

Call for Justice, LLC—United Way 2-1-1 Training Paper

Session 22: Two Ends On a Very Large Spectrum: Understanding 911 and a Primer on Minnesota’s New Expungement Law

January 15 and 16, 2015: Denise O’Leary, Quality Assurance and Training Manager for the Ramsey County Consolidated Dispatch Center (911) and Andrea Palumbo, Criminal Records Attorney, Council on Crime and Justice.

Featured Speakers’ Topics

This month, we cover two topics that aren’t necessarily connected, except that both relate to persons either just entering the criminal justice system or who are trying to end their history with it. First, we’ll hear from Denise O’Leary, who is the Quality Assurance and Training Manager for the Ramsey County Emergency Communications Center (911). Denise will speak about 911 operations and public interaction protocols. Then, on an entirely different note, there will be a presentation by Andrea Palumbo of the Council on Crime and Justice, who will cover the “Second Chance” expungement law that went into effect in Minnesota on January 1, 2015.

911 in a Nutshell

1. The Ramsey County Consolidated Dispatch Center

Located adjacent to police headquarters in Saint Paul, the Ramsey County Emergency Communications Center (ECC) constitutes the largest emergency dispatch center in call volume and staffing between Chicago and Denver. The Center annually receives 1 million calls and processes 400,000 emergency responses. It covers dispatching for the Saint Paul Police Department, the Ramsey County Sheriff, the City of Maplewood and all other cities in Ramsey County except White Bear Lake.

When operating at full capacity, the Center houses 23 staff members who operate in circles that consist of multiple consoles and computer screens. (See accompanying photographs.) Each circle is dedicated to a different purpose—telecommunications (receipt of 911 and non-emergency calls from the public and agencies and a “data” channel to process warrants and license queries); police dispatching; and fire dispatching/EMD (emergency medical dispatching).

The Center has a call clearance rate of 90% in 10 seconds, meaning that 90 percent of the time, 911 will answer a call within 10 seconds of the call being received. Of the remaining calls to the Center, the clearance rate is 95% are answered within 15 seconds or less. The outer limit of the Center’s clearance rate is 30 seconds, which can occur when the system is overloaded, such as when there is a storm. The national standard for calls is 90% answered within 10 seconds.

On average, the Center’s busiest time (and when it’s staffed most heavily) is from 4:00 p.m. to 9:00 p.m. It is least busy from 3:00 a.m. to 4:00-5:00 a.m.

2. 911 Protocols

Although it may be intuitive, it's important to remember that 911 is the principal link between the public and emergency responders. It's also key to note that 911—as an entity—doesn't respond to emergency calls. Instead, 911 passes along the call to a particular agency (such as the Saint Paul Police Department), which in turn decides whether to dispatch a squad in response to a call. 911 doesn't supervise police officers; thus, it can't direct an officer to “go out and write a report,” something which members of the public ask for with great frequency.

3. Important Tips to 211

Because 211 receives a number of calls that warrant referral to 911, here are some suggestions on what to say/not say to callers and good basic information:

- As much as is feasible, prepare the caller to understand that 911 will ask questions about (1) what's going on at the moment of the call; (2) the name and address of the person calling; and (3) if a crime is transpiring, 911 will want to know a description of the suspects, whether they have a weapon, etc. 911 will not want the history a particular dispute or issue; instead, the focus is on danger to the public at the moment of the call. Of course, you may not have time to explain all of this, although you may need to call 911 on behalf of a caller and report this information.
- The single most important piece of information is the **location of the need/problem/reason why someone is calling 911**. Cell phones do not give addresses and aren't necessarily accurate as to locations; they will not give locations within buildings.
- On “in progress” calls, the caller may be kept on the line so that officers can be updated as conditions change.
- Don't advise 211 callers to “Call 911 and they'll write a report.” As stated above, 911 doesn't control how a police department will handle a particular situation or issue.
- The Saint Paul Police Department has created a telephonic crime reporting service called **Teleserve (651-767-0640)** that permits the public to phone in certain reports (theft from auto, property damage, etc.). (They are in the process of implementing an online reporting program.) A police officer will later call back for details and then **e-mail** the caller a report for insurance or other purposes. Other departments may also take reports by phone at the officer's discretion.
- More information on Teleserve can be found at:
http://www.co.ramsey.mn.us/ecc/nonemerg_and_admin.htm
- It is important for the caller to stay on the line and answer all the questions 911 asks. Some information is necessary to locate the problem (for instance, location information for cell phones doesn't show apartment numbers and can be some

distance from the actual location) and some information is asked for to anticipate officer questions and correctly prioritize the call. It doesn't speed up officer response to hang up and may delay response.

- 911 has a nonemergency number: 651-767-0640, which can be utilized to obtain information about policing, fire and EMT resources. The same people answer both emergency/non-emergency calls.
- 911 will give childbirth, bleeding control and choking/CPR instructions when needed.
- Translators (and a translator service) are available. If translator will be delayed or is unavailable and 911 has an address of the caller, a police officer may be dispatched to investigate.

4. National 911 Trends

Nationally, some 911 agencies are starting to accept 911 contacts via texting and video. This is not likely to happen in Minnesota in the near future—911 phone systems need to be upgraded.

A Short Primer on Minnesota's Criminal Expungement Statute

Let's now pivot to expungements and a new law (effective January 1, 2015) that expanded the list of possible expungements in Minnesota.

1. What is an expungement?

An expungement is the Court-ordered sealing of an individual's government-held criminal records.

When someone enters the criminal justice system, records are created in both the executive branch of the government – police, sheriff, the Bureau of Criminal Apprehension – and the judicial branch (the courts). The new law allows a district court judge to order records in the judicial and the executive branch to be sealed. This was not the case before January 1, 2015.

Expunging a record doesn't mean that the record is destroyed or put beyond the reach of third parties forever. Thus, certain records can still be accessed if needed for future criminal prosecution and sentencing, background checks for law enforcement positions, and Department of Human Services (DHS) background studies unless DHS is included in the Order.

RED FLAG: expungements can be granted only in the court/judicial district in which a person's conviction or eviction occurred. Moreover, a Minnesota court cannot expunge a record from another state—the person seeking the expungement must go to that state and follow that state's expungement procedures (and in some states, the opportunity to expunge records is extremely limited or non-existent).

2. Types of Records that May be Expunged

In Minnesota, expungements may be either statutory or by way of a court's inherent authority.

Statutory expungements are authorized by the expungement statute, Minnesota Stat. 609A, and are the following:

- Certain first time drug offenses and cases where a juvenile was prosecuted as an adult.
- A case that was resolved in the individual's favor, either by acquittal or dismissal,
- A case that resulted in diversion or stay of adjudication. (The defendant must wait 1 year after completion of sentence if crime free.)
- A case that resulted in a petty misdemeanor or misdemeanor conviction. (The defendant must wait 2 years after completion of sentence if crime free.)
- A case that resulted in a gross misdemeanor conviction. (The defendant must wait 4 years after completion of sentence if crime free.)
- A case that resulted in a low-level, non-violent felony conviction. (The defendant must wait 5 years after completion of sentence if crime free.)

Expungements are not automatic and a person has to prove their case. For non-juvenile records, if a case was resolved in a person's favor, the court is to grant the expungement unless the agency or office objecting can show by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages of not sealing the record.

For cases involving a conviction, the person seeking the expungement must be able to show that the benefits of sealing the record are commensurate with any risks to the public and public safety.

Minnesota Stat. 260B.198 permits expungement of all records related to juvenile delinquency. For other juvenile records, the person seeking the expungement must show that the benefits of sealing the record outweigh any detriment to the public and public safety.

3. Procedure for Obtaining an Expungement

A person seeking an expungement must file a petition in the District Court in which the record at issue was generated. If someone has multiple cases to expunge in the same or multiple counties, they will have to file multiple petitions and pay multiple filing fees. The filing fee ranges from \$320 - \$327, but this may be fully or partially waived in case of indigency.

Expungements take time. The signed petition and a proposed order for expungement of the record at issue must be served on all agencies that hold records related to the offense. This must be done at least 60 days before the court hearing to allow these agencies the opportunity to raise any objections to the petition. Subsequently, a hearing takes place where the person

petitioning for the expungement (that is, the person who has the criminal record[s] at issue) will appear before a judge on the question of granting the expungement. Assuming the judge orders an expungement, after the order is issued, there is another 60 day waiting period for possible appeals to be filed. If no objections are forthcoming, the Court's order will become final after that second 60 day waiting period ends.

4. What the New Law (Jan. 1, 2015) Does

Criminal reform and poverty law advocates pushed for expansion of Minnesota's expungement law because past convictions and evictions were keeping people from going forward with their lives. The law fixes a major gap that had existed in Minnesota's criminal expungement law which prevented judges from sealing records held by the Bureau of Criminal Apprehension (BCA) and other executive branch agencies. Because the BCA is a primary source of information for employment and housing background checks, most people were left without an effective remedy even after they had proven to the court that their past was behind them and they were deserving of a second chance.

Under the new law, if the prosecutor agrees to the expungement, it isn't necessary for the person seeking the expungement to file a petition.

If a business screening service knows that a criminal record has been sealed, expunged, or is the subject of a pardon, the screening service shall promptly delete the record.

RED FLAG: Records from cases involving domestic abuse, stalking, sexual assault, and violations of orders for protection or a restraining order cannot be expunged. This may change after July 15, 2015; the new law included this date as a sunset provision for these types of crimes so as to give the Legislature more time to craft appropriate expungement legislation.

Expungement of Eviction Records

Minnesota law also allows for the expungement, or sealing, of eviction (also known as Unlawful Detainer) records. (Note: a person's "eviction record" may be held in the databases of various tenant screening agencies.)

Eviction expungements are proper when an eviction action was "sufficiently without basis in fact or law," which includes improper service (formal delivery) of eviction papers. The tenant also needs to show that it is "clearly in the interests of justice" to grant the expungement and there is insufficient reason for the public or other landlords to know about the eviction involving the tenant.

Good grounds for expunging eviction records include:

- The tenant actually won against the landlord in the eviction proceeding. There are various ways of winning—the landlord didn't have good grounds to evict the

tenant (the tenant didn't violate the lease; the landlord had retaliated against the tenant for exercising rights [like reporting the landlord to the local Department of Health]; or the landlord attempted to evict the tenant after the tenant rightly deposited rent into the court on a repair issue).

- The tenant and landlord settled the eviction proceeding before an actual hearing.
- Any other ground that a court would conclude the eviction was “sufficiently without basis in fact or law.”

RED FLAG: In many instances, an eviction is proper, such as when a tenant doesn't pay rent. In other instances, even if the tenant pays the rent after an Unlawful Detainer action was filed, in all likelihood, the tenant won't be able to expunge the record of an eviction action having been *filed*.

One of our standard fallback referral resources, LawHelpMN.org, has a great summary of Eviction expungements, along with a form Motion for Expungement and form letter to tenant screening companies: <http://www.lawhelpmn.org/files/1765CC5E-1EC9-4FC4-65EC-957272D8A04E/attachments/FE378404-7D02-4728-80ED-E2E444BAB6C0/h-27-expunging-evictions.pdf> We've attached a copy of the form for the eviction record expungement to this training paper.

Legal Resources –Twin Cities

Most people seeking an expungement end up preparing their own petitions and representing themselves in court, so there are many resources aimed at pro se filers. Expungement packets with forms and instructions are available on the Minnesota Courts website at <http://www.mncourts.gov/selfhelp/?page=332>

Self-Help Center workstations are available in **all county courthouses**, and persons in legal need may use them to find court information, print court forms, and to talk with Self-Help staff about the forms and other resources. As you know, each Minnesota county also has a law library that is open to the public. Some Twin Cities metro law libraries have staff and offer free access to online law databases and forms. See the Call for Justice, LLC Legal Resource Cheat Sheet, page 14, for a listing of law libraries with staff: <http://callforjustice.org/wp-content/uploads/2013/12/Official-Cheat-Sheet-11.17.20141.pdf>

1. Legal Providers Assisting with Criminal Expungements—Primary Referrals

Southern Minnesota Regional Legal Services (SMRLS), 55 5th St E #400, St Paul, MN 55101 (651)222-5863 (www.smrls.org). Serves people at 125% of the Federal Poverty Guidelines. benefits.



Neighborhood Justice Center, 500 Laurel Avenue St. Paul, Minnesota 55102 (651)222-4703 (www.njcinc.org). Serves Ramsey County.

Volunteer Lawyers Network, 600 Nicollet Mall, Suite 390A, Minneapolis, MN 55402 (612) 752-6677 (www.vlnmn.org). Criminal expungement workshops are presented at a variety of different locations. Call the VLN client intake line for more information.

Council on Crime and Justice through the Volunteer Lawyer's Network, 822 S. 3rd Street, Suite 100, Minneapolis 55415 (612)353-3024 www.crimeandjustice.org. Primarily serves Hennepin and Ramsey Counties. The Council on Crime and Justice provides free informational seminars:

- on the **first Tuesday of every month** at the Minneapolis Urban League at 2100 Plymouth Avenue North, Minneapolis from 2-5. Please be on time.
- on the **third Saturday of the month** from 11:30-2:30 at the Minneapolis Urban League at 2100 Plymouth Avenue North, Minneapolis. Please be on time.

Ramsey County Law Library (in the Courthouse), 1815 Courthouse, 15 Kellogg Blvd. West, St. Paul (651) 266-8391, <http://www.co.ramsey.mn.us/ll/>. **Criminal Expungement workshops** are presented in the Law Library by Court staff on the **second and fourth Thursday** of each month. Other criminal expungement workshops are presented by Volunteer Lawyers Network (VLN) at local branches of the St. Paul Public Library:

Saint Paul Public Library – Arlington Hills Community Center

1200 Payne Avenue
Saint Paul, MN 55103
651-632-3870

1st Friday of each month - noon to 3:00 pm
(Workshops begin February 6, 2015.)

Saint Paul Public Library – Rondo Community Outreach Library

461 N Dale St
Saint Paul, MN 55103
651-266-7400

3rd Friday of each month - noon to 3:00 pm

Ramsey County Law Library - 18th Floor

Ramsey Co. Courthouse
15 W Kellogg Blvd. W.
Saint Paul, MN 55102
651-266-8391

2nd and 4th Thursday of each month - 1:00 pm to 3:00 pm
(This clinic is sponsored by the Ramsey County District Court.)

A Note from the Ramsey County Law Library: Expungement is typically denied to people who:

- 1) Are on probation or parole;
- 2) Are currently charged with a new crime;
- 3) Owe fines or fees to Ramsey County; or
- 4) Request expungement for a driving offense.

2. Eviction Record Expungements—Primary Referrals

Housing Court Project Clinic (legal advice, brief services, and intake for full representation)

Services: 20 minutes per client providing legal advice and/or brief services on housing court issues. **(Bring a copy of the lease, eviction notice and all other relevant paperwork.)**

Geographic Requirement: Must have a legal issue in Hennepin County.

Household Income Requirement: At or below 300% FPG

Walk-In: first come, first served with preference given to those who have a case in court that day. Space is limited to approximately 5-6 people.

For More Info Call: The VLN Client Intake Line

Location: Hennepin County Government Center (3rd floor, court side), 300 S Sixth St., Minneapolis 55487

Hours: Monday-Friday 12:30-4pm

Website: <http://www.mncourts.gov/district/4/?page=296>

Staffed By: Legal Aid and VLN attorneys

VLN's multi-issue Legal Advice Clinic: The Legal Access Point Clinic (in person Spanish, French and Somali interpreters sometimes available. Phone interpretation services always available for all languages). This clinic is also operated on some days in collaboration with the **Hennepin County Bar Association**.

Services: 20 minutes of legal advice and brief services on various issues of Minnesota law except: bankruptcy, criminal and family.

Geographic Requirement: Must live in or have legal issue in Hennepin County

Household Income Requirement: At or below 300% FPG on some days; no income limit on other days (two different programs operate the LAP and they have different eligibility requirements—we know, it's confusing to us too....). See below for more on this.

Walk-In: first come, first served basis; space is limited to approximately 5-6 people per two-hour shift.

For More Info Call: The VLN Intake Number at 612-752-6677. Intake hours are M, W, Thur. 9-1:00; on Tuesdays, 9-1 there is a walk-in screen service, but attorneys are not available; you will have to come back at a different time if VLN decides to take your matter.

Location of the Legal Access Point Clinic is in the Hennepin County Government Center: skyway level at the Hennepin County Government Center (located within Self Help Center), 300 S. Sixth St., Minneapolis 55487

Hours at the LAP Clinic at Government Center: Free legal consults **on any legal topic, no income restrictions:** 9-11am M-F and 1-3pm on Mondays.

Free legal consults to persons **with low incomes on all topics except family law and criminal law:** 11am-1pm Monday-Friday and 1pm-3pm Tuesday and Thursday.

Website: <http://www.mncourts.gov/district/4/?page=1200>

3. Back-up/Fallback Referrals

As indicated above, our Back-up/Fallback Referrals should be LawHelpMN.org and/or the Court Self-Help Centers and/or the Law Libraries.

Let us know if you have any questions!

Ellie and Emily, Call for Justice, LLC