination is associated with a variety of mental health issues. For example, a 2007 study of 2,047 Asian Americans found that individuals who reported discrimination were twice as likely to suffer from an anxiety or depressive disorder compared to those who did not experience discrimination, after controlling for relevant social, economic, demographic and health characteristics.<sup>38</sup>

Since expungement is expected to reduce the perceived discrimination that youth with criminal records face, it will likely improve mental health outcomes within this population.

UTEC staff also noted that youth with records often limit their own opportunities due to a fear of discrimination.<sup>39</sup> To the extent that record-holding youth disengage with educational or economic opportunity in anticipation of being discriminated against, discrimination may exacerbate mental health problems by restricting access to employment, education, or housing, for example.

<sup>31</sup> Aneshensel, C. S. (1992). Social Stress: Theory and Research. *Annual Review of Sociology*, 15.

<sup>32</sup> Newnham, E. A., Pearson, R. M., Stein, A., & Betancourt, T. S. (2015). Youth mental health after civil war: the importance of daily stressors. *British Journal Of Psychiatry Supplement*, 206(1), 116. doi:10.1192/bjp.bp.114.146324

<sup>33</sup> D'Angelo, B., & Wierzbicki, M. (2003). Relations of daily hassles with both anxious and depressed mood in students. *Psychological Reports*, 92(2), 416-418.

<sup>34</sup> Parrish, B. P., Cohen, L. H., & Laurenceau, J. (2011). Prospective Relationship between Negative Affective Reactivity to Daily Stress and Depressive Symptoms. *Journal Of Social & Clinical Psychology*, 30(3), 270-296. doi:10.1521/jscp.2011.30.3.270

<sup>35</sup> DuBois, D. L., Burk-Braxton, C., Swenson, L. P., Tevendale, H. D., & Hardesty, J. L. (2002). Race and Gender Influences on Adjustment in Early Adolescence: Investigation of an Integrative Model. *Child Development*, (5), 1573.

<sup>36</sup> Preload, H. M., Danoff-Burg, S., Swenson, R. R., & Pulgiano, D. (2004). The impact of ecological risk and perceived discrimination on the psychological adjustment of African American and European American youth. *Journal Of Community Psychology*, 32(4), 375-389.

<sup>37</sup> Pascoe, E. A., & Richman, L. S. (2009). Perceived Discrimination and Health: A Meta-Analytic Review. *Psychological Bulletin*, 135(4), 531-554. <http://doi.org/10.1037/a0016059>

<sup>38</sup> Gee, G. C., Spencer, M., Chen, J., Yip, T., & Takeuchi, D. T. (2007). The association between self-reported racial discrimination and 12-month DSM-IV mental disorders among Asian Americans nationwide. *Social Science & Medicine* (1982), 64(10), 1984-1996. <http://doi.org/10.1016/j.socscimed.2007.02.013>

<sup>39</sup> Foster, G. (2016, March 29). Personal Interview

## POLICE ENCOUNTERS

In interviews, staff and youth from UTEC mentioned that many youth with juvenile records experience police harassment.<sup>40</sup> By strict order of the law, a person's record-holding status should not influence a police officer's conduct. At the same time, however, Massachusetts police are allowed to conduct observation and surveillance of youth who are gang-affiliated.<sup>41</sup> Police who are involved in these operations are likely aware of individuals who have juvenile records or who have been affiliated with a gang in the past. The fact that the police are legally allowed to observe and survey these young people may help explain why youth with criminal records experience a high volume of police encounters. Due to a lack of publicly available data on the nature of police encounters statewide, we relied on a case study approach to understand the frequency and quality of police encounters experienced by youth in our population of interest.

## EXPUNGEMENT AND POLICE ENCOUNTERS

The American Civil Liberties Union (ACLU) and the Boston Police Department partnered to conduct a study of stop and frisk data within Boston, MA from 2007-2010.<sup>42</sup> The results show that approximately half of the people stopped by police had a prior arrest history. For each additional prior arrest, suspects were 1.8% more likely to be frisked or searched during a police encounter. This suggests that having a record may increase the intrusiveness of a police encounter, although it is also possible that the relationship between prior arrests and intrusiveness is not causal. Five percent of all individuals stopped accounted for 40% of the total number of reported stops, suggesting that once someone has a police encounter the likelihood of future stops increases.<sup>43</sup> The Boston Field, Interrogation, and Observation (FIO) reports only include information on police stops. They do not include information on whether a stop resulted in an arrest. In the absence of these data, we look to information from New York City, where stops result in arrests 7-12% of the time,<sup>44</sup> to provide some indication of what arrest rates after police stops may be.

Responses to our survey show that most youth with criminal records have had repeated interactions with the police. Over 80% of respondents noted that they have had at least one police encounter in the past two years. Approximately 30% of respondents noted that they have had over 20 police encounters in the past two years. Some of these individuals believed the stop occurred without reasonable cause and that they were treated unfairly, while others believed there was reasonable cause for the stop and that they were treated fairly. However, eight out of the nine respondents who elaborated on their police encounters believed that their criminal record played a role in the encounter. After expungement, police will not be able to see the records of youth offenders, which youth expect will limit the intrusiveness of police stops. As one survey respondent noted, expungement will influence their life because the police "will stop harassing me."

Although some evidence suggests that expungement could reduce the frequency and intrusiveness of police encounters, we expect that the changes youth experience as a result of expungement will be limited. Analyses of police encounter data suggest that race, more so than record-holding status, is strongly associated with police stops. In Boston, three out of every five FIO reports are for black individuals. Although black people make up 20% of Boston's population they account for over 64% of total FIO reports.<sup>45</sup> In New York City, minority men are 6 times more likely to be stopped and 1.25 times more likely to be frisked and experience the use of force than white men.<sup>46</sup>

<sup>40</sup> Bonilla, J., Kang, M., and Foster, G. (2016, March 1). Personal interview.

<sup>41</sup> Commonwealth of Massachusetts. (2016). State Police Gang Unit. Retrieved May 19, 2016, from <http://www.mass.gov/eopss/law-enforce-and-cj/criminal-investig/gang-unit.html>

<sup>42</sup> Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

<sup>43</sup> Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

<sup>44</sup> Sewell, A. A., & Jefferson, K. A. (2016). Collateral Damage: The Health Effects of Invasive Police Encounters in New York City. *Journal of Urban Health*, 1-26.

<sup>45</sup> Fagan J., Braga A.A, Brunson R.K, Pattavina, A. (2015). An Analysis of Race and Ethnicity Patterns in Boston Police Department, Field Interrogation, Observation, Frisk, and/or Search Reports.

<sup>46</sup> Sewell, A. A., & Jefferson, K. A. (2016). Collateral Damage: The Health Effects of Invasive Police Encounters in New York City. *Journal of Urban Health*, 1-26.

This data suggests that expungement will have a limited impact on mental health if police encounters are predominantly race-related. In addition, if police target youth with criminal records because they already know these individuals, expungement will have minimal impact on police encounters and the resulting mental health benefits.

## POLICE ENCOUNTERS AND MENTAL HEALTH



Figure 3

Being stopped by the police has been linked with poor mental health outcomes. Geller et al. (2014) conducted a survey to analyze the mental health effects of interactions with police on young men in New York City. They found that being stopped by the police was correlated with an increase in anxiety and PTSD symptoms among young men.<sup>47</sup> An intrusive police encounter, including those that involve physical contact and/or use of force, was associated with a larger increase in anxiety and PTSD symptoms.

Approximately half of our survey respondents noted that having a record makes them highly anxious about encounters with the police. This anxiety may contribute to poorer mental health.

Further research needs to be conducted in order to assess the links between having a record, contact with law enforcement, and the subsequent mental health outcomes of the affected population. However, our qualitative data suggest that, at the very least, expungement would reduce anticipation and fear of, and possibly the incidence of, intrusive police encounters related to record-holding status. Given these findings and studies linking intrusive police encounters to poor mental health, we project that expungement would be associated with minimal improvements in mental health for record-holding youth in Massachusetts.

## EMPLOYMENT

There are several ways in which employment can affect health. First, through earned income, employment provides material resources and opportunities for education, housing and other necessities. In addition, employment can provide people with a sense of purpose and allow them to build skills and increase their social capital. Studies show that people who are working have better overall health than those who are unemployed or out of the labor force, even when controlling for income and other demographic characteristics.<sup>48</sup>

Those with criminal records tend to have worse employment prospects than the general population. Estimates by the Center for Economic and Policy Research suggest a 5-20% percentage point penalty in employment for a felony record.<sup>49</sup> In Massachusetts, the unemployment rate is approximately 5%.<sup>50</sup> Therefore, these estimates suggest that those with criminal records in Massachusetts may have an unemployment rate in the range of 10% to 25%.

In addition, young people are more likely to be unemployed than the general population. Although age-specific unemployment data is not available at the state level, nationally the unemployment rate for youth

<sup>47</sup> Geller, A., Fagan, J., Tyler, T., & Link, B. G. (2014). Aggressive policing and the mental health of young urban men. *American journal of public health*, 104(12), 2321-2327.

<sup>48</sup> Avendano, M, and Berkman, LF (2014). "Chapter 6: Labor Markets, Employment and Health." In *Social Epidemiology*, edited by LF Berkman and I Kawachi. New York: Oxford University Press.

<sup>49</sup> Schmitt, J. Kris Warner (2010). *Ex-offenders and the Labor Market*

<sup>50</sup> 2015 Massachusetts Labor Force and Unemployment Data

age 16-19 is 16%. For individuals age 20-24 it is 8.3% (the national unemployment rate overall is similar to Massachusetts, 5%).<sup>51</sup> Therefore, the unemployment rate among youth with criminal records is likely even higher than the unemployment rate for ex-offenders of any age.

Evidence suggests that ex-offenders struggle during the hiring process. In our survey of UTEC youth, 46% reported that their record prevented them from applying for a job. A study in Los Angeles showed that only about 20% of employers would “probably” or “definitely” be willing to accept an applicant with a criminal record into their last filled non-college job. An additional 35% said their decision would depend on the nature of the crime.<sup>52</sup>

Similarly, a national survey conducted in several cities revealed that whereas over 90% of employers are willing to consider hiring a welfare recipient, only about 40% are willing to consider hiring an ex-offender.<sup>53</sup> Employers are also more likely to consider hiring immigrants, minorities and those without a high school diploma than those with a criminal record.<sup>54</sup>

Massachusetts has taken measures to combat this form of hiring discrimination. In 2010, the state passed “An Act Reforming the Administrative Procedures Relative to Criminal Offender Record Information and Pre- and Post-Trial Supervised Release” (CORI Reform). Like legislation in other states that prevents employers from asking about criminal records on job applications (“ban the box” legislation), CORI Reform makes it more difficult for employers to rule out applicants with a criminal record before meeting them. Safeguards include preventing employers from asking about:<sup>55</sup>

- An applicant’s criminal past on a written application;
- Drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbances of the peace at any point in the application process;
- Sealed records or juvenile offenses.

Similar ban-the-box policies have reduced unemployment rates among ex-offenders elsewhere. The city of Durham, North Carolina, which passed a similar law related to municipal hiring in 2011, has seen a 7-fold increase in the hiring of employees with a criminal-record.<sup>56</sup> In Minneapolis, Minnesota, the improvement has been 10-fold.<sup>57</sup>

Although data on the effects of CORI Reform is not available for Massachusetts, data from cities and states with similar regulations suggest that ban-the-box has already increased the hiring of individuals with a record. Still, there are concerns that CORI Reform has not done enough to eliminate hiring bias, especially since information about criminal records can still be revealed at the interview stage. Employers may still ask about criminal records at the interview stage, and choose not to hire someone with a record at that point. Therefore, some “advocates [feel] that this only delays the process of rejection and leaves people with a CORI feeling more hopeless”.<sup>58</sup>

<sup>51</sup> Bureau of Labor Statistics. Labor Force Statistics from the Current Population Survey. Accessed June 16, 2016.

<http://www.bls.gov/web/empsit/cpseea10.htm>

<sup>52</sup> Holzer, H. J., Raphael, S., & Stoll, M. A. (2003). Employer demand for ex-offenders: Recent evidence from Los Angeles. Institute for Research on Poverty, University of Wisconsin-Madison.

<sup>53</sup> Holzer, Harry “Collateral Costs: The Effects of Incarceration on the Employment and Earnings of Young Workers,” Bonn, Germany: IZA Discussion Paper No. 3118, 2007

<sup>54</sup> Holzer, H. J., Raphael, S., & Stoll, M. A. (2006). Employers in the boom: how did the hiring of less-skilled workers change during the 1990s?. The Review of Economics and Statistics, 88(2), 283-299.

<sup>55</sup> Massachusetts Commission Against Discrimination (2010). Criminal Offender Record Information Administrative Procedure Reforms

<sup>56</sup> The Southern Coalition for Social Justice (SCSJ) A Case Study of Durham, NC

<sup>57</sup> City of Minneapolis Conviction Information Summary 2004 – 2008 YTD

<sup>58</sup> Gabriella Priest et al., (2012) The Continuing Challenge of CORI Reform: Implementing the Groundbreaking 2010 Massachusetts Law. <http://www.bostonindicators.org/~media/Files/Global/Articles/Research%20Reports/CORI%20May2012.pdf> (describing the extensive changes to the criminal record sealing approach and record management system in Massachusetts).

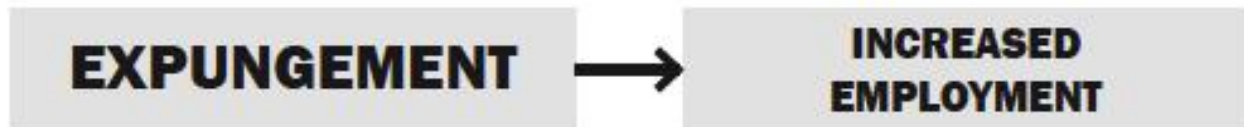


Figure 4

### EXPUNGEMENT AND EMPLOYMENT

Expungement would give ex-offenders a clean slate when applying for a job. Six out of 13 survey respondents said that a criminal record has stopped them from applying for a job. One record-holding youth stated that their criminal record is asked about every time he/she applies for a job. Another UTEC youth reported that with expungement, “I would be able to return to my normal life in society, get a job, be a productive member of society.” In the job interview process, one is not required to disclose his/her record. Under expungement, a background check should not uncover evidence of any past offenses. Therefore, individuals with expunged criminal records would not appear different from candidates with similar education and job histories.

In a 2003 experimental study, pairs of individuals with the same level of education and similar work histories were sent to job interviews. Individuals without a criminal record consistently received more callbacks. Whites without a criminal record received twice as many callbacks as whites with a criminal record (34% vs. 17%), and blacks without a criminal record received nearly three times as many callbacks as blacks with a criminal record (14% vs. 5%).<sup>59</sup> The study also found that race played a large role in callbacks: whites with a record received more callbacks than blacks without one (17% vs. 14%).

Expungement of criminal records will make it more difficult for employers to distinguish between individuals by record status. Therefore, after expungement, individuals formerly holding a criminal record should see higher callback rates and greater employment opportunities. Expungement does not correct for racial discrepancies in hiring practices observed above.



Figure 5

### EMPLOYMENT AND MENTAL HEALTH

Employment provides numerous benefits to mental health. Regularly reporting to work facilitates contact with other individuals, a sense of purpose, mental stimulation and/or physical activity. Studies have found that in general these benefits outweigh any potential detrimental effects such as stress from the work environment.<sup>60</sup> Additionally, a source of income decreases anxiety related to paying bills and supplies the financial resources often required to treat mental health problems.

A National Gallup Poll found a higher percentage of unemployed individuals were receiving treatment for depression (12.4%) than those in the general population (10.1%). Depression rates were even higher among individuals experiencing long-term unemployment (18.1%), defined as 27 weeks or longer.<sup>61</sup> This link between employment and mental health is bidirectional. Individuals with mental illnesses may be less

<sup>59</sup> Pager, Devah. 2003. “The Mark of a Criminal Record”. *American Journal of Sociology* 108 (5):937-975.

<sup>60</sup> Ezzy, D. (1993). Unemployment and mental health: a critical review. *Social science & medicine*, 37(1), 41-52.

<sup>61</sup> Gallup-Healthways Well-Being Index survey Jan. 1-July 25, 2013

able to obtain and keep jobs, but the process of unsuccessfully searching for a job can also produce stress and a sense of hopelessness.<sup>62</sup>

These studies suggest that employment, and achieving said employment in a timely manner, correlates with decreased depression and improved mental health outcomes. The ability of expungement to reduce hiring discrimination could decrease the time spent searching for work and the difficulty of finding work for those with criminal records. This increase in employment for the target population may be correlated with a decrease in depression.

## EMPLOYMENT AND RECIDIVISM

Employment is also correlated with decreased recidivism, another one of the factors our team chose to highlight in this RHIA. Two years after release from prison, nearly twice as many employed people with records have avoided being arrested again compared to their unemployed counterparts.<sup>63</sup> Moreover, formerly incarcerated individuals with one year of employment had a 16% recidivism rate over three years as compared to a 53.3 % recidivism rate for all releases. These statistics speak to the important role that employment plays in shaping a person's life.<sup>64</sup> By increasing employment prospects for youth with criminal records, expungement may lead to a decrease in recidivism. The connection between employment and recidivism will be discussed in more detail in the next section.

## RECIDIVISM

Recidivism can be broadly defined as a person reoffending after receiving sanctions for a previous crime, and can be measured by rearrests, reconvictions or a return to prison.

Although Massachusetts does not collect data on recidivism rates for youth, the DOC does regularly collect data on overall recidivism rates. Here, recidivism is defined as re-incarceration for released inmates, due to a new sentence or violation of parole or probation, to a Massachusetts state or county facility or to a federal facility within three years of his/her release. Based on this definition, the 3-year recidivism rate in Massachusetts for prisoners released between 1998 and 2009 ranges from 39% to 44%.<sup>65</sup>

A 2008 study looked at recidivism rates among different age groups in Massachusetts. The study concluded that among male inmates released in 2002, those who were younger than 35 years of age at the time of release had a significantly higher recidivism rate (45%) compared to those 35 years or older (33%).<sup>66</sup>

Other studies have shown that the recidivism rate drops over time. A 2006 study found that after seven years the likelihood of re-arrest, for both violent and nonviolent offenders, is no higher than that of a citizen who has never committed a crime.<sup>67</sup>

Drawing from these studies, one may conclude that youth and young adults are particularly susceptible to higher rates of recidivism. Any effect that expungement may have on reducing recidivism would likely have a significant impact on this specific group.

<sup>62</sup> Gabriella Priest et al., (2012) The Continuing Challenge of CORI Reform: Implementing the Groundbreaking 2010 Massachusetts Law.

<sup>63</sup> Berg, M. T., & Huebner, B. M. (2011). Reentry and the ties that bind: An examination of social ties, employment, and recidivism. *Justice quarterly*, 28(2), 382-410.

<sup>64</sup> "Safer Foundation Three-Year Recidivism Study, 2008," (2008). Chicago, IL.

<sup>65</sup> Massachusetts Department of Correction, Prison Population Trends 2013 (2014) <http://www.mass.gov/eopss/docs/doc/research-reports/pop-trends/prisonpoptrends-2013-final-5-21-2014.pdf>

<sup>66</sup> Kohl, R. Matthews, H. H., McDonald, S.M., Solomon, A.L., (2008) Massachusetts Recidivism Study: A Closer Look at Releases and Returns to Prison, Urban Institute Justice Policy Center, <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411657-Massachusetts-Recidivism-Study.PDF>

<sup>67</sup> Kurlychek, M.C., Brame, R. and Bushway, S.D., (2007)

"Scarlet letters and recidivism: does an old criminal record predict future reoffending", *Crime & Delinquency*, 53: 64, [http://www.albany.edu/bushway\\_research/publications/Kurlychek\\_et\\_al\\_2006.pdf](http://www.albany.edu/bushway_research/publications/Kurlychek_et_al_2006.pdf)

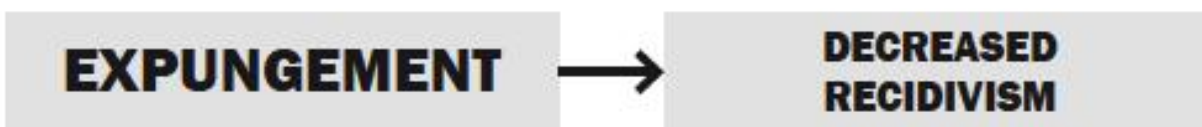


Figure 6

## EXPUNGEMENT AND RECIDIVISM

One major concern among policymakers in Massachusetts is the potential impact expungement could have on higher crime rates and increased recidivism.<sup>68</sup> Incarceration has been linked to many negative mental health outcomes. If expungement is correlated with higher recidivism rates, this could lead to worse mental health outcomes for youth with criminal records. In contrast, if expungement is correlated with less recidivism, it is likely to improve mental health of the target population. We scanned the literature to understand if there were clear links between expungement policies in other states and increases in crime rates.

A 2014 paper<sup>69</sup>, the first empirical study of the impacts of expungement, examined US states with automatic juvenile record expungement versus expungement requiring ‘application’. For the states where record expungement required application, virtually no one applied. Therefore, the researcher used data from these states to represent the effect of no expungement. The study concluded that automatic expungement did not lead to higher levels of first time juvenile crime, and that compared to those in application states, former juvenile offenders in automatic expungement states:

- Were 10.1 percentage points more likely to attend college and 6.6 percentage points more likely to graduate from college;
- Earned on average 21.2 percent higher income in their late 20s;
- Were 13.3 percentage points more likely to remain arrest-free after age 20.

These results are drawn from a single study, to the best of our knowledge the only empirical study of the link between expungement and recidivism. Therefore, although this study shows a strong link between expungement and reduced recidivism, the overall evidence base linking expungement to lower recidivism is limited.

Expungement may reduce recidivism through a reduction in the negative ‘labeling’ effect associated with having a record. Researchers have theorized that the formal labeling of youth as delinquent could lead to increased rates of recidivism because a ‘delinquent’ label redirects a youth’s self-conception or personal identity toward a self-fulfilling one of deviance. In addition, external and societal responses to the label, such as increased surveillance and reduced social opportunities and interactions, can increase the likelihood of further delinquency.<sup>70</sup>

Although research on how expungement affects recidivism is limited, a 2006 study examining the short-term impact of formal criminal labeling may help identify one mechanism by which expungement could reduce recidivism. The study found that official labeling of teens as delinquents increased the odds of gang membership, compared to other teens that share similar socio-economic characteristics and behaviors deemed ‘deviant’, such as truancy from school, but are not officially labeled as delinquent through the

<sup>68</sup> Feedback from UTEC during site visit.

<sup>69</sup> Litwok, D., (2014) Have You Ever Been Convicted of a Crime? The Effects of Juvenile Expungement on Crime, Educational, and Labor Market Outcomes, Job Market Paper, <http://econ.msu.edu/seminars/docs/Expungement%20112014.pdf>

<sup>70</sup> Liberman, A. M., Kirk, D. S. and Kim. K. (2014), Labeling effects of first juvenile arrests: secondary deviance and secondary sanctioning”. *Criminology*, 52: 345–370. doi:10.1111/1745-9125.12039 <http://onlinelibrary.wiley.com/enhanced/doi/10.1111/1745-9125.12039>



criminal justice system.<sup>71</sup> However, since the number of Massachusetts youth involved with gangs is relatively low, further research would be needed to see if this labeling effect holds true in Massachusetts.

To our knowledge, there are no studies of whether or not people who have their records expunged experience this labeling effect. However, by erasing a record rather than hiding it, expungement might remove this 'delinquent label' from youth offenders. By reducing the labeling effect, expungement is expected to reduce recidivism.



Figure 7

### RECIDIVISM AND MENTAL HEALTH

Previous research has shown a correlation between expungement and reduced recidivism, as discussed above. Other research discusses the negative impact of being incarcerated on mental health; reducing recidivism would be expected to reduce some of these mental health impacts.

As discussed in the baseline section of this report, it is clear that inmates suffer from higher rates of psychiatric disorders compared to the general population. However, because of the intersection between childhood conditions, criminal offending, and psychiatric disorders, it is unclear whether incarceration causes psychiatric disorders or whether people with psychiatric disorders are more likely to commit crimes (or a combination). A 2005 empirical study found that incarceration is associated with a 45% increase in the lifetime odds of major depression.<sup>72</sup> Another study found that incarceration has a strong and persistent relationship with mood disorders, while its link to other disorders (e.g. bipolar disorders, substance abuse etc.) is less significant.<sup>73</sup>

Incarceration proves particularly detrimental to the mental health of those with pre-existing mental health issues.<sup>74</sup> While a sizeable proportion of inmates have a mental health issue, many receive inadequate care, as some prisons and jails are not equipped to provide the necessary treatment. According to a 2006 study of national survey data, approximately 56% of state prisoners and 64% of jail inmates have a mental health problem, yet only one in three state prisoners and one in six jail inmates received mental health treatment during their admission.<sup>75</sup> Similarly, a 2001-2006 multi-state, longitudinal study found that only about 6 in 10 men and women with mental health conditions received mental health treatment in prison.<sup>76</sup> There are several reasons why pre-existing mental health conditions are often exacerbated by prison

<sup>71</sup> Bernburg, J.G., Krohn, M.D., and Rivera, C.J., (2006). "Official Labeling, Criminal Embeddedness, and Subsequent Delinquency: A Longitudinal Test of Labeling Theory." *Journal of Research in Crime and Delinquency* 43 (1): 67-88.

<sup>72</sup> Kessler, R.C., Berglund P., Demler O., Jin, R., Merikangas, K.R. and Walters, E.E. (2005). Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication. *Archives of General Psychiatry* 62(6). 593-602.

<sup>73</sup> Schnittker, J., Massoglia, M., and Uggen, C., *Out and Down: Incarceration and Psychiatric Disorders*, *Journal of Health and Social Behavior* 53(4) 448-464. American Sociological Association 2012 DOI: 10.1177/0022146512453928 <http://jhsb.sagepub.com>, [https://www.soc.umn.edu/~uggen/Schnittker\\_Massoglia\\_Uggen\\_JHSB\\_12.pdf](https://www.soc.umn.edu/~uggen/Schnittker_Massoglia_Uggen_JHSB_12.pdf)

<sup>74</sup> KiDeuk Kim, Miriam Becker-Cohen, Maria Serakos, "The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System: A Scan of Practice and Background Analysis" The Urban Institute, Research Report. May 2015. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000173-The-Processing-and-Treatment-of-Mentally-Ill-Persons-in-the-Criminal-Justice-System.pdf>

<sup>75</sup> James, D. J., and Glaze, L.E., (2006) "Mental Health Problems of Prison and Jail Inmates." Bureau of Justice Statistics Special Report No. NCJ 213600. Washington, DC: US Department of Justice, Office of Justice Programs.

<sup>76</sup> Mallik-Kane, K., Visher, C., (2008) "How Physical, Mental, and Substance Abuse Conditions Shape the Process of Reintegration" Urban Institute. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411617-Health-and-Prisoner-Reentry.PDF>



environments.<sup>77</sup> First, inmates with mental health issues are almost two times as likely to be physically victimized compared to those with no mental health issues.<sup>78</sup> Both victimization itself and fear of victimization can harm mental health. Thought of lifetime or long-term confinement and separation from family can also exacerbate mental health problems.

Reducing recidivism would thus help limit the target population's exposure to incarceration and its negative effects on mental health.



Figure 8

Mental health issues are a major impediment to ex-offenders succeeding in the job market, which in turn contributes to a higher risk of recidivism.<sup>79</sup> A study of the re-entry experiences of 838 men and 262 women returning from Ohio and Texas state prisons in 2004 and 2005 found that returning prisoners with mental illnesses had less success finding employment after release compared with others, even when their levels of employment were similar before incarceration.<sup>80</sup>

Furthermore, studies have shown that offenders with a mental illness are more prone to recidivism. In a 2009 Texas study, inmates with any major psychiatric disorder were found to be 2.4 times more likely to have four or more repeat incarcerations than inmates without a disorder.<sup>81</sup> Similarly, a study of Utah's state prison population found that offenders with severe mental illness returned to prison on average 358 days sooner than offenders without a diagnosed mental illness. This study also found that 77% of offenders with severe mental illness were re-incarcerated within 36 months, compared with 62% of offenders without severe mental illness.<sup>82</sup> Improving the mental well-being of ex-offenders can reduce the number of people re-entering the criminal justice system. Since expungement is likely to have many mental health benefits for youth with criminal records, the bill can be expected to reduce recidivism.

## INTERCONNECTIONS

Although this report has thus far presented linear pathways of factors that affect mental health, in reality employment, recidivism and mental health are all closely interrelated. As discussed above, studies have shown that employment is correlated with both reduced recidivism and improved mental health. Incarceration is correlated with poor mental health outcomes and worse employment prospects after release. Therefore, reducing recidivism can create a positive feedback loop of improving mental health, improving employment outcomes, and therefore further reducing recidivism. Since expungement is likely to reduce recidivism and improve employment prospects, among other benefits, it will affect many aspects of this web.

<sup>77</sup> Steve, A. and Wycoff, S. (2010) "Michigan's Prison Health Care: Costs in Context." Issue Paper. Lansing, MI: Senate Fiscal Agency.

<sup>78</sup> Blitz, C.L., Wolff, N. and Shi, J. (2008) Physical victimization in prison: The role of mental illness, *Int J Law Psychiatry*. 2008 Oct–Nov; 31(5): 385–393. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2836899/>

<sup>79</sup> Freeman, R. (2003) "Can We Close the Revolving Door?: Recidivism vs. Employment of Ex-Offenders in the U.S." The Urban Institute Reentry Roundtable Discussion Paper, [http://canatx.org/rrt\\_new/professionals/articles/FREEMAN-RECIDIVISM%20V.%20EMPLOYMENT.pdf](http://canatx.org/rrt_new/professionals/articles/FREEMAN-RECIDIVISM%20V.%20EMPLOYMENT.pdf)

<sup>80</sup> Mallik-Kane, K., Visher, C., (2008) "How Physical, Mental, and Substance Abuse Conditions Shape the Process of Reintegration" Urban Institute.

<http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411617-Health-and-Prisoner-Reentry.PDF>

<sup>81</sup> Baillargeon et al. (2009) Psychiatric Disorders and Repeat Incarcerations: The Revolving Prison Door + Public Health and the Epidemic of Incarceration, [http://www.antonioacasella.eu/archipsy/Baillargeon\\_revolving\\_2009.PDF](http://www.antonioacasella.eu/archipsy/Baillargeon_revolving_2009.PDF)

<sup>82</sup> Cloyes, K. G., Wong, B., Latimer, S. and Abarca, J. (2010). "Time to Prison Return for Offenders with Serious Mental Illness Released from Prison: A Survival Analysis." *Criminal Justice and Behavior* 27 (2): 175– 187. DOI: 10.1177/0093854809354370

## OTHER EFFECTS OF EXPUNGEMENT

Youth with criminal records may experience some benefits from expungement that do not fit clearly into the four pathways discussed above. For example, the results of our survey suggest that individuals with juvenile criminal records may experience more agency over their lives if their records are expunged. In addition, many of the respondents commented on the benefits that expungement could have on their lives by reducing stress and worry. When asked to describe the impact that expungement would have on their life some of the responses were: “freedom”, “enjoy life with less worries”, and “big relief off my shoulders”. Given the demonstrated negative health effects of stress, this reduction in stress is likely to improve mental health.

Another benefit of expungement is that it would create clarity around whether one’s record is visible to the public, employers and others. Under current regulations, given the complexity of levels of access to one’s CORI and criteria and procedures for sealing one’s record, the entire policy framework around CORI access is likely poorly understood. This hypothesis is borne out by findings from our survey. Of 13 responses, only one respondent indicated that they felt sure about who had access to their record, while eight respondents (62%) were completely unsure. Similarly, eight respondents indicated that they knew nothing about the sealing process (62%) and five indicated they knew a little (38%). Many respondents also believed, sometimes mistakenly so, that access to their record was widespread. For instance, the respondent who replied that he/she was “pretty sure” of who had access to their record also indicated he/she thought that the public in general had access. However, this respondent indicated that he/she has a juvenile record, which, as described above, is not available to the general public. If the expungement bill passes, an expunged record will not be visible to anyone. Ex-youth offenders will no longer have to worry about keeping track of who has access to their record.

## SUMMARY OF THE BILL’S MENTAL HEALTH IMPACTS

The team studied four major pathways linking expungement to mental health outcomes: (1) perceived discrimination, (2) contact with law enforcement, (3) employment, and (4) recidivism. We summarize our findings below and in Figure 2:

### *Perceived discrimination has negative mental health effects:*

- Studies show that perceived discrimination generally negatively affects mental health.
- Based on our interpretation of survey responses from youth with criminal records, we expect that expungement will decrease perceived discrimination.
- We predict this reduction in perceived discrimination to be a likely outcome, affecting a large portion of the population of interest.

### *Police stops are correlated with negative mental health effects:*

- Being stopped by law enforcement is correlated with increased anxiety and PTSD.
- We predict that expungement may minimally decrease the frequency and intrusiveness of interactions with law enforcement, as well as the anticipation of these interactions, for youth with criminal records.
- There is not enough evidence available to ascertain how many individuals this will affect and the magnitude of the impact.
- The decrease in police encounters due to expungement is likely limited, since research shows that other factors, such as race, more so than criminal records, are linked to the nature of police stops.

### *Employment has positive mental health effects:*

- Studies show that employment is correlated with lower rates of depression and improved mental health outcomes.

- Evidence from other states shows that expungement makes obtaining a job easier by reducing hiring discrimination.
- We expect that the positive effects of expungement on employment will be disproportionately benefit those with higher education and with less time served (shorter gap in work history).

*Recidivism has negative mental health effects:*

- The relationship between mental health and recidivism is complex and bidirectional.
- Imprisonment is correlated with increased mood disorders and exacerbates pre-existing mental health conditions.
- Research also shows that poor mental health can lead to additional crimes, resulting in recidivism.
- The only empirical study on the connection between expungement and recidivism shows that expungement is correlated with a lower likelihood of recidivism. By keeping people out of prison, expungement is likely to improve mental health.

*Table 1. Summary of assessment results*

Intermediate Outcome	Mental Health Outcome	Likelihood of outcome	Size of population affected	Severity of outcome
Decrease in perceived discrimination	Improved overall mental health	Limited	Large	High
Decrease in police stops	Decreased anxiety & PTSD	Limited	Small	Insufficient evidence
Increase in employment	Decrease in depression	Likely	Large	High
Decrease in recidivism	Decrease in mood disorders and pre-existing conditions	Likely	Moderate	Moderate

## RECOMMENDATIONS

Given the likely benefits of expungement on the mental health of youth with criminal records, we recommend that the Massachusetts legislature pass Bill S.900. In order to maximize mental health and minimize mental illness, we also make three recommendations for changes to the bill and seven recommendations for supplemental initiatives to tackle the fundamental goals of the expungement policy. To frame our recommendations, we first describe some limitations of the bill, some of which will be addressed by the recommendations.

### LIMITATIONS OF THE BILL

The expungement bill (Massachusetts Bill S. 900) is likely to improve the mental health of youth ex-offenders in Massachusetts by decreasing perceived discrimination, negative contact with law enforcement and recidivism, and by improving employment prospects. However, the bill will not solve all of the challenges that ex-offenders face. Several limitations of the bill are discussed below.

#### *The bill will not address racial disparities in police stops.*

Our research revealed that contact with law enforcement via police stops has negative effects on mental health. To the extent that stops are initiated because of an individual's race, and not his or her criminal record, expungement of criminal records will not address this underlying motivation behind police stops. There is little evidence to suggest a decrease in frequency or severity of police stops will occur due to expungement.

#### *The bill will not supplement an individual's work experience and credentials.*

Expungement eliminates a barrier to employment, but it will not necessarily improve an individual's competitiveness in the job market. It will not increase the applicant's education level or explain any significant gap in work history that results from serving a prison sentence.

#### *The bill will not prevent discriminatory hiring practices.*

This bill changes whether an applicant is categorized as a criminal, but it does not prevent employers from making discriminatory hiring practices based on other characteristics. In fact, critics of expungement are concerned that employers will use other factors such as race, income, and work history to try and identify individuals who are ex-offenders. Even those who have no criminal past could be exposed to discrimination through such measures. In addition, although they are not legally required to do so, ex-offenders may reveal their criminal record in a job interview if they are asked about it.

#### *The bill may not prevent against loopholes in CRA record keeping.*

Credit reporting agencies (CRAs) that provide background checks for employers and landlords do not update their records regularly. Even if a record is expunged, CRAs may distribute out of date information about the record. This loophole means that even after expungement, housing managers, employers, and others may still access some record of past criminal activities.

## RECOMMENDATIONS: POLICY REVISIONS AND PROGRAMATIC CHANGES

Based on our findings, we divide our recommendations into two major categories. Policy revisions suggest changes to the existing expungement bill and are intended to strengthen the content and increase the mental health benefits resulting from the bill. Programmatic recommendations propose supplemental initiatives we found necessary to tackle the fundamental goals of the expungement policy.

### POLICY REVISIONS

- The bill should include automatic expungement for non-violent felonies.*  
Currently, automatic expungement only covers misdemeanors. Both the survey of UTEC youth and our literature review suggest that people are unlikely to apply for expungement. To best distribute the benefits of the proposed bill, non-violent felonies such as property crime below a certain monetary value should also qualify for automatic expungement.
- Polymakers should consider expanding the age range for people eligible for expungement beyond 21.*  
Evidence suggests that the brain does not reach full maturation until the age of 25.<sup>83,84,85</sup> Emotional and impulse control is often not fully developed in 21-25 year olds, who would not benefit from the expungement policy as it is currently written. Additionally, stress on the developing brain has been shown to increase mental health problems.
- The bill should make expungement retroactive, based on length of time with no new criminal activity.*  
This suggestion would extend the number of individuals who could experience gains from the expungement policy. Given the demonstrated benefits of expungement on mental health, expanding the bill's scope could provide significant benefits for those affected.

### POLICY SUPPORT

- Legislation is needed to close the loopholes that may expose one's record even after expungement.*  
Through our research, we identified mechanisms other than CORI that can be used to access one's criminal record. To truly achieve the clean slate proposed by expungement these loopholes, such as those through CRAs, must be addressed, for example by requiring CRAs to update their records annually to remove records that have been expunged.
- If the bill passes, the state should conduct or fund other groups to conduct education about expungement.*  
Our survey results revealed that few youth understood the sealing process. It is likely that without proper education a similar confusion will exist surrounding expungement. For youth with criminal records to benefit from expungement they will need to understand how expungement works and the fact that their record will not be visible to employers, landlords, law enforcement or others. The state should conduct education and outreach around the expungement policy or fund groups like UTEC that have pre-existing relationships with youth to do so. This outreach should also include a component that educates youth on how to discuss prior criminal involvement – how to explain a gap on a resume, for example.
- The state should offer implicit bias training for law enforcement.*

<sup>83</sup> Grisso, T., Steinberg, L., Woolard, J., Cauffman, E., Scott, E., Graham, S., & Schwartz, R. (2003). Juveniles' competence to stand trial: a comparison of adolescents' and adults' capacities as trial defendants. *Law and human behavior*, 27(4), 333.

<sup>84</sup> Bryan-Hancock, C., & Casey, S. (2010). Psychological maturity of at-risk juveniles, young adults and adults: Implications for the justice system. *Psychiatry, Psychology and Law*, 17(1), 57-69.

<sup>85</sup> Monahan, K. C., Steinberg, L., Cauffman, E., & Mulvey, E. P. (2009). Trajectories of antisocial behavior and psychosocial maturity from adolescence to young adulthood. *Developmental psychology*, 45(6), 16543.

The literature shows racial disparities in police stops and behavior. Implicit bias training for police officers could decrease the number police-youth interactions that are affected by racial bias and the negative mental health effects associated with these interactions.

- The state should increase transparency and public access to law enforcement policies and reporting, including data on police stops and arrests and recidivism rates for youth offenders.*  
During the Rapid HIA process, we struggled to understand law enforcement interactions with our target population. More public data is needed for further understanding and increased transparency.
- To improve the mental health of people being released from prison, DYS and DOC should include mental health assessments and interventions in the probation period.*  
Identifying and talking about mental health problems can be a difficult process. To help improve the mental health of the already vulnerable target population we recommend building mental health screening into the probation process. Connecting individuals to professional help and appropriate recourses early on can help improve the health of the target population.
- Research should be conducted on the potential unintended consequences of expungement.*  
Further research should be conducted to more fully understand any unintended consequences of expungement. Questions for consideration include, for example, whether any social services or programs use record-holding status as a criterion for receiving services, and if individuals may lose access to these services when their records are expunged. Other areas for exploration include changes that might occur in other areas of the criminal justice system, for example sentencing decisions, in response to the anticipation that records will be expunged. These issues and others should be carefully considered and, if possible, mitigated.
- More research should be conducted on other health-relevant pathways and subpopulations outside the scope of this RHIA.*  
With limited time and resources, this RHIA was only able to examine a subset of the potential health implications associated with the proposed bill. More research would be needed to assess impacts to other populations that could be affected by the bill, including employers or law enforcement, for example. More research would also be needed to conduct a more thorough assessment of health impacts to record holding youth that were outside the scope of this RHIA.

## MONITORING AND EVALUATION

Monitoring and evaluation are common steps in an HIA and can assess both the process of conducting the HIA and the HIA's outcomes. Since this was a rapid HIA conducted as part of a class, the authors of this report will not be formally involved in the monitoring and evaluation step. However, the expungement bill is a legislative priority for UTEC and the Teens Leading the Way Coalition, and we expect that they will continue to monitor its progress in the legislature.

Should the expungement bill pass in Massachusetts, we recommend that researchers assess the mental health implications of the enacted policy. We propose organizing a focus group or a larger survey of individuals who will be affected by expungement. The stories and data collected in these focus groups or surveys will help researchers compare the experience of youth ex-offenders before and after expungement. Recidivism figures could be tracked, and interviews with law enforcement could illuminate whether they believe expungement had any effect on their practice. Throughout the project, we partnered with stakeholders such as UTEC who work closely with the target population. We believe that these stakeholders would be a useful resource in conducting an evaluation of the bill. They will be able to identify if their goals are being met and identify strengths and shortcomings of the policy.

### *AREAS FOR FUTURE STUDY*

This Rapid HIA consisted primarily of literature review, though we did conduct a survey of a small number of UTEC youth. With additional time, this HIA could benefit from data collection within our selected population. We found limited data related to our pathways of interest, especially within the state of Massachusetts. Further analysis would benefit from increased surveying of the target population, data collection on the mental health effects of discrimination and police encounters, and interviews with employers to assess hiring practices post-expungement. More extensive stakeholder engagement with record holders, law enforcement, and politicians would help provide a fuller picture of the nuances of expungement policy.

In addition, due to time limitations we chose to limit our scope to those who will be most directly affected by expungement, youth with criminal records. Further research could evaluate the effects of expungement on other stakeholders, including law enforcement and families of those with criminal records. Finally, we chose to focus solely on mental health impacts, and further research could evaluate the impact of expungement on other aspects of health.

## APPENDIX A: SURVEY QUESTIONS

Hi there!

We are a team of MIT students partnering with UTEC on a Rapid Health Impact Assessment that is intended to inform an expungement bill that would allow individuals who committed offenses as children or young adults (up to 21 years old), and have served their sentences and committed no new offenses, to petition for their criminal or juvenile records to be permanently deleted. We would like to ask you a few simple questions, to better understand how you think expungement can impact, or could have impacted, you.

This survey is voluntary. You may fill in as many, or none, of the following questions-- it is completely up to you how much you would like to participate in this survey! You also have the right to end the survey at any time.

This survey is anonymous, please do not include any identifying information (names, age, addresses, etc.) in your replies.

The project will be completed by May 15. All survey responses will be stored in a secure work space until 1 year after that date. After that, all survey data will be destroyed.

### Consent to participate

I understand the procedures described above and I agree to participate in this study.

Yes

No

Gender

Male

Female

Age range

Under 18

Between 18 and 21

21 or older

1. Please check all the boxes that apply to you:

- I have a juvenile criminal record
- I have an adult criminal record from when I was under 21
- I have an adult criminal record from when I was 21 and over
- I am not sure what criminal record I have
- I am not sure if I have a criminal record
- I have no criminal record
- Other comments

2. How sure are you about who has access to your criminal record?

I am completely unsure about who has access to my record

I have some idea who has access to my record

I am pretty sure I know who has access to my record

I am absolutely sure I know who has access to my record



3. Please list who you think has access to your criminal record:

---

4. How often do you think about your criminal record?

- Every day
- At least once a week
- At least once a month
- Other: (e.g. less than once a month)

5. How anxious does thinking about your criminal record make you? Pick one.

- Not anxious at all (i.e. it doesn't bother me)
- A little anxious
- Quite anxious
- Very anxious (i.e. I find it hard to focus on anything else)

6. What about your criminal record causes you most anxiety?

- Impact on getting a job
- Impact on getting into school
- Impact on family
- Impact on encounters with police and the justice system

7. Has your criminal record ever stopped you from applying for a job?

- No
- Yes

8. How much do you know about the process of getting your criminal record sealed?

- I know nothing about it
- I know a little about it
- I know quite a lot about it
- I know the process well

9. Have you tried sealing a criminal record?

- Yes
- No

9a. (If yes) Could you describe how the sealing process went for you?

---

9b. (if no) Why didn't you try to seal a record?

---

10. Over the past 24 months, how many times have you had a police encounter?

---

11. If you had more than one police encounter over the past 24 months, please respond to the following questions:

- How many made you feel like you were stopped and checked without reasonable cause?
- How many made you feel like you were treated unfairly?
- Do you think your criminal record had a role in affecting how the encounter went?
- What effect did these experiences have on you?

12. Would this expungement policy have an impact on you?

Yes

No

Not sure

12a. (If yes) Please describe the impact it would have on you

---

12b. (if no) Why don't you think the expungement policy would affect you?

---

Thank you for your time!

## APPENDIX B: SURVEY RESULTS

Gender	
Male	10
Female	3

Age Range	
Under 18	2
Between 18 and 21	2
21 or older	10

Record status (check all that apply)	
I have a juvenile criminal record	7
I have an adult criminal record from when I was under 21	9
I have an adult criminal record from when I was 21 and over	2
I am not sure what criminal record I have	0
I am not sure if I have a criminal record	1
I have no criminal record	2

How sure are you about who has access to your criminal record?	
I am completely unsure about who has access to my record	9
I have some idea who has access to my record	4
I am pretty sure I know who has access to my record	1
I am absolutely sure I know who has access to my record	0

How often do you think about your criminal record?	
Every day	5
At least once a week	4
At least once a month	3
Other: (e.g. less than once a month)	1

**Other response: Not at all**

How anxious does thinking about your criminal record make you?	
Not anxious at all (i.e. it doesn't bother me)	4
A little anxious	5
Quite anxious	2
Very anxious (i.e. I find it hard to focus on anything else)	3

<b>What about your criminal record causes you most anxiety?</b>	
Impact on getting a job	5
Impact on getting into school	1
Impact on family	2
Impact on encounters with police and the justice system	6

<b>Has your criminal record ever stopped you from applying for a job?</b>	
No	8
Yes	6

<b>How much do you know about the process of getting your criminal record sealed?</b>	
I know nothing about it	8
I know a little about it	6
I know quite a lot about it	0
I know the process well	0

<b>Have you tried sealing a criminal record?</b>	
Yes	1
No	13

Over the past 24 months, how many times have you had a police encounter? (open-ended response)	
Zero	3
1-5	4
Over 20	4
“Multiples”	1
I don’t know	1

Do you think your criminal record had a role in affecting how the police encounter went?	
Yes	8
No	2

Would this expungement policy have an impact on you?	
No	2
Yes	10
Unsure	2

**Please describe the impact it would have on you (open-ended response):**

- Freedom
- Relieved
- I could build my life
- I would enjoy my life with less worries
- It would be great
- They will stop harassing me
- Jobs and school
- I would be able to return to my normal life in society, get a job be a productive member of society
- Positively
- By having my record expunged it would be a big relief off my shoulders

## APPENDIX C: DETAILS OF CORI ACCESS AND SEALING

### CRITERIA FOR SEALING

#### Juvenile/ Youthful Offender Records

May submit a notarized request to have record sealed as long as:

- It has been 3 years since termination of any court disposition (i.e. court supervision, probation, commitment, parole) AND
- It has been 3 years since the person has been adjudicated delinquent or found guilty of any criminal offense within or outside of the Commonwealth (or fed court) or been sentenced to prison/ committed as a delinquent within the Commonwealth.
- The sealed records will still be available at new delinquency or criminal sentencing, otherwise Commissioner shall answer “sealed delinquency record over 3 years old” upon court inquiry.

#### Criminal Records of Convictions

May request the Office of the Commissioner of Probation to seal a CORI for:

- Misdemeanor: 5 years after one was found guilty OR after any jail or prison time. The count starts from the later date.
- Felony: 10 years after one was found guilty OR after any jail or prison time. The count starts from the later date.
- Sex offense: 15 years after one was found guilty OR after any jail or prison time OR after one no longer needs to register as a sex offender. The count starts from the later date. Sex offenders that are Level 2 or Level 3 cannot seal their convictions.

#### Sealing Records without Convictions

- One may file a petition to seal at the end of their case or any time thereafter “over 3 years old” upon court inquiry.

Source: <http://www.mass.gov/courts/selfhelp/criminal-law/seal-record.html>

## Overview of CORI Access Levels

### Juvenile



Individuals between 7 and 17 years old who have committed a felony, a misdemeanor, or violated a city ordinance or town by-law.

### Youthful Offender



An individual between 14 and 17 years of age who has committed a felony offense AND has at least one of the following:

- Previous Department of Youth Service (DYS) commitment
- Committed a certain firearms offense
- Committed an offense which involves the infliction or threat of serious bodily harm

### Adult



Above 17 years old (i.e. 18 and above) When the delinquent acts are very serious, they may be considered crimes and the juvenile may be tried in the adult system.

### What can be seen?

#### Unsealed Records

- Convictions
- Non-convictions
- Pending offenses

#### Unsealed Records

- Murder, manslaughter, sex offense convictions
- Felony conviction, with disposition or release date < 2 years prior to CORI request date
- Felony punishable by  $\geq 5$  years in state prison, with disposition / release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date < 2 years prior to CORI request date
- Felony conviction, with disposition or release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date less than 5 years prior to CORI request date
- Pending offenses
- Other convictions
- Non-convictions

#### Unsealed Records

- Murder, manslaughter, sex offense convictions
- Felony conviction, with disposition or release date < 2 years prior to CORI request date
- Felony punishable by  $\geq 5$  years in state prison, with disposition / release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date < 2 years prior to CORI request date
- Felony conviction, with disposition or release date less than 10 years prior to CORI request date
- Misdemeanor conviction, with disposition or release date less than 5 years prior to CORI request date
- Pending offenses
- Other convictions
- Non-convictions

Open Access

Standard Access

Required 1

Required 2

Required 3

Required 4




Sealed Records

Sealed Records

Sealed Records



## Overview of CORI Access Levels

 <b>Juvenile</b>	 <b>Youthful Offender</b>	 <b>Adult</b>
<p>individuals between <b>7 and 17 years old</b> who have committed a felony, a misdemeanor, or violated a city ordinance or town by-law.</p>	<p>An individual between <b>14 and 17 years</b> of age who has committed a felony offense AND has at least one of the following:</p> <ul style="list-style-type: none"> <li>• Previous Department of Youth Service (DYS) commitment</li> <li>• Committed a certain firearms offense</li> <li>• Committed an offense which involves the infliction or threat of serious bodily harm</li> </ul>	<p><b>Above 17 years old (i.e. 18 and above)</b> When the delinquent acts are very serious, they may be considered crimes and the juvenile may be tried in the adult system.</p>
<p><b>Who can see?</b></p>		
<p><u>Required 3</u> Camps (for employment)</p>	<p><u>Open Access</u> Members of the public who pay a \$50 fee</p> <p><u>Standard Access:</u>  <b>For housing:</b> Private landlord, Private &amp; Public management companies (for market rate housing), Real estate agency  <b>For employment:</b> General employers (Walmart, McDonalds etc.), Law firms, College, University, MA Municipalities, State Agencies</p> <p><u>Required 1:</u>  <b>For housing:</b> Public management companies for public/subsidized housing  <b>For employment:</b> Amusement device operators, Banks, Hospitals, Insurance Companies, MA Municipalities, State Agencies, Private investigators, Security guard companies</p> <p><u>Required 2:</u>  <b>For employment:</b> Assisted living facilities, Day care centers, In-home care, Nursing Homes, Private &amp; Public Schools accredited in MA, Religious Orgs, Orgs for children under 18, MA Municipalities etc.</p>	
<p><u>Required 4</u>  <b>Law enforcement:</b> Criminal Police, prosecutors, probation and courts can look at one's CORI without their permission as part of law enforcement duties or if they have a case going on in court.</p>		