

**WASHINGTON STATE
PARTNERSHIP COUNCIL ON
JUVENILE JUSTICE**

WA-PCJJ

Record Sealing Workgroup

Meeting Summary

Tuesday, November 28, 2023

Noon-1:30 PM | Via Zoom

Welcome & Introductions

Workgroup Co-Leads Jimmy Hung and Heidi Sadri welcomed the group and all in attendance provided introductions.

Workgroup Members Attending: Senator Noel Frame, Kelsey-anne Fung, Alice Coil, Frank Thomas, Karen Pillar, Delcine Hackley, Izzy Eads, Julissa Sanchez, Katie Hurley, Riya Saha Shah, Andrew Keats, Giannina Ferrara, Prachi Dave, Xaxira Velasco Ponce de León, Jack Murphy, Norrie Gregoire, Roxana Gomez, George Yeannakis

OJJ Staff: Jenny Young

Project Overview

Heidi provided an overview of the project, including proviso language and anticipated timeline. Please refer to attached slides.

Shared Agreements for Engagement

The group discussed shared agreements for engagement and decision-making. Heidi offered an initial list, and the group added. Points included:

- Use clear and accessible communication. Avoid acronyms, use plain language. Create an inclusive space. Encouragement to come off mute to discuss and explain or to communicate offline with Heidi.
- Create and support flexible options for participation from people with lived/living experience, both inside and outside of the workgroup. Heidi is working with several community organizations who facilitate youth groups to create opportunities for connection and exchange, particularly within the meeting spaces that those groups already have. We will compensate those lived experts for their time.
 - o Put young people in decision-making and leadership positions, make sure they have the support and information needed to be successful in those positions. Prep sessions before meetings are helpful. Heidi and Sen. Frame to explore this with Choose 180.
- Respect the privacy of anyone sharing their lived experience. Co-leads will be responsible for interrupting any conversation that becomes uncomfortable or hurtful to people bringing lived experience.

- We come from a place of shared understanding that people who we hold accountable for harm and people who have caused harm are often the same people. We are not using binaries or pitting groups against each other.
- Use “I” statements (“I heard you say ____, that is impacting me ____ way.”). Call out hurtful language.
- In the absence of consensus...
 - o Distill around majority shared ideas as much as possible and capture all else.
 - o We come to this issue with some existing consensus and shared understanding. Our recommendations are strongest if we can coalesce around shared ideas, unified voice. Encouragement to accept/compromise unless something is a firm non-negotiable.

Presentation: Juvenile Law Center

Riya Saha Shah and Andrew Keats from the Juvenile Law Center provided a presentation followed by discussion, summarized below:

- Why juvenile records need protection and expungement
 - o Stigma associated with a juvenile court record impact youth for the rest of their lives, especially during their most formative years
 - o Once a record is online in a private database, it is very hard to locate it and get it removed
 - o Report on collateral consequences of juvenile court records:
<https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>
 - o Infographic on educational opportunities:
<https://jlc.org/sites/default/files/attachments/2018-04/FutureInterrupted-Edu.pdf>
 - o Infographic on employment: <https://jlc.org/sites/default/files/attachments/2018-04/FutureInterrupted-Employment.pdf>
 - o Infographic on housing and homelessness:
<https://jlc.org/sites/default/files/attachments/2018-04/FutureInterrupted-Homelessness.pdf>
 - o Infographic on impact of records and racial disparities:
<https://jlc.org/sites/default/files/attachments/2018-04/FutureInterrupted-YouthofColor.pdf>
- Juvenile Law Center scorecards
 - o In 2014 did a scorecard showing each states’ performance against a set of principles for record protection
 - o 2020 scorecard revised core principles for record protection and assessed change/progress
 - Note that some states say “expunge” when what they really do is seal. JLC scored based on the effect of laws rather than language in law.
 - Also note that scores are based on written statute, not what is happening in practice. JLC has heard from practitioners that the law is not implemented as written.

- National scorecard and core principles for record protection: [National scores \(jlc.org\)](https://www.jlc.org)
 - Executive Summary of Scorecard Report: <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/executive-summary-2020.pdf>
- WA score (as of 2019 laws): <https://juvenilerecords.jlc.org/juvenilerecords/#!/state/washington>
 - Washington is among bottom 12 states for total score, bottom 2 states for [Confidentiality](#) score, and bottom 19 states for [Expungement](#) score
 - Primary reasons for low Confidentiality score: court rooms open to public, records are open to the public until sealed
 - Primary reason for low Expungement score: While sealing process is automatic in some circumstances/conditions, sealed records are still available to a large selection of entities
- Discussion from group:
 - Question about core principle regarding juvenile adjudications being used as evidence in subsequent proceedings: Does this include something like a declination hearing? Response & discussion: JLC's best practice is that an expunged record should be treated like it never existed in all circumstances, though that is not often the practice and juvenile adjudications are used to enhance criminal sentencing; in WA, juvenile points can be used in adult court in some cases
 - No retroactivity now. Sen. Frame will have a bill for this.
 - Izzy is working with an incarcerated friend who write a bill they hope to introduce this session, Judicial Discretion Act, aiming to help people left behind without retroactivity. Contact Izzy for the bill, summary, and/or coalition meeting invite: ieads@choose180.org
 - Regarding confidentiality, advocates recently worked with Washington State Supreme Court on a court rule that would restrict online dissemination of court records and make them more confidential (use initials); opposition from media; successful in restricting online dissemination (though King County is continuing to disseminate online)
 - Automatic sealing or expungement is almost canceled out by the absence of confidentiality – when records are online or widely available at any point, they can be saved and stored in private databases
 - Question: How have other states that also have a strong media presence like CA succeeded in making juvenile proceedings confidential?
 - If this diverse stakeholder group has consensus recommendation that it's our policy choice to hold confidentiality in the interest of reentry and recovery. Solving the technical problems and forming alignment within this group would make these recommendations politically resilient.
 - Every state has grappled with public interests, media interests, what the public has the right to know; consensus in our group should overcome that.
 - Information available on WA youth with juvenile offenses is different than what is available on youth from other states. Employers or landlords have incomplete and

unequal information on people who were youth in WA vs. other states. Interest in enhancing confidentiality.

- Question: How do JLC principles relate to federal gun ownership laws? Bipartisan Safer Communities Act included juvenile adjudications in definitions of convictions.
 - WA passed a bill that shares sealed juvenile records with non-WA criminal justice agencies for background checks when purchasing of firearms: [HB 1600](#)
 - Unsure how NICS system used by FBI to do background checks works with sealing/expungement of WA records. JLC would recommend broad application of expungement principle – should be like it never happened.

Discussion & Next Steps

- Juvenile Law Center will be doing an analysis of 2020-present legislative attempts at record sealing. This can inform our direction and choices.
- Document the agreement and alignment
 - Document the key problems that we are agreeing need to be solved.
 - Survey (plain language and technical) to identify problems to be solved/desired outcomes.
- Need to include Department of Licensing to make sure we address the concerns they raised during SB 5644
- Changes to record keeping would impact court software. Critical to involve the Administrative Office of the Courts to make sure we address technical needs. Same is true about Washington State Patrol.
 - Frank Thomas willing to liaise with AOC colleagues; AOC is supportive of implementing recommended changes. Heidi will follow up.
 - Does AOC have reach over individual court software systems? Also need individual clerks on board. Heidi has a meeting scheduled with WSACC reps.
- Identify problems and interactions with federal systems – boarder crossing, gun rights, etc.
- Discussion of people needing access to their sealed juvenile records to show to military, employers, DCYF (home care). Impact on statute would be very wide-reaching.
- Clerks will be mindful of open administration of justice. Other court records are confidential (child welfare, mental health, ARY), and understanding how those are kept confidential could help us. This could help make sure a future challenge doesn't undo confidentiality work.

Next Meeting: January 16, 2024, at 3 PM