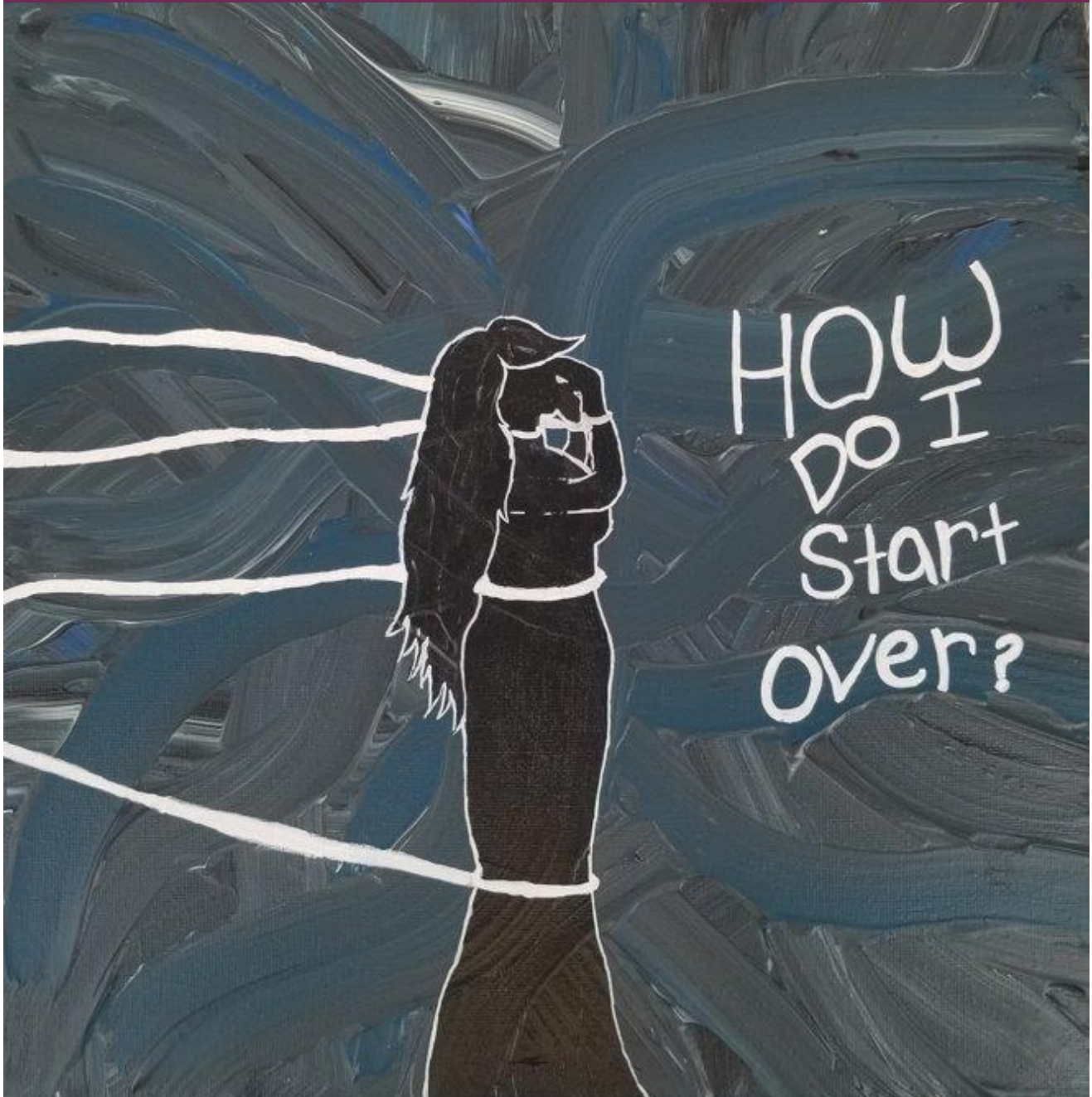


TREATMENT AND PROTECTION OF JUVENILE RECORDS
REPORT AND RECOMMENDATIONS TO THE GOVERNOR AND LEGISLATURE



Washington State Partnership Council on Juvenile Justice

October 2024

Cover Art: *What's Holding You Back? (How Do I Start Over?)* by KF, 18

Cover Artist's Statement: *Everyone has or has had something holding them back whether it's from a job or life itself. My example of being held back is from being afraid of going to college. The reason I've been afraid of going is due to the fact I've had a record in the past. I am afraid if I go through all the years to become a vet, I might not be able to because although I have been told my records are sealed, they may pop up in my background check to get a job in the vet industry. This is mainly due to the fact that you have an extremely clean background to become a vet. I am fearful that I'll put all my effort into nothing. I've heard of others going through similar situations it makes me fearful of what's to come.*

CONTENTS

Acknowledgments.....	3
Message from the Partnership Council on Juvenile Justice	6
Executive Summary.....	7
Summary of Recommendations.....	7
Background	9
Introduction	10
About Juvenile Records in Washington State	12
Access & Distribution.....	12
Record Sealing	13
Protection of Juvenile Records.....	17
Confidentiality	17
Access to Sealed Records	20
History of Juvenile Records in Washington.....	23
Juvenile Records & Desistance from Criminal Behavior	26
Recommendations	30
Protection of Juvenile Records.....	30
Treatment of Sealed Records.....	40
Communication of Sealing Orders	43
Access to Record Sealing.....	46
Notice	48
Future Considerations.....	50
Record Sealing.....	50
Bipartisan Safer Communities Act.....	50
Firearms.....	51
Conclusion.....	53
Appendices.....	54
Appendix A: Excerpt from RCW 13.50.260	54
Appendix B: Criminal Justice and Law Enforcement Agencies & ACCESS.....	59

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This report, submitted by the Washington State Partnership Council on Juvenile Justice (PCJJ), is the product of work completed between September 2023 and June 2024. This effort was made possible by the contributions and care of the people below.

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Workgroup

A workgroup was convened during the fall of 2023 and met regularly through July 2024. The workgroup included lived experts,¹ youth justice advocates, legal aid providers, providers of record sealing clinics, victim advocates, researchers, and representatives from the Administrative Office of the Courts; Department of Licensing; Washington Association of County Clerks; prosecutors; public defense; Department of Children, Youth, and Families; Washington State Patrol; and the Washington Association of Juvenile Court Administrators. All contributed generously to this project.

The recommendations offered in this report are a product of this workgroup's collaboration and are presented with near consensus. On non-consensus recommendations, parties withholding support provided their concerns.

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Andrew Keats and Riya Saha Shah of Juvenile Law Center provided technical assistance on this project, contributing an invaluable national perspective and expert guidance on best practices in juvenile record protection.

Additional Contributors

The following individuals and groups also provided guidance, support, review, and input:

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The girls and young women at Echo Glen Children’s Center
The youth and young adults of the CHOOSE 180 Youth & Young Adult Advocacy Program

Artwork

The artwork featured throughout this report was created by youth and young adults with the support of Schack Art Center (Schack), which operates an Art Alternatives program at Denney Juvenile Justice Center in Snohomish County. Schack invited young people in its network impacted by court involvement (including artists who maintained a connection to Schack for several years after participating in Art Alternatives) to create art for this report.

Artists learned about our project and worked from these prompts:

Moving on after a mistake or setback: What does a fresh start look and feel like? How would you visualize having privacy while overcoming a mistake or painful time? How would you visualize feeling held back by something from your past?

We are grateful to the artists for the deep thought, care, and reflection put into these pieces and to Schack for facilitating this connection and opportunity.

MESSAGE FROM THE PARTNERSHIP COUNCIL ON JUVENILE JUSTICE

The Washington State Partnership Council on Justice (WA-PCJJ) is the primary state advisory group for matters pertaining to juvenile justice in Washington. Governor Jay Inslee issued Executive Order 20-02, which directs the WA-PCJJ to conform with the federal requirements of the Juvenile Justice and Delinquency Prevention Act (JJDA) and function as a common point of analysis, planning, and advocacy for youth involved in or at risk of involvement in the juvenile justice system.

The WA-PCJJ meets the requirements for state advisory group membership per 42 U.S.C. 5633, Sec. 223(a)(3)(A) of the JJDA with 26 appointed council members and at least one-fifth of the membership under the age of 28 at the time of appointment. The Office of Juvenile Justice provides staffing and administrative support to enable the WA-PCJJ to perform its functions.

The WA-PCJJ is dedicated and committed to youth justice, eliminating racial and ethnic disparities, improving community safety, and supporting restorative justice practices throughout the state. We credit our accomplishments to the collective efforts and contributions of WA-PCJJ council members and our system and community partners.

This report explores the issues associated with the current handling of juvenile records and provides recommendations to improve the protection of juvenile records. This effort is closely connected to the core principles of the WA-PCJJ. We believe that youth who commit juvenile offenses are capable of change and rehabilitation, have strengths, and can be responsible members of their communities. We acknowledge that brain science has established that fundamental differences between youth and adults must be considered in our systems' responses to youthful offenses. Protecting juvenile records so that youth have fair and full access to move forward and thrive is critical to upholding these principles. As the WA-PCJJ Chair, Vice Chair, and Co-Leads of the Juvenile Records Workgroup, we are pleased to present this report and the recommendations therein with the full support of the WA-PCJJ.

Respectfully Submitted,



Gordon McHenry, Jr.
Council Chair



Sean Goode
Council Vice Chair



Jimmy Hung
Council Member & Workgroup Co-Lead



Heidi Sadri
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EXECUTIVE SUMMARY

The core principles of juvenile justice recognize that children and youth make mistakes, are capable of rehabilitation, and deserve a fair and full chance to thrive in adulthood. Historically, the juvenile legal system has aimed to shield children and youth from lifelong consequences associated with adult criminal records by treating juvenile court proceedings and records as confidential.

Indeed, the Washington State Legislature has acknowledged that,

“The primary goal of the Washington state juvenile justice system is the rehabilitation and reintegration of former juvenile offenders. The public has a compelling interest in the rehabilitation of former juvenile offenders and their successful reintegration into society as active, law-abiding, and contributing members of their communities. When juvenile court records are publicly available, former juvenile offenders face substantial barriers to reintegration, as they are denied housing, employment, and education opportunities on the basis of these records.”²

However, over time, these protections have eroded in Washington, leaving it among the weakest states in the country for the protection of juvenile records.³ Historically confidential, juvenile records are now open to the general public and nearly impossible to meaningfully recall, leading to a lifetime of collateral consequences.

The purpose of the juvenile justice system’s unique handling of records is to enable rehabilitated young people to move on as if their juvenile offense never occurred. This purpose is undermined by a number of shortcomings and failures outlined in this report. These shortcomings have devastating and deeply inequitable consequences for Washington’s children and youth that persist well into adulthood. Recommendations in this report address those deficiencies and are summarized below.

Summary of Recommendations

Improve protection of juvenile court records. Public access to juvenile records does irreversible damage. Current access to sealed juvenile records is also inappropriately broad and is incompatible with the purpose of record sealing.

- Juvenile records should be confidential.
- Access to sealed juvenile records through Washington State Patrol and the Judicial Access Browser System should be narrowed.

² RCW 13.50.010

³ Washington ranks in the bottom three states for overall protection of juvenile records and bottom two for confidentiality. (Juvenile Law Center. (2020). *Failed Policies, Forfeited Futures: Revisiting a Nationwide Scorecard on Juvenile Records*. <https://juvenilerecords.jlc.org/juvenilerecords/#!/map>.)

- A mechanism should be established to hold accountable entities that knowingly share or unlawfully use juvenile court records.

Clarify how sealed records are to be treated. Clarification from the legislature would provide meaningful direction regarding the intended purpose of record sealing in Washington.

- Legislation should clarify that sealed juvenile court records should be considered vacated and expunged with limited exceptions.
- Legislation should clarify that a court order sealing a juvenile record relieves the subject of any administrative requirements imposed by the Department of Licensing and seals any withdrawals and sanctions associated with the sealed juvenile court record.

Improve communication of sealing orders. Juvenile records are distributed to, stored by, and released by several state agencies. It is critical that these agencies are promptly and consistently made aware of records being sealed so that they treat sealed records accordingly.

- Legislation should require courts to immediately forward to the Department of Licensing a copy of the sealing order on any case for which the disposition was previously provided to the Department of Licensing.
- The Administrative Office of the Courts should include sealings in daily data transfers to Washington State Patrol, and Washington State Patrol should promptly update its records accordingly.

Increase access to record sealing. Barriers to accessing the record sealing process prevent eligible individuals from enjoying the benefits of record sealing and exacerbate inequities. Shifting the burden away from the individual and onto the system would improve access.

- All records that are eligible for mandatory sealing should be administratively sealed once the existing sealing eligibility criteria are met.
- An individual who is not eligible for administrative sealing because of outstanding restitution owed to an individual should have access to assigned counsel.

Improve how youth are notified and educated about their juvenile record and record sealing. Confusion and misconceptions about juvenile records and record sealing are widespread, leaving young people unsure of the status of their records, their rights, and the options available to them.

- At a juvenile disposition hearing, the court should provide notice to the individual about their record and eligibility for record sealing.
- Courts should provide notice and information to individuals when their juvenile court record is sealed.

BACKGROUND

In 2023, the Washington State Legislature directed the Partnership Council on Juvenile Justice (Partnership Council) to consider and provide policy recommendations regarding the retention, dissemination, confidentiality, sealing, consequences, and general treatment of juvenile court records.⁴ The legislature directed the Partnership Council to take into consideration developments in adolescent brain science, the impacts of juvenile records on future individual wellbeing, principles of race equity, and the impacts that the recommendations could have on recidivism. This report fulfills these directives.

The Partnership Council convened a workgroup of lived experts, youth justice advocates, legal aid providers, providers of record sealing clinics, victim advocates, researchers, and representatives from the Administrative Office of the Courts, Department of Licensing, Washington Association of County Clerks, prosecutors, public defense, Department of Children, Youth, and Families, Washington State Patrol, and the Washington Association of Juvenile Court Administrators to collaboratively develop these recommendations. Juvenile Law Center, a national leader on juvenile records, provided technical assistance and produced its own report: *A Review of Juvenile Records Laws in Washington State*.⁵ All who contributed to this effort, including others not named here, are listed in the Acknowledgements section of this report.

⁴ See 2023 ESSB 5187 Sec. 230(20)(a)(ii), pg. 396-397.

⁵ Juvenile Law Center's report is available at <https://www.dcyf.wa.gov/sites/default/files/pdf/ojj-WAStateRecordsReport.pdf>.

INTRODUCTION

Core principles of juvenile justice acknowledge that children and youth will make mistakes, that they are fully capable of rehabilitation, and that they are profoundly deserving of a fair chance to thrive in adulthood. These principles are reflected in the historical intent of the juvenile court system to shield youth who commit offenses from the lifelong consequences associated with an adult criminal record. Originally designed to operate confidentially, juvenile courts were committed to protecting youth from the stigma of criminality.⁶ In 1967, the U.S. Supreme Court wrote that “the policy of the juvenile law is to hide youthful errors from the full gaze of the public and bury them in the graveyard of the forgotten past.”⁷

Those protections have been eroded over time, especially in Washington State. Advocates have called for policy reform to better protect juvenile court records for decades. While some progress has been made, the problem has also worsened in many respects, leaving Washington among the poorest-performing states in the country for the protection of juvenile court records.⁸

The broad and largely irreversible access that Washington now grants to juvenile records runs contrary to the underpinnings of juvenile justice and rehabilitation. Our ability to protect juvenile records is a direct determinant of our ability to preserve future opportunities for youth who have court contact, and the systemic failure to do so in Washington cheats children and youth out of a fair chance at moving on with their lives. Because youth of color are disproportionately criminalized⁹ and face harsher judgment based on their court records compared to their white peers,¹⁰ the weight of this failure falls especially heavily on youth of color.

This report reviews Washington’s current handling of juvenile records and recommendations to improve their protection.

⁶ Chambers, B. and Balck, A. (2014). *Because Kids are Different: Five Opportunities for Reforming the Juvenile Justice System*. Models for Change.

[https://www.modelsforchange.net/publications/718/Because Kids are Different Five Opportunities for Reforming the Juvenile Justice System.pdf](https://www.modelsforchange.net/publications/718/Because%20Kids%20are%20Different%20Five%20Opportunities%20for%20Reforming%20the%20Juvenile%20Justice%20System.pdf), 12; Calero, T. (2013). *Open Juvenile Records in Washington State: Process, Effects, and Costs of Protective Mechanisms*.

<https://www.juvjustice.org/sites/default/files/ckfinder/files/Examining%20Open%20Juvenile%20Records%20in%20Washington%20State.pdf>, 1.

⁷ *In re Gault*, 387 U.S. 1, (1967).

⁸ Juvenile Law Center evaluated each state on its handling of juvenile records against 12 principles for record protection. Washington ranks in the bottom three states for overall protection of juvenile records and bottom two for confidentiality. The national scorecard is available at <https://juvenilerecords.jlc.org/juvenilerecords/#!/map>.

⁹ Youth of color are overrepresented at every stage of the juvenile legal system in Washington. (Washington State Partnership Council on Juvenile Justice. (2022). *Washington State Juvenile Justice Report to the Governor & State Legislature*. Washington State Department of Children, Youth, and Families.

<https://www.dcyf.wa.gov/sites/default/files/pdf/2022WA-PCJGov.pdf>, 1.)

¹⁰ Pager, D. (2003). The mark of a criminal record. *American Journal of Sociology*, 108(5), 595.

Obstacles

By JA, 17



Artist's Statement: I have been through lots of obstacles to overcome the current events and I would like to leave them behind so I can move forward with nothing to hold me back.

About Juvenile Records in Washington State

Juvenile records include the official juvenile court file and criminal history records. The official juvenile court file includes documents such as petitions, motions, memoranda, briefs, findings, and orders. Criminal history records include information on arrests, detentions, charges, and dispositions.

Access & Distribution

Juvenile records are open to the general public until or unless they are sealed. Juvenile records can be accessed directly from court clerks or found on online state-run databases for a fee.¹¹ Private background check companies also purchase, store, and sell juvenile court record data to members of the public, such as employers and landlords. In fact, juvenile records were sold in bulk to private companies until the practice was ended in 2013,¹² a practice characterized by experts as an extreme example of harmful record handling.¹³ Juvenile records are also distributed to several government entities that store, reference, and further disseminate them.

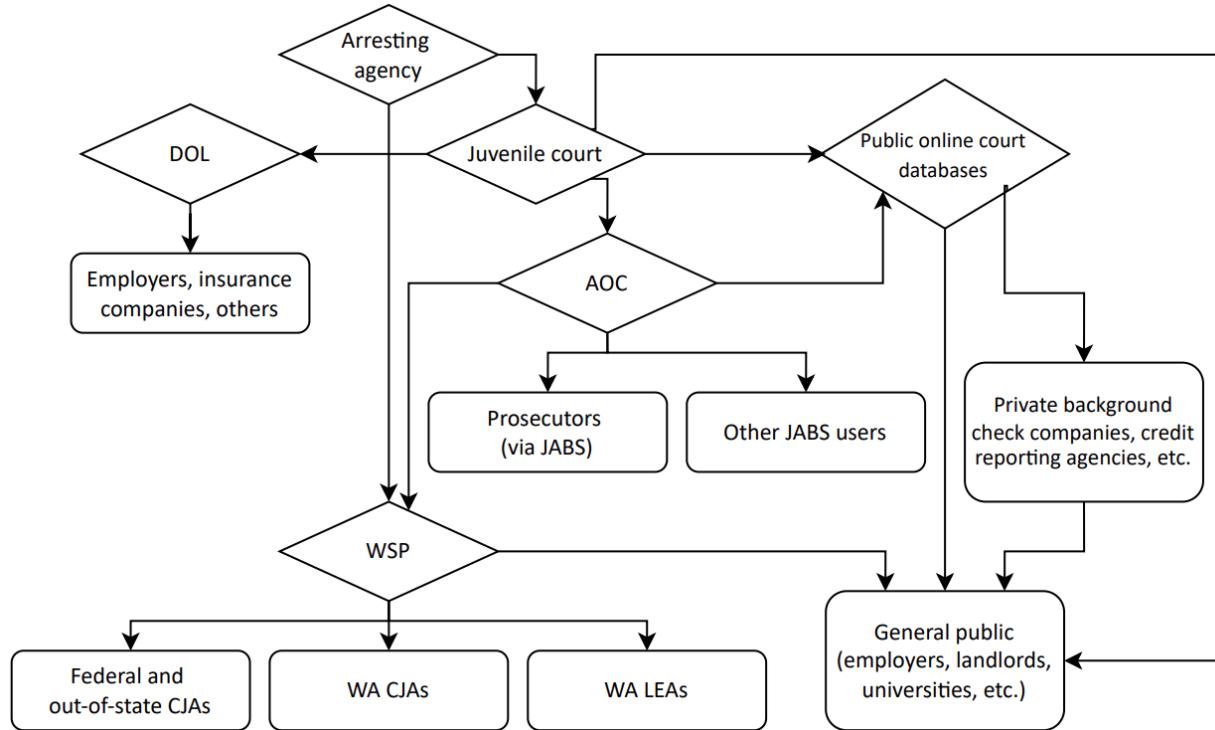
Figure 1 below depicts a general overview of how juvenile records are currently distributed and accessed.

¹¹ Washington State Patrol background checks cost \$11 each. A subscription to JIS-Link, an online court database managed by the Administrative Office of the Courts, costs \$200 for initial setup and then \$13/month. Pricing for WSP background checks is available at <https://watch.wsp.wa.gov/>, and pricing for JIS-Link is available at <https://www.courts.wa.gov/jislink/>.

¹² See Section V: Limitation on Dissemination of Juvenile Offender Court Records of the Data Dissemination Policy, which governs the release of information from systems maintained by the Administrative Office of the Courts (AOC). Section V was added in 2013 and excludes juvenile offender court records from bulk distribution by AOC. (<https://www.courts.wa.gov/dataDis/?fa=datadis.policyDiss#V>)

¹³ Saha Shah, R. & Strout, J. (2016). *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records*. Juvenile Law Center. <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/future-interrupted.pdf>, 8.

Figure 1: Current Distribution of and Access to Juvenile Records Prior to Sealing



AOC: Administrative Office of the Courts; CIA: Criminal justice agency; DOL: Department of Licensing; JABS: Judicial Access Browser System;¹⁴ LEA: Law enforcement agency

Record Sealing

Record sealing makes records confidential or nonpublic. Several criteria are used to determine whether a record is eligible for sealing. The criteria take into consideration the seriousness of the offense, completion of the disposition (including confinement, probation, and parole), time in the community without new offenses, the status of any sex offender registration requirements, and completion of other court-ordered obligations such as payment of restitution owed to individual victims.¹⁵ The juvenile records for lower-level offenses are automatically sealed administratively by the court once requirements are met.¹⁶ Other offenses require the individual to file a motion for sealing, and the judge must grant the motion if the eligibility criteria are met.¹⁷ Certain sex offenses are not eligible for administrative or mandatory sealing.¹⁸

¹⁴ JABS is an online court database managed by the Administrative Office of the Courts.

¹⁵ RCW 13.50.260 dictates eligibility requirements for record sealing. The entire text of RCW 13.50.260 is included as Appendix A.

¹⁶ All offenses except for a most serious offense as defined in RCW 9.94A.030, a sex offense under chapter 9A.44 RCW, or a drug offense as defined in RCW 9.94A.030.

¹⁷ All other offenses except for rape in the first degree, rape in the second degree, indecent liberties committed with forcible compulsion, RCW 13.50.260(4).

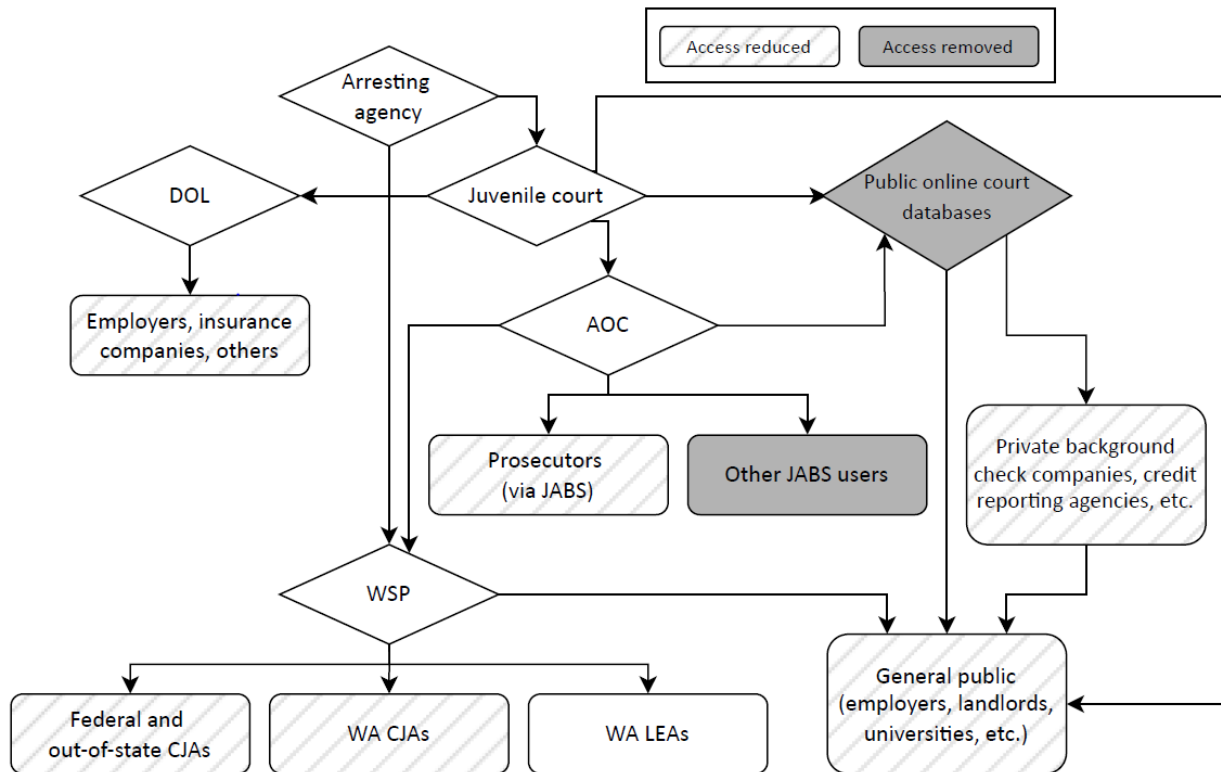
¹⁸ Rape in the first degree, rape in the second degree, indecent liberties committed with forcible compulsion

According to statute, when the court enters an order sealing a juvenile record, the proceedings in the case “shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.”¹⁹

This language appears to establish that the purpose of record sealing is to allow a young person, after fulfilling eligibility criteria that illustrate their rehabilitation, to move on unfettered by a youthful mistake. However, exceptions to this statute and other shortcomings in Washington’s protection of juvenile records undermine the state’s ability to deliver meaningful record sealing to the young people who have contact with the juvenile legal system.

Figure 2 below depicts the current effect of record sealing on access to juvenile records.

Figure 2: Current Distribution of and Access to Juvenile Records Following Sealing



AOC: Administrative Office of the Courts; CJA: Criminal justice agency; DOL: Department of Licensing; JABS: Judicial Access Browser System;²⁰ LEA: Law enforcement agency

While record sealing removes access from some entities, most others (notably, the public) still have some degree of access. This lingering public access is a result of making juvenile records

¹⁹ RCW 13.50.260(6)(a).

²⁰ JABS is an online court database managed by the Administrative Office of the Courts.

open to the public before sealing, enabling private background check companies to store and continue to distribute records even after they are sealed. In a study on reducing the structural barriers to school and work for people with juvenile records, the Council of State Governments Justice Center illustrated the irreversible consequences of making juvenile records available to the public:

Information about juvenile court and law enforcement records that were open to public inspection at any point is often available from the countless commercial background check providers who obtain records *en masse*. These providers make records accessible at the click of a button, often with little meaningful regulation or oversight. As a result, information about juvenile records can remain accessible to employers, licensing entities, education providers, and others long after a state has restricted access to its own official versions (e.g., sealing and expungement).²¹

²¹ Weber, J. (2021). *Reducing State-Imposed Barriers to School and Work for People with Juvenile Records*. The Council of State Governments Justice Center. <https://csgjusticecenter.org/publications/juvenile-consequences/policy-toolkit/record-confidentiality/>

Direction

By JW, 16



Artist's Statement: Where am I supposed to go after a mistake?... Forward.

Protection of Juvenile Records

Washington State ranks among the weakest in the country for the protection of juvenile records.²² The most significant and harmful shortcomings of Washington’s protection of juvenile records are the lack of confidentiality for juvenile records and exceptions that grant broad access to sealed juvenile records. The statuses of these closely related issues are discussed below.

Confidentiality

At the inception of the juvenile legal system in Washington State, confidentiality was understood to have a critical role in the goal of rehabilitation.²³ Keeping juvenile records shielded from public scrutiny is essential to protect youth from being permanently stigmatized and branded as criminals.

As described above, Washington now makes juvenile records available to the public until they are sealed. The absence of confidentiality coupled with the modern proliferation of online data sharing and distribution for profit results in juvenile records being widely and irreversibly available online through private background check companies.

The vast majority of states do not make juvenile records available to the public in any form. Washington is one of only nine states that make juvenile records available to the public, and one of only six states that makes them available online.²⁴ Examples of how other states handle the confidentiality of juvenile records are summarized below:

- In Oregon, the juvenile file is confidential except for the judge, court personnel, youth respondent and their parent/guardian, state social service agencies, attorney, prosecutor, and school personnel. Granting access to other parties requires a motion and is pursuant to a hearing to determine whether specified criteria are met. Law enforcement records are confidential, with exceptions for law enforcement and prosecutors assigned to the case, courts, the victim, case workers, youth, their counsel, and state police. Juvenile court hearings are open to the public.²⁵

²² Juvenile Law Center defined 12 principles of record protection and scored each state on their handling of juvenile records. Washington ranks in the bottom three for overall protection of juvenile records and bottom two for confidentiality. The national scorecard is available at <https://juvenilerecords.jlc.org/juvenilerecords#!/map>.

²³ Juvenile records were confidential and juvenile courtrooms were closed to the public from the inception of Washington’s juvenile court system until 1977. Saha Shah, R., Fine, L., and Gullen, J. (2014) *Juvenile Records: A National Review of State Confidentiality, Sealing and Expungement Laws*. Juvenile Law Center. <https://jlc.org/resources/juvenile-records-national-review-state-laws-confidentiality-sealing-and-expungement>.

²⁴ Records are not available to the public in any form in 27 states and the District of Columbia. View confidentiality scores at <https://juvenilerecords.jlc.org/juvenilerecords#!/category/confidentiality/confidentiality-availability/1> and scoring methodology at <https://juvenilerecords.jlc.org/juvenilerecords#!/static/scoring-methodology/confidentiality-availability>.

²⁵ Ore. Rev. Stat. § 419A.255 and 419A.257

- In California, juvenile court records and law enforcement records are only available to courts, prosecutors, the respondent and their parent/guardian, attorneys, relevant school personnel, relevant social service agencies, probation services, the Department of Justice for purposes related to sex offender registration, and law enforcement in certain circumstances. Juvenile court hearings are closed to the public.²⁶
- In Wyoming, juvenile court records and law enforcement records are confidential with exceptions for victims of felonies, law enforcement, court personnel, prosecutors, school administrators, probation, social service agencies; or if authorized by the youth or their parent or with a court order finding that the making the record public is in the interest of public safety. Juvenile Court hearings are closed to the public.²⁷

²⁶ Cal. Welf. & Inst. Code § 827.12 (court records); § 828 (law enforcement records)

²⁷ Wyo. Stat. § 14-6-203 (court and law enforcement records); § 14-6-224 (courtroom access)

Walking Through the Mess

By E, 13



Artist's Statement: *I just want to get it over with – not leaving footprints and help kids in the future have better protection for their reputation.*

Access to Sealed Records

All states provide some mechanism for recovering the privacy of juvenile records through sealing or expungement.²⁸ Record sealing acknowledges that a young person has been held accountable, fulfilled their court obligations, and deserves to have their record hidden so they can move forward in life as if their offense never occurred. Washington, however, grants very broad access to sealed records.

Currently, sealed juvenile records are available through the Washington State Patrol (WSP) as follows:²⁹

- To Washington State criminal justice agencies (including law enforcement agencies) for criminal justice purposes and firearms-related purposes,³⁰ and
- To non-Washington criminal justice agencies only for firearms-related purposes.³¹

The criminal justice and law enforcement entities with access to sealed juvenile record information via WSP are summarized in Appendix B.

Sealed records are also available to certain high-level users of the Judicial Access Browser System (JABS), an online court database.³²

This degree of access undermines the purpose of record sealing by allowing hundreds of entities to view and make decisions based upon an individual's sealed juvenile record. Washington is exceptionally unusual with respect to the access granted to sealed records, as illustrated by the below examples of how other states handle access to sealed or expunged juvenile records:

- In Oregon, court files are destroyed three years after the case is closed, eliminating all access.³³

²⁸ National Conference of State Legislatures. (2024). *Automatic Expungement of Juvenile Records*. National Conference of State Legislatures. <https://www.ncsl.org/civil-and-criminal-justice/automatic-expungement-of-juvenile-records#:~:text=Narrative,the%20record%20can%20be%20expunged.>

²⁹ RCW 13.50.260(8)(d) and (e)

³⁰ Approved divisions within criminal justice and law enforcement agencies access this information through a WSP-managed system called ACCESS. There are approximately 5,800 ACCESS terminals assigned to criminal justice and law enforcement agencies in Washington, though many agencies have multiple ACCESS terminals within or across divisions. ACCESS terminal assignments are summarized by type and level of government in Appendix B.

³¹ Criminal justice purposes include any official duties in connection with the administration of criminal justice or for employment with criminal justice or law enforcement agencies (including vendors, contractors, and volunteers for criminal justice or law enforcement agencies). A description of this purpose is available at https://www.wsp.wa.gov/wp-content/uploads/2023/10/05_criminal_history.pdf, 8-10. Firearms purposes are related to the processing and purchasing of firearms, concealed pistol licenses, or alien firearms licenses, or releasing firearms from evidence. RCW 13.50.260(8)(e).

³² There are approximately 160 JABS users with this level of access. These users are mostly prosecutors' offices and their contractors, but others include certain Washington State Patrol staff and court staff. (Administrative Office of the Courts, personal communication, May 2024.)

³³ Ore. Rev. Stat. § 419A.260 and 262

- In California, access to sealed records is permitted only for research purposes and without any personally identifying information. Juvenile records are automatically destroyed when the subject reaches age 38, eliminating all access.³⁴
- In Wyoming, records are automatically sealed once the case is closed with narrow exceptions. The individual may petition for expungement of all records except violent felonies at age 18. Expungement destroys all records, including identifying information for law enforcement.³⁵

Further, as described above, private background check companies that engage in the mining of court data store and disseminate juvenile records to employers, landlords, and universities even after they are sealed. Even if a young person were able to identify which private background check company released their sealed record and compel them to correct their records, it is important to note that, at that point, the damage has already been done in the form of a lost job, apartment, or admission to higher education.

³⁴ Cal. Welf. & Inst. Code § 781 (sealing) and § 826 (destruction)

³⁵ Wyo. Stat. § 14-6-241

Fix My Broken Record

By GVA, 22



Artist's Statement: After I was released in 2022, I was given the opportunity to seal my records. A month after, I went to court, spoke to the judge, and once I was told everything was approved and okay, I automatically felt a weight off me! I was able to breathe and thought I could put my past behind me... well I was wrong. After going through job searching, I came across a job opening at the Snoqualmie Casino for a cashier position. Going through the onboarding process something from my past pops back up on me that I had no idea existed. I felt like I was back at ground zero and my heart dropped when I received the news of my employment rejection. I thought I had taken care of it all back two years ago but once again I had to stand up for myself, take care of my issue, and prevail against all odds thrown at me.

History of Juvenile Records in Washington

When Washington State created juvenile courts in 1905, it was under the premise that most juvenile offenders have more in common with dependent and neglected children than with criminal adults.³⁶ Accordingly, juvenile records were confidential, and courtrooms were closed to the public.³⁷ The Juvenile Justice Act of 1977 and other legislation in the years immediately following began to erode that confidentiality, opening both juvenile courtrooms and juvenile records to the public. The same legislation created eligibility criteria and processes for record sealing and destruction.³⁸

In the 1990s – an era marked by public concern over rising violent crime and the birth of the racist “Superpredator” myth³⁹ – Washington law shifted to require the release and distribution of juvenile record information to schools,⁴⁰ broaden access to sealed records,⁴¹ and broaden the circumstances under which a sealed record may be unsealed.⁴²

In the years following, the law shifted modestly back in favor of protecting juvenile records: in 2008,⁴³ legislation created automatic destruction for certain diversion records, in 2010,⁴⁴ record sealing eligibility was expanded, and in 2014, automatic administrative record sealing for certain offenses was established with the legislature acknowledging that “When juvenile court records are publicly available, former juvenile offenders face substantial barriers to reintegration, as they are denied housing, employment, and education opportunities on the basis of these records... the interest in juvenile rehabilitation and reintegration constitutes compelling circumstances that outweigh the public interest in continued availability of juvenile court records.”⁴⁵

However, in 2015, other legislation dramatically broadened access to sealed records by requiring the Washington State Patrol (WSP) to make sealed juvenile records information to criminal justice agencies.⁴⁶ Prior to this change, WSP did not reference or distribute any sealed

³⁶ Dowell, T. (2019). *The Juvenile Offender System in Washington State*. Washington Association of Prosecuting Attorneys. <https://waprosecutors.org/wp-content/uploads/2019/09/Understanding-the-Juvenile-System-in-WA-2019-Edition-rev-08-26-2019.pdf>, 1.

³⁷ Calero, *Open Juvenile Records in Washington State*, 1.; Lieb, R., Fish, L., and Crosby, T. (1994) *A Summary of State Trends in Juvenile Justice*. Washington State Institute for Public Policy. https://www.wsipp.wa.gov/ReportFile/1172/Wsipp_A-Summary-of-State-Trends-in-Juvenile-Justice_Full-Report.pdf, ii.

³⁸ Juvenile Justice, Care, Custody, and Treatment, ESSB 2768, 46th Leg. (1979).

³⁹ The “Superpredator” myth is based on an unfounded idea that took shape during the 1990s that a generation of predominantly Black youth posed an unprecedented threat to society due to their supposed inherent criminality and lack of moral conscience.

⁴⁰ SHB 1153, 56th Leg. (1999).

⁴¹ Violence Reduction Programs, E2SHB 2319, 53rd Leg. (1994).

⁴² Community Protection Act, 2SSB 6259, 51st Leg. (1990).

⁴³ Diversion Records – Destruction, SHB 1141, 60th Leg. (2008).

⁴⁴ Juvenile Offender Records – Access, E2SSB 6561, 61st Leg. (2010).

⁴⁵ Juvenile Records, 2SHB 1651, 63rd Leg. (2014).

⁴⁶ Juvenile Justice System – Financial Obligations, E2SSB 5564, 64th Leg. (2015).

juvenile records – in fact, WSP removed sealed records from its database, moved them to physically sealed files, and recalled the data from federal databases.⁴⁷ 2019 legislation restricted access through WSP to Washington State criminal justice agencies only.⁴⁸

Little significant change has been made to improve the protection of juvenile records in recent years despite legislative attempts. Unsuccessful legislative efforts have included expanding eligibility for automatic administrative sealing,⁴⁹ disallowing WSP from providing access to sealed records and requiring it to remove sealed records from its records database,⁵⁰ allowing expungement of sealed records,⁵¹ creating civil liability for entities that disseminate sealed records,⁵² improving notice and education about record sealing,⁵³ prohibiting state agencies from considering sealed records in licensing or hiring decisions,⁵⁴ and making juvenile court records confidential.⁵⁵

⁴⁷ WSP, personal communication, February 2024.

⁴⁸ Juvenile Record Sealing – Various Provisions, SHB 2794, 66th Leg. (2020).

⁴⁹ SB 5837, 66th Leg. (2019).

⁵⁰ SB 6444, 66th Leg. (2020).; SB 5339, 67th Leg. (2021).

⁵¹ SB 5339, 67th Leg. (2021).

⁵² HB 2034, 67th Leg. (2022); SB 5644, 68th Leg. (2023).

⁵³ HB 2034, 67th Leg. (2022).

⁵⁴ Id.

⁵⁵ SB 5644, 68th Leg. (2023).

I recall the story of a young man who came before courts in the early 90's. He was able to have his record sealed in the late 90's. As a result, the sealed information was not subject to inspection by anyone, and he was truly able to have it treated as though it never occurred. He was able to purchase firearms and obtain a concealed weapons permit. He started a successful alarm business and serviced four border patrol crossings and several other law enforcement related agencies. He was truly able to put his juvenile past behind him and live a normal and successful life.

That all changed after the 2015 legislative change that made sealed juvenile records available to criminal justice agencies through Washington State Patrol (WSP); 2017 change to superior court case management systems that began feeding case data into the Judicial Access Browser System (JABS), making it widely available; and the 2019 Barr decision in which the State Supreme Court found that sealed juvenile adjudications could be considered in determining eligibility for a concealed pistol license.

The once-unavailable information became widely available. The sealed information was added back into WSP's database and became viewable through Odyssey and JABS, now available for consideration in firearm purposes, all unknown to him. He went to purchase a firearm and was denied because of his juvenile record. He was then charged with attempted unlawful purchase of a firearm. At the same time, his contract with the Border Patrol was up for renewal and his juvenile record appeared. He was unable to renew his NEXUS pass, which he relied upon for his business.

He was eventually able to successfully petition the court to renew his firearm rights. The charges against him were dropped, but he remained ineligible to renew his NEXUS pass. Even though his juvenile record was no longer viewable by the Border Patrol, the fact he had been denied a firearm remains in the system and is an automatic disqualification for Trusted Traveler Programs. There is no way to have this information removed.

Understandably, this man has lost all faith in the justice system. He held up his end of his agreement with the court, doing everything required to get the clean slate he was promised. However, a change in legislation that allowed sealed juvenile record data to be made available through Washington State Patrol left his information exposed. Though he took the available measures on his end to try and rectify this, he and his livelihood will forever be impacted.

- **Dave Reynolds, Retired Whatcom County Clerk, Juvenile Court Administrator, and Superior Court Administrator**

Juvenile Records & Desistance from Criminal Behavior

Society has a public safety interest in ensuring that youth who engage in criminal behavior mature into healthy adulthood and do not re-offend. Thus, policies that impose barriers that follow youth into their adult lives harm both youth and society.⁵⁶

Most youth who offend do not persist with criminal activity into adulthood.⁵⁷ Effective protection of juvenile records enables youth to grow successfully into early adulthood and achieve milestones like education, employment, housing, and relationships with family and community, all of which are associated with desistance from criminal behavior.⁵⁸ Research on desistance recognizes the relationship between collateral consequences associated with records and criminalization:

The expansion of broad-scope collateral consequences restricting access to education, employment, public assistance, parental rights, voting, volunteer service, and virtually every aspect of adult life assumes that people who engage in crime are irredeemably criminal. Simultaneously, the expansion of public access to criminal records ensures that “digital punishment” extends far beyond the criminal sentence... [W]e know that [criminal behavior] peaks in late adolescence and young adulthood and that most people stop offending. A society that ignores this reality blocks the formation of new identities. If the problem for an individual is to achieve a new positive identity, the problem for society is to recognize and support these new identities. Policies that continue to center a criminal act years after that act was committed directly contradict everything we know about desistance.⁵⁹

⁵⁶ National Research Council. (2013). *Reforming Juvenile Justice: A Developmental Approach*. The National Academies Press. <https://doi.org/10.17226/14685>, 148.

⁵⁷ Mulvey, E. P. (2011). *Highlights from Pathways to Desistance: A longitudinal study of serious adolescent offenders*. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. <https://www.ojp.gov/ncjrs/virtual-library/abstracts/highlights-pathways-desistance-longitudinal-study-serious>

⁵⁸ “Adolescent-limited juvenile offending does not reflect on a youth’s character or disposition. Moreover, a criminal record may impede the development of prosocial peer and intimate relationships in adulthood (Laub and Sampson, 2001). Except in extraordinary circumstances involving a compelling need to protect public safety, official records of a juvenile’s encounters with the justice system should be strictly confidential so as to fully preserve the youth’s opportunities for successful integration into adult life.” (National Research Council. (2013). 148). See also Bushway, S. & Uggen, C. (2021). *A better path forward for criminal justice: Fostering desistance*. Brookings Institute. <https://brookings.edu/articles/a-better-path-forward-for-criminal-justice-fostering-desistance/>)

⁵⁹ Bushway & Uggen. (2021).

As discussed earlier in this report, failure to protect the confidentiality of juvenile records is what enables the “digital punishment” referenced above. Making juvenile records public at any point allows them to be mined, saved, and sold by private background check companies without regard for their sealing status. Most employers rely on these private background check companies when considering prospective employees.⁶⁰ The impact of poorly protected juvenile records also extends into the sphere of higher education: A majority of colleges run criminal background checks,⁶¹ and twenty percent have policies explicitly denying admission based on the severity of a juvenile record.⁶² Juvenile Law Center describes why the trajectories of youths’ lives are uniquely sensitive to the collateral consequences of a juvenile record:

For years, I worked with a young adult who had been trying to access employment that he really wanted and was otherwise eligible for. Information related to his sealed juvenile records was improperly released by the State. The State worked to protect the sealed information in its care and recall information that it had sent out about sealed juvenile records; however, even with the State’s support, this young adult remained stuck and unable to access the employment. We learned that recalling data does not automatically undo adverse findings that a prospective employers might have made. In expressing his frustration about continued barriers to employment, he stated that **it felt like his life was like a line of dominoes and all the dominoes could fall in place, but nothing can fall into place because the first domino is stuck in concrete.**

- **Xaxira Ponce de Leon, Staff Attorney, Columbia Legal Services**

Recent efforts in both the public and private sectors such as Fair-Chance Hiring and Ban-the-Box policies are important steps toward increasing opportunities for adults with a criminal background. However, for youth the stakes are even higher. They have yet to build their skills and resumes to demonstrate their qualifications for employment. Their

⁶⁰ Lageson, S., & Uggen, C. (2013). How work affects crime—And crime affects work—Over the life course. In C. L. Gibson & M. D. Krohn (Eds.), *Handbook of life-course criminology: Emerging trends and directions for future research* (pp. 201–212). Springer Science + Business Media. https://doi.org/10.1007/978-1-4614-5113-6_12, 207

⁶¹ Weissman, M., Rosenthal, A., Warth, P., Wolf, E., & Messina-Yauchzy, M. (2010). *Use of Criminal History Records in College Admissions: Reconsidered*. Center for Community Alternatives. <https://communityalternatives.org/wp-content/uploads/2020/02/use-of-criminal-history-records-reconsidered.pdf>, i.

⁶² Peterkin, C. (2012). *Colleges Grapple With Applicants’ Criminal Data, Including Juvenile Records*. The Chronicle of Higher Education. <https://www.chronicle.com/article/colleges-grapple-with-applicants-criminal-data-including-juvenile-records/>

records have the potential to disqualify them from opportunities before they have even crossed the starting line.⁶³

Input from lived experts reflects these points. Youth who have juvenile court records express worry about finding jobs as adults that allow them to pay the restitution they owe (a requirement for record sealing) when they know their juvenile record will show up on employment background checks. Other young people expressed frustration, asking how many times they are expected to be rejected from legal employment or housing because of their record before resorting to alternatives that could drive them into deeper system entanglement.⁶⁴

⁶³ Saha Shah, R. & Strout, J. *Future Interrupted: The Collateral Damage Caused by Proliferation of Juvenile Records*, 2

⁶⁴ Based on conversations with youth and young adults who have juvenile records and advised on this project, March-April 2024.

Say No to My Record

By JA, 14



Artist's Statement: My opinion is people shouldn't have access to my record because it could stop not only me but other people from getting a good job or any job.

RECOMMENDATIONS

The following sections offer recommendations for the handling of juvenile records: protection, treatment of sealed records, communication of sealing orders, access to record sealing, and notice.

Protection of Juvenile Records

This set of recommendations seeks to improve protection of juvenile records both prior to and after sealing. As illustrated above, the current public access to juvenile records prior to sealing is too broad and does permanent damage that cannot be addressed by record sealing. Current access to sealed juvenile records is also inappropriately and unusually broad and is incompatible with the purpose of record sealing.

Recommendation: Juvenile court records should be confidential.

Protecting the confidentiality of juvenile records is a well-established best practice in juvenile record protection.⁶⁵ Washington is one of only nine states that make juvenile records available to the public and one of only six states that make them available online.⁶⁶ This has not always been the case: Prior to the late 1970s, juvenile records and courtrooms were both closed to the public.⁶⁷

In this modern age marked by the rapid expansion of data collection, storage, and sharing, a juvenile court record that is public at any point should be expected to exist indefinitely on private databases regardless of whether it is sealed by a court. Often, an individual only learns that their sealed juvenile court record was kept and shared by a private company after they have already been denied a crucial opportunity for housing, employment, or education. This reality undermines the purpose of record sealing and illustrates why we will not achieve

⁶⁵Weber, *Reducing State-Imposed Barriers to School and Work for People with Juvenile Records*, 13.; Saha Shah & Strout, *Future Interrupted*; National Juvenile Justice Network. (2016.) *Safeguarding the Confidentiality of Youth in the Justice System: Recommendations and Resources*. <https://www.njjn.org/our-work/confidentiality-of-youth-in-justice-system-safeguards>; Models for Change. (2014). *Because Kids are Different: Five Opportunities for Reforming the Juvenile Justice System*.

[https://www.modelsforchange.net/publications/718/Because Kids are Different Five Opportunities for Reforming the Juvenile Justice System.pdf](https://www.modelsforchange.net/publications/718/Because%20Kids%20are%20Different%20Five%20Opportunities%20for%20Reforming%20the%20Juvenile%20Justice%20System.pdf), 12; Calero, *Open Juvenile Records in Washington State*, 44.; Race and the Criminal Justice System, Task Force 2.0. (2021). *Report and Recommendations to Address Race in Washington's Juvenile Legal System: 2021 Report to the Washington Supreme Court*. Fred T. Korematsu Center for Law and Equality.

https://digitalcommons.law.seattleu.edu/korematsu_center/118?utm_source=digitalcommons.law.seattleu.edu%2Fkorematsu_center%2F118&utm_medium=PDF&utm_campaign=PDFCoverPages, 52

⁶⁶ Records are not available to the public in any form in 27 states and the District of Columbia. View confidentiality scores at <https://juvenilerecords.jlc.org/juvenilerecords/#!/category/confidentiality/confidentiality-availability/1> and scoring methodology at <https://juvenilerecords.jlc.org/juvenilerecords/#!/static/scoring-methodology/confidentiality-availability>.

⁶⁷ As described in the History of Juvenile Records in Washington Section of this report, juvenile records were confidential and juvenile courtrooms were closed to the public from the inception of Washington's juvenile court system until 1977.

meaningful record sealing without protecting the confidentiality of juvenile court records. For this reason, juvenile court records should be confidential and nonpublic at all times and should never be available on public online court databases or criminal history databases.

Confidentiality of records would remove access from the general public. Certain narrow and appropriate exceptions to confidentiality are present in all states, including Washington. Victim advocates – especially those who work with survivors of sexual assault – have highlighted the importance of maintaining access to certain juvenile record information. The ability to access and disclose criminal no-contact orders and to obtain civil protection orders are priorities for these victims, who are almost always children or youth themselves.⁶⁸ Juvenile Law Center offers guidance on this matter and other appropriate exceptions to confidentiality:

Allowances for specific and need-based law enforcement and court-personnel access is common, as is the fairly narrow access that should be afforded to the individual child as well as the victim and victim’s family. Any allowances for access by or sharing with school personnel should be narrowly tailored and only in limited circumstances when necessary to further the educational needs of the child or for public safety. Broader access, including by media and the public, should require a court order and be limited to situations where such access is necessary for public safety.⁶⁹

Specific and need-based exceptions to confidentiality should be supported.⁷⁰

Confidentiality of juvenile court records should not close courtrooms to the public and should not interfere with an individual’s existing ability to inspect their own juvenile court record under RCW 13.50.260(7).

Article 1, Section 10 of the Washington State Constitution provides that “Justice in all cases shall be administered openly, and without unnecessary delay.”⁷¹ Juvenile Law Center finds that confidentiality is compatible with this constitutional provision:

The Washington Supreme Court has already weighed in on this issue and come down definitively on the side of the constitution’s support for the confidential protection of juvenile records. In *State v. S.J.C.*, the Supreme Court addressed a challenge to current juvenile records sealing laws pursuant to Article 1, Section 10. In rejecting the challenge,

⁶⁸ 95% of victims of sexual assaults committed by juveniles are juveniles themselves. McCurley, C. & Snyder, H. (2004). *Victims of Violent Juvenile Crime*. U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention. <https://www.ojp.gov/pdffiles1/ojjdp/201628.pdf>, 1

⁶⁹ Keats, A. (2024). *A review of juvenile records laws in Washington State*. Juvenile Law Center. <https://www.dcyf.wa.gov/sites/default/files/pdf/ojj-WAStateRecordsReport.pdf>, 12

⁷⁰ Relevant statutes: RCW 13.50.050(7) governs release of information to schools; RCW 13.50.050(9) allows access to identifying information for the victim and their family; RCW 13.50.050(12) allows identifying to may be used by victims or their families in civil proceedings; RCW 13.50.050(4) governs distribution to juvenile justice or care agencies; and RCW 13.50.260(7) dictates that sealed or confidential records may be inspected by the person who is the subject of the records.

⁷¹ Washington State Constitution, art. I, § 10.

the Supreme Court recounted the history of the juvenile legal system and the state’s long commitment to confidentiality for juvenile records, recognizing that the juvenile legal system was not subject to Article 1, Section 10 protection because its rehabilitative purpose distinguished it from the adult criminal legal system. *S.J.C.*, 352 P.3d at 756 (Wash. 2015) (“We have repeatedly cited the juvenile court as an example of a situation in which the constitutional presumption of openness does not apply.”) ... The law in Washington is clear: there is no legal right of public access to juvenile court proceedings or records.⁷²

⁷² Keats, *A review of juvenile records laws in Washington State*, 15.

Peace

By Mariah, 17



Artist's Statement: *What my mind looks like after fully grieving the loss of my reputation because I was charged for an emotional thing that didn't cause harm.*

Recommendation: Access to sealed juvenile records through Washington State Patrol should be narrowed.

As discussed earlier in this report, juvenile records become eligible for sealing once they meet certain criteria that take into consideration the seriousness of the offense, completion of the disposition (including confinement, probation, and parole), time in the community without new offenses, status of any sex offender registration requirements, and completion of other court-ordered obligations such as payment of restitution owed to individual victims.⁷³ Record sealing is the tool used in Washington State to acknowledge that a young person has been held accountable, rehabilitated, and should be able to move forward in life as if their offense never occurred.

However, sealed juvenile court records are currently available to hundreds of local, state, and federal law enforcement and criminal justice agencies through systems maintained by the Washington State Patrol (WSP).⁷⁴ This access allows those entities to view and consider sealed juvenile records during law enforcement interactions and investigations, in decisions related to employment with the agency, for border crossing and immigration, during military enlistment, or if engaged in the administration of criminal justice in any way.

This degree of access to sealed records undermines the purpose of record sealing and is exceptionally unusual. As discussed above, all states have mechanisms for record sealing or expungement, often removing all access to the sealed or expunged records permanently and without any exception for any agency.⁷⁵ Granting this level of access to sealed records is both unusual from a nationwide perspective and a relatively new practice in our state: Prior to 2015, sealed juvenile records held by WSP were stored in physically sealed files and could not be accessed by WSP or any criminal justice agency until or unless unsealed.⁷⁶

⁷³ RCW 13.50.260 dictates eligibility requirements for record sealing.

⁷⁴ See Appendix B for a summary of the criminal justice and law enforcement agencies with access to sealed records via Washington State Patrol.

⁷⁵ National Conference of State Legislatures, *Automatic Expungement of Juvenile Records*.

⁷⁶ As discussed in the History of Juvenile Records in Washington section of this report, prior to a 2015 legislative change (HB 5564), sealed records were removed from WSP's database, moved to physically sealed files, and recalled from federal databases. Neither WSP nor any other criminal justice agency could reference or distribute any sealed juvenile record.

Access to sealed juvenile court records through WSP should be narrowed as follows:

	Current	Proposed
Washington Agencies	Washington criminal justice agencies may access sealed records for criminal justice purposes <u>or</u> firearms-related purposes.	Law enforcement agencies (a subset of criminal justice agencies) may access sealed records for firearms-related purposes only.
Non-Washington Agencies	Non-Washington criminal justice agencies may access sealed records for firearms-related purposes only.	No change.

Concerns about narrowing access to sealed records may focus on public safety and the ability to access an individual’s sealed history during an investigation or interaction with law enforcement. In weighing these concerns, we should recall that a young person who achieved eligibility for record sealing has necessarily already demonstrated their accountability and rehabilitation – their record would not be eligible for sealing if they had not, and the sealing would be nullified by a new offense.⁷⁷ Such a young person should not be viewed as a perpetual offender, especially in pivotal encounters like interactions with law enforcement.

This change would meaningfully narrow access to sealed records and bring in-state access into alignment with out-of-state access. It would also preserve Washington’s narrow intent to share sealed juvenile records information for federal firearms background checks regulated under the Bipartisan Safer Communities Act (BSCA).⁷⁸

It is worth acknowledging that this recommendation is in partial conflict with principles of record sealing in that it still allows the release of sealed records information for firearms purposes, which will inherently restrict certain employment opportunities and foreclose certain economic opportunities for individuals who have achieved record sealing. Future considerations for responses to the BSCA and restoration of firearms rights for juveniles are discussed later in this report.

Withheld Support: Washington State Patrol withholds support for this recommendation and offers the following concerns:

The proposal to narrow access to sealed juvenile records to WSP and other law enforcement agencies for firearms-related purposes could lead to increased

⁷⁷ Juvenile adjudications, adult convictions, and adult felony charges have the effect of nullifying sealing orders under RCW 13.50.260(8)(a) and (b).

⁷⁸ Sealed Juvenile Records – Use for Firearm Background Checks, ESHB 1600, 68th Leg. (2023); Bipartisan Safer Communities Act, Public Law No. 117-159, 117th US Cong. (2020).

inaccuracies in law enforcement assessments. For instance, a juvenile offender's record is sealed after confinement and the mandatory time period. If the same subject is identified as a possible suspect in a future sex offense as an adult, the sealed record may not be found, leading to premature discounting of the subject. This concern is further exacerbated if the suspected crime occurs in another state or multiple states, and sealed records are not available to law enforcement.

Another concern would be inaccurate risk assessments when law enforcement faces a situation where the subject requires law enforcement intervention. For instance, a juvenile is convicted of assaulting an officer with a weapon, and their record is sealed after confinement and the mandatory period. The subject is identified as a suspect in a new assault, and law enforcement determines they present a low risk because there is no other violent history. Law enforcement plans contact based on their incomplete assessment, and the subject, civilian, or an officer is injured during contact. Restricted access to this sealed record would likely be identified as a proximate cause of the failed arrest plan. When time allows, law enforcement is expected to utilize all available resources to minimize risk to the public, suspects, and officers. It is not prudent to limit access to history, which might predict future behavior.

Recommendation: Access to sealed juvenile court records through the Judicial Information System (JIS) and Judicial Access Browser System (JABS) should be narrowed.

Currently, approximately 160 JABS users have access to view high-level details of sealed juvenile court records in JABS. Those users are mostly prosecutors' offices and private firms contracted with prosecutors' offices. Other users with this level of access include certain staff in the Washington State Patrol (WSP) Criminal History Support Unit and certain court staff.

Access to sealed juvenile court records should be narrowed to only:

- Prosecutors, who are responsible for sealing nullifications and need to be aware of the existence of a sealed record in order to have the sealing order nullified under RCW 13.50.260(8)(a) and (b), and
- The WSP Criminal History Support Unit for updating and ensuring the accuracy of information in databases WSP is responsible for maintaining.

I have heard multiple reports from impacted youth, their family, and impacted adults with sealed records struggling to understand why their protected juvenile records are causing barriers in their lives. For some, the barriers came soon after administrative sealing. For others, the barriers started decades after their records were sealed. Despite the difference in when their records were sealed, their quest for clarity from state employees who they believed could shed some light on why their sealed records were impacting them often ended quickly with the same narrative: open courts and open records are the likely reason these sealed records are showing up. They left disillusioned, disempowered, and frustrated. A parent of a young adult reported how challenging it felt to get some clarity on why her child's records were preventing them from securing employment in adulthood and deeply worried about youth without engaged parents. Through multiple investigations, my organization often discovered that the release of sealed juvenile records was the direct result of a lack of care at the state level and not the fact that those records were open before they were sealed. Change and accountability is needed – once these records are released, the opportunity a rehabilitated youth seeks is at risk and often lost. My experience advocating in this space shows that it is an uphill, time extensive, climb to find the source of the data leak and recall released sealed records. Even with time, effort, and partnership, recalling does not always undo the harm that occurred and the private employment opportunity remains out of reach.

- **Xaxira Ponce de Leon, Staff Attorney, Columbia Legal Services**

This change would represent a modest narrowing to clarify that sealed records in JABS should be exclusively accessible to prosecutors' offices to manage sealing nullifications and by the WSP Criminal History Support Unit to maintain the accuracy of WSP data. This change would only modify access to sealed records in JABS and would not interfere with other JABS users' access to non-sealed records. JABS should not be used by any entity to access sealed juvenile court records for background checks or investigation purposes.

Recommendation: A mechanism should be established for holding accountable entities that knowingly share or use juvenile court records unlawfully.

Young people and impacted community consistently express a desire for accountability for entities that improperly share and/or use juvenile court records

that they know to be confidential or sealed. The ability to enforce compliance with laws protecting juvenile records is important for effective implementation and is considered a core principle for record protection.⁷⁹

⁷⁹ Juvenile Law Center. (2020). *Failed Policies: Forfeited Futures: Revisiting a Nationwide Scorecard on Juvenile Records*. Juvenile Law Center. <https://juvenilerecords.jlc.org/juvenilerecords/documents/publications/executive-summary-2020.pdf>, 5

Most states provide some sanction or accountability mechanism for improper handling of juvenile records.⁸⁰ The following approaches may offer useful examples for the legislature to consider:

- In Oregon, a person whose record is subject to expungement has a right of action against any person who intentionally violates confidentiality provisions and may seek punitive damages up to \$1,000 in addition to actual damages and is entitled to costs and reasonable attorney fees.⁸¹
- In California, intentional violation of confidentiality is a misdemeanor punishable by up to a \$500 fine.⁸²
- In Colorado, any agency, person, company, or organization who knows a record was expunged and violates laws governing expungement may be held in contempt of court and may be punished by a fine.⁸³
- In Wyoming, a person who willfully violates the Juvenile Justice Act, which includes confidentiality provisions, may be held in contempt of court and subject to a fine of up to \$500 and/or imprisonment for up to 90 days.⁸⁴

In 2023, the Washington State Legislature considered Senate Bill 5644, which would have created a private right of action against any entity that disseminates sealed juvenile records with a penalty of \$100 per day that the record is illegally shared or actual damages, as well as other appropriate relief including attorneys' fees for the prevailing party. This bill excluded county clerks and government employees from personal liability.⁸⁵

Government entities should be responsible for having policies and procedures in place to ensure compliance with juvenile records protection laws. Any accountability mechanism should exclude individual county clerks and government employees from personal liability

⁸⁰ Thirty-four states and the District of Columbia provide sanctions or accountability mechanisms for the improper handling of juvenile records. View Juvenile Law Center's evaluation of each state at <https://juvenilerecords.jlc.org/juvenilerecords/#!/category/confidentiality/confidentiality-sanctions>.

⁸¹ Ore. Rev. Stat. § 419A.269

⁸² Cal. Welf. & Inst. Code § 827.9

⁸³ Colo. Rev. Stat. § 19-1-306

⁸⁴ Wyo. Rev. Stat. § 14-6-242

⁸⁵ SB 5644, 68th Leg. (2023).

TeamChild joined the effort many years ago to work towards sealing juvenile records because we have seen up close the real harm that young people experience as they navigate towards adulthood after having juvenile legal system involvement. When Washington created a unique Juvenile Justice Act, one of the key components was to provide for the rehabilitation and reintegration of juvenile offenders. The ability to reintegrate is deeply connected to the ability to seal their records and move forward without the stigma and tentacles of the legal system holding onto them for the rest of their lives. Our country and our community hold deep bias against anyone who has had a legal system contact. Washington has worked very hard to accomplish the goals of record sealing, but the internet age we live in and the data dissemination tools that are easily available mean we have more to do.

TeamChild clients have had experiences with their already-sealed records continuing to be revealed in ways they did not expect. State licensing agencies, medical providers, landlords, and employers have all found our clients' juvenile legal system history, even after the client took the appropriate steps to seal their record. TeamChild hears from former clients and other youth who face barriers due to juvenile legal system records impacting their housing, education, and employment at least a dozen times a year. I'm sure there are many other youth who face barriers who are not aware that TeamChild could be a resource for them to navigate the options for resolving their concerns. TeamChild has prioritized the ongoing work of helping youth with post-conviction relief and advocating for stronger policies that will allow young people to fully engage in rehabilitative opportunities through the legal system knowing that they can emerge from those interventions without carrying that history into their adulthood.

- **Karen Pillar, Interim Executive Director, TeamChild**

Treatment of Sealed Records

This section provides recommendations to clarify how sealed records should be treated.

Recommendation: Legislation should clarify that sealed juvenile court records should be considered vacated and expunged with limited exceptions.

Sealed juvenile court records should be considered vacated and expunged for all purposes except for firearms-related purposes. Any use, acknowledgment, or consideration of a sealed juvenile record outside of firearms-related purposes should be prohibited.

In addition to providing guidance to in-state agencies, this clarification would provide meaningful direction to federal entities, including immigration officials and military recruiters, about the meaning and intended purpose of record sealing in Washington.

Recommendation: Legislation should clarify that a court order sealing a juvenile record relieves the subject of any administrative requirements imposed by the Department of Licensing and seals any withdrawals and sanctions associated with the sealed juvenile court record.

The Department of Licensing (DOL) is responsible for enforcing administrative requirements, withdrawal of driving privileges, and other sanctions accompanying traffic infractions or motor vehicle adjudications. DOL also maintains driving records that contain a history of these requirements, withdrawals, and sanctions. Upon receipt of a sealing order, the Department of Licensing (DOL) hides the sealed juvenile adjudication from the individual's driving record. However, a juvenile record may become eligible for sealing while restrictions on the driving privilege are still active.

While record sealing laws require the individual to fulfill one set of obligations to be eligible for record sealing, a separate set of requirements exist that restrict the driving privilege until other conditions are met.⁸⁶ Currently, absent clarification, DOL interprets the laws governing these requirements to supersede the provision of the record sealing law that mandates treating the underlying proceedings as if they never occurred.

This approach to balancing conflicting policy objectives means that an individual may still be impacted by barriers to legal driving even after having their record sealed. This outcome is at odds with the purpose of record sealing: to enable young people to participate fully in society as if the associated juvenile court proceedings never occurred.⁸⁷

Administrative sanctions on the driving privilege bar or add costly barriers to legal driving, limiting the ability of a young person whose record was sealed to find and maintain employment and participate in day-to-day life without risking deeper system entrenchment. Additionally, while they are active, these actions appear on the individual's driving record,

⁸⁶ For example, RCW 46.20.311 establishes durations of license sanctions.

⁸⁷ RCW 13.50.260(6)(a).

which is available to law enforcement, courts, and other entities, including insurance companies and employers, where driving is a condition of employment.⁸⁸

Many offenses for which a person under the age of 18 may be subject to administrative requirements enforced by DOL are addressed by courts of limited jurisdiction or are declined to adult criminal court jurisdiction, making them ineligible for sealing and, therefore, unimpacted by this proposed change. Examples of such offenses are below:

- Traffic infractions committed at age 16 or 17 are addressed in courts of limited jurisdiction under RCW 13.04.030(1)(e)(iii).
- Generally, Driving Under the Influence committed at age 16 or 17 is addressed in courts of limited jurisdiction under RCW 13.04.030(1)(e)(iii).
- At age 16 or 17 and depending on prior offenses, Vehicular Assault or Vehicular Homicide where the respondent was under the influence or operating the vehicle in a reckless manner is automatically declined to adult criminal court under RCW 13.04.030(1)(e)(v)(B).
- At age 16 or 17 and depending on prior offenses, Drive-By Shooting is automatically declined to adult criminal court under RCW 13.04.030(1)(e)(v)(B).

Other relevant offenses that are addressed by juvenile courts require strict criteria to be met before becoming eligible for record sealing. For example:

- An individual adjudicated of Vehicular Assault by a juvenile court would be required to complete their disposition (including possible confinement), spend two consecutive years in the community without any new offenses, and have paid the full amount of restitution owed to individual victim(s) before being eligible for record sealing by motion under RCW 13.50.260(4).

Research by DOL could shed light on the characteristics of drivers whose juvenile records are sealed while they still have an associated administrative requirement active and could examine potential traffic safety considerations associated with relieving those requirements in response to record sealing.

Comments from the Department of Licensing: The Department agrees that resolving the conflict between record sealing and driver restriction laws is of utmost importance. Depending on draft bill language, however, the Department may raise concerns about traffic safety. Similar to how record sealing laws require the individual to fulfill sanctions, probation, and restitution requirements, there is a policy basis for restricting the driving privilege until certain conditions are met. During a time when traffic fatalities are on the rise, the Department may call attention to the consequences of broadly waiving those conditions.

⁸⁸ Washington State Department of Licensing. *Guide to Driving Records*. <https://dol.wa.gov/driver-licenses-and-permits/driving-records/guide-driving-records>

Digital Footprint

By Lina, 18



Artist's Statement:

*Digital footprint,
trailing behind you everywhere you go,
Holding you,
trapping you to your past.
Each step you take,
You fear when you look back
Everyone else can see the muddy footprint
That only
Should be visible to you.
You wish you could turn around and
wipe it all away.*

Communication of Sealing Orders

This section provides recommendations for improving the communication of sealing orders between agencies. As discussed earlier in this report, juvenile records are distributed to and stored by several state agencies. It is critical that notice of those records being sealed is also communicated to the relevant agencies so that they can update their systems and treat the sealed records appropriately.

Recommendation: Legislation should require courts to immediately forward to the Department of Licensing a copy of the sealing order in any case for which the disposition was previously provided to the Department of Licensing.

Upon receipt of a sealing order, the Department of Licensing (DOL) hides the sealed juvenile adjudication from the individual's driving record. However, DOL experiences significant inconsistency in receiving sealing orders from courts. To navigate around this inconsistency, DOL has arranged with the Administrative Office of the Courts (AOC) to receive weekly data reports on all juvenile record sealings from AOC. However, the AOC data does not include sealing orders themselves, which provide a greater level of detail that supports DOL in clearly understanding the court's direction. Thus, direct and consistent communication of sealing orders from courts to DOL is crucial to DOL's ability to protect the confidentiality of sealed juvenile court records.

Courts should issue sealing orders to DOL through DOL's Driver Information and Adjudication System (DIAS) system.⁸⁹ DOL fully supports this proposal and affirms that this is the best approach for DOL to obtain all information necessary to carry out sealing orders.

Recommendation: The Administrative Office of the Courts should include sealings in daily data transfers to Washington State Patrol, and Washington State Patrol should promptly update its records accordingly.

Currently, Washington State Patrol (WSP) relies on receiving individual sealing orders from courts to be made aware that a record has been sealed. This method is vulnerable to delay or failure by courts to send sealing orders and requires time and effort on behalf WSP to verify the legitimacy of the orders.

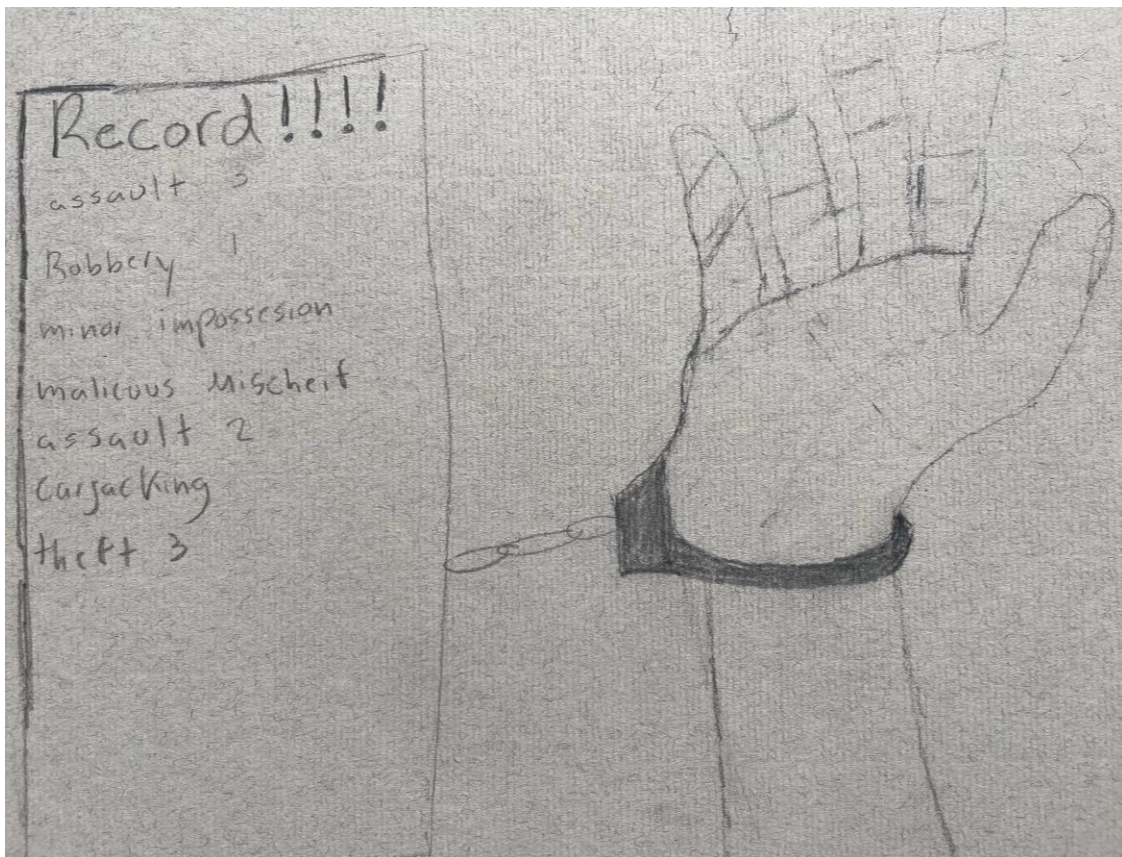
Automating the communication of sealings by including this information in the existing daily data transfers between the Administrative Office of the Courts (AOC) and WSP would reduce delay, risk, and error at this critical juncture for the protection of sealed juvenile court records.

⁸⁹ The Driver Information and Adjudication System (DIAS) system is already used for other court-related submissions to DOL including convictions and adjudications.

WSP and AOC are currently in the process of implementing automatic communication of sealing orders that will be sent in daily data transfers. There is currently no anticipated date for full implementation.⁹⁰

Don't Hold Me Back

By X, 18



Artist's Statement: *A fresh start looks like change, and feels like freedom.*

⁹⁰ WSP, personal communication, June 2024.

I first went to juvie when I was 11 years old. At the time, my adoptive parents were in the process of relinquishing their parental rights, so I was completely alone and without anyone on my side. It was hard to process and understand what was going on being in the system so young and without an advocate. I was overwhelmed and didn't have anyone else giving me advice, so when my lawyer encouraged me to plead guilty, I did. Juvie was scary but I was in such an unsafe situation at home that juvie felt like a safer place to be.

I started looking for jobs when I was 16, but no one would hire me. I couldn't even get a call back. I didn't know at the time, but now I suspect that it was because of my record. I finally got a job at 19 at the same place where my dad worked, and I don't think I would've gotten that job otherwise.

The judge told me that everything that happened before I was 18 would be expunged when I turned 18. I expected that to happen, but when I was 22 and tried to apply for a job as a caregiver, the employer told me they found my record. Before they would hire me, I had to explain what happened and why it was on my record, which was very retraumatizing. I applied for another caregiving job several months later, told them about my record and that I hoped it wouldn't impact me because it was from when I was young, and said that I was willing to explain it if they needed me to. They didn't call me back but eventually told me by email that they couldn't hire me because of my background check.

Finding out that my record showed up after I thought it was sealed was like a punch in the face. I have goals for myself like going to college, but now I worry that I can't do what I want to do... that this will be on my background forever and that I will be denied as a person forever. People don't care about us enough to assume that when we are 18, we would like to have a job and success, too.

I later found out that my record was eligible for sealing but wasn't actually sealed yet – I had to ask a judge to seal it. I got help from a lawyer and now my record is sealed. In the future, I hope to go to college for forensic science. I feel a need to help other people find justice because I have had so much injustice in my own life.

My hope for other youth in the future is that they never have to go through something like this alone – that there is always an advocate or someone there for them to explain what is going on so they are not confused, worried, and scared like I was.

- **M.J., System-Impacted Lived Expert**

Access to Record Sealing

This section focuses on recommendations that would reduce burden and barrier on the individual with a juvenile record in order to improve access to record sealing for eligible individuals. These recommendations would not change current record sealing eligibility.

Recommendation: All records that are eligible for mandatory sealing should be administratively sealed once the existing sealing eligibility criteria are met.

Most juvenile offenses are eligible for automatic administrative record sealing once certain eligibility criteria are met. This process does not require any action on the part of the individual.⁹¹ For nearly all other offenses, the burden is on the individual to first review their own juvenile history, determine if they meet sealing requirements, take on the complex multi-step legal process of filing a motion to seal their record, and then complete follow-up steps to distribute copies of the sealing order to multiple agencies.⁹² Further complicating this already unapproachable process is that different counties have different practices for handling the record sealing process.⁹³ The court is required to grant any such motion to seal if the criteria are met.⁹⁴

Before 2014 legislation created a process for administratively sealing some records,⁹⁵ an analysis of over 200,000 juvenile records found that only 7.5% of eligible records were being sealed and that youth of color were far less likely to have their eligible records sealed than their white counterparts:

By revealing statistically significant findings on several key indicators of race and sealing take-up, the analysis strongly suggests that youth of color – especially Native Americans, Latinos, and Blacks – may experience further barriers in accessing just and fair juvenile justice outcomes. Records sealing, hence, may not serve to mitigate well-established patterns of racial disparity in experiencing collateral consequences, and instead, may actually serve to intensify disproportionate patterns.⁹⁶

Administrative sealing should be applied to all records eligible for mandatory sealing once the existing eligibility criteria are met. At the disposition hearing for all offenses that are eligible for

⁹¹ RCW 13.50.260(1).

⁹² Steps include gathering juvenile history; determining eligibility; collecting court forms; filling out the notice, motion, order, and certificate of service; scheduling a hearing; filing court documents; delivering the motion and notice to certain agencies; completing the certificate of service; attending the hearing; obtaining certified copies of court orders; and mailing certified copies of court orders to relevant agencies. (TeamChild. (2018). *Sealing Juvenile Court Records in Washington State*.)

⁹³ In some counties, court staff or the prosecutor's office will help individuals determine their eligibility, help complete forms, or complete the forms for the individual, sometimes for a fee. Some counties contract with organizations or individual attorneys who assist with record sealing pro bono or for a fee. Required forms and fees vary by county. (TeamChild. *Sealing Juvenile Court Records in Washington State*.)

⁹⁴ RCW 13.50.260(4).

⁹⁵ HB 1651, 63rd Leg. (2014).

⁹⁶ Calero, *Open Juvenile Records in Washington State*, 37.

mandatory sealing under RCW 13.50.260(4), the court should schedule an administrative sealing hearing for when the records are anticipated to become eligible for sealing:

- For class A offenses, the administrative sealing hearing should be scheduled for five years after the anticipated last day of confinement or entry of disposition.
- For class B, class C, gross misdemeanor, and misdemeanor offenses and diversions under RCW 13.50.260(3), the administrative sealing hearing should be scheduled for two years after the anticipated last day of confinement, entry of disposition, or completion of diversion agreement.

Rape in the first degree, rape in the second degree, and indecent liberties with forcible compulsion offenses would continue to be excluded from mandatory sealing eligibility under this change.

At the administrative sealing hearing for the offenses that would become eligible for administrative sealing under this change, the court should enter a written order sealing the respondent's juvenile court record if the respondent meets the eligibility criteria under RCW 13.50.260(4).

Automatic sealing or expungement is a best practice for record protection and is present to some degree in 24 states.⁹⁷ By removing the burden on the individual to track their own eligibility and independently file a motion for sealing, this change would offer a significant improvement to equitable access to record sealing without making any changes to the current criteria for record sealing.

Recommendation: An individual who is not eligible for administrative sealing because of outstanding restitution owed to an individual should have access to assigned counsel.

Outstanding restitution debt being the sole disqualifying factor from record sealing eligibility is a significant concern for racial and economic equity. Assigned counsel in these circumstances would be able to make a motion to modify the restitution order under RCW 13.40.190(5).

⁹⁷ Weber, *Reducing State-Imposed Barriers to School and Work for People with Juvenile Records*, 14.; Juvenile Law Center. *Failed Policies: Forfeited Futures*, 5; National Conference of State Legislatures, *Automatic Expungement of Juvenile Records*.

Notice

Advocates and lived experts who provided guidance on this project consistently called attention to how difficult it is to understand the impact of juvenile records and navigate the sealing process. Many individuals expressed the following:

- A misconception that juvenile records are hidden from the public;
- A misconception that all records are automatically sealed at age 18;
- Confusion about if/when they would be eligible for record sealing, whether their record was already sealed, how to find out if their record was sealed, and how to seal their record;
- Confusion about how to talk about their juvenile record or whether they need to disclose it;
- A lack of awareness that sealed records could be unsealed.

This section offers recommendations to improve how information about juvenile records and record sealing is communicated to young people.

Recommendation: At a juvenile disposition hearing, the court should provide notice to the individual about their record and eligibility for record sealing.

The notice should explain:

- Who has access to the record before sealing,
- The significance and value of sealing,
- When the individual will be eligible for sealing,
- The requirements they must meet to be eligible for sealing,
- What action (if any) they will need to take when they become eligible, and
- How to check their eligibility and sealing status in the future.

This notice should be presented in a manner that is developmentally appropriate and takes into consideration the fact that the young person may be experiencing significant trauma and instability in their life at the time of the disposition hearing. Responsive approaches may include delivering the notice in plain language both in writing and orally by a judge.

The court should also have the ability to re-issue this notice to the subject of the record at any point upon their request.

Recommendation: Courts should provide notice and information to individuals at the time their juvenile court record is sealed.

The notice should explain:

- Who has access to a sealed juvenile court record and what they can use it for,
- The status of any administrative requirements imposed by the Department of Licensing associated with the sealed record,

- How to talk about a sealed juvenile court record,
- What to do if the record shows up on a background check,
- Any legal action available to the individual if their record is shared or used unlawfully, and
- The circumstances under which a juvenile court record may be unsealed.

If notice is to be delivered by mail because the individual was not present at the sealing hearing, an effort should be made to verify the individual's current address prior to sending correspondence with any identifying information.

This notice should also be presented in a manner that is developmentally and situationally appropriate, and the court should also have the ability to reissue this notice to the subject of the record at any point upon their request.

FUTURE CONSIDERATIONS

There are several important topics related to juvenile records that are not addressed within the scope of this report but are well-suited for and deserving of future consideration.

Record Sealing

Future policy research could explore other changes to record sealing, such as:

- Changes to eligibility criteria for record sealing,
- Expanding administrative or mandatory sealing to be available for all juvenile offenses,
- Automatic record expungement after a certain age or number of years post-sealing, and
- Creating or expanding access to assigned counsel for record sealing.

Bipartisan Safer Communities Act

Future policy research could examine Washington’s response to the federal Bipartisan Safer Communities Act (BSCA). The BSCA was signed into law in 2022 and provides for an enhanced background check for 18–20-year-olds attempting to purchase firearms and requires that the National Instant Criminal Background Check (NICS) contact state and local authorities to determine if a potential purchaser under 21 has any mental health records or offenses that would disqualify them from purchasing a firearm.⁹⁸

The BSCA presents challenging implications for states. The National Center for State Courts offers cautions and considerations for courts and states in responding to the BSCA.⁹⁹ Researchers and advocates for record protection also raise concerns about how states may interpret their obligations to respond to the BSCA.¹⁰⁰

In 2023, Washington passed legislation in response to the BSCA that created a requirement for Washington State Patrol (WSP) to make sealed juvenile records available to non-Washington criminal justice agencies for purposes related to firearms.¹⁰¹ This change likely goes far beyond what is needed for federal firearms dealers in Washington to comply with the BSCA,¹⁰² and future policy research should explore considerations for walking back the access we grant to federal and out-of-state entities.

⁹⁸ National Center for State Courts. (2023). *Disclosure of Juvenile Records under the Bipartisan Safer Communities Act: Considerations for Courts*. https://www.ncsc.org/_data/assets/pdf_file/0020/92072/BSCA-Juv-Disclosure-Overview5.pdf, 2

⁹⁹ Id.

¹⁰⁰ Keats, A. (2024). *A Canary in the Coal Mine: Juvenile Records and the Bipartisan Safer Communities Act*. American Bar Association. https://www.americanbar.org/groups/criminal_justice/publications/criminal-justice-magazine/2024/spring/juvenile-records-bipartisan-safer-communities-act/

¹⁰¹ Sealed Juvenile Records – Use for Firearm Background Checks, ESHB 1600, 68th Leg. (2023).

¹⁰² Congressional Research Service. (2022). *Firearms Dealers “Engaged in the Business”*. <https://crsreports.congress.gov/product/pdf/IF/IF12197/1>

Firearms

Future policy research could consider the relationship between juvenile records, record sealing, and revocation/restoration of firearm rights; including exploring pathways for restoration of firearms rights for individuals whose firearm rights were revoked because of a juvenile adjudication.

Over time, Washington law (and interpretation) has shifted dramatically to treat juvenile adjudications more like adult convictions for purposes related to firearms:

- In 1992, juvenile adjudications were added to statutes related to revocation of firearm rights.¹⁰³
- In 2015, new legislation began requiring Washington State Patrol (WSP) to make sealed juvenile records available to criminal justice agencies through its online criminal history database.¹⁰⁴ Prior to this change, sealed records kept by WSP were stored offline and were literally sealed and inaccessible unless unsealed by a court. Following this 2015 change, WSP began moving sealed record data into its online criminal history database.¹⁰⁵
- In 2019, the Washington State Supreme Court, in determining whether local law enforcement was required to issue a concealed pistol license to an adult with a sealed juvenile felony, referenced the above 2015 law and reasoned that, “If the legislature requires law enforcement to search a database that must contain information on sealed [adjudications], then the legislature must have intended that law enforcement use information about the sealed [adjudications] in determining whether to issue a CPL.”¹⁰⁶
- In 2023, juvenile adjudications were added to the definition of “conviction” under firearms statutes,¹⁰⁷ though juvenile statutes explicitly state that, “An order of court adjudging a child a juvenile offender or dependent under the provisions of this chapter shall in no case be deemed a conviction of crime.”¹⁰⁸
- In 2023, new legislation began requiring WSP to make sealed juvenile records available to non-Washington criminal justice agencies for purposes related to firearms.¹⁰⁹

Relatedly, future research could explore whether or how often youth with sealed juvenile records go on to harm others with firearms in adulthood.

¹⁰³ [Juvenile Justice Amendments, ESHB 2466, 52nd Leg. \(1992\).](#)

¹⁰⁴ [Juvenile Justice System – Financial Obligations, E2SSB 5564, 64th Leg. \(2015\).](#)

¹⁰⁵ WSP, personal communication, February 2024.

¹⁰⁶ *Barr v. Snohomish County Sheriff*, 440 P. 3d 131 (Wash. 2019).

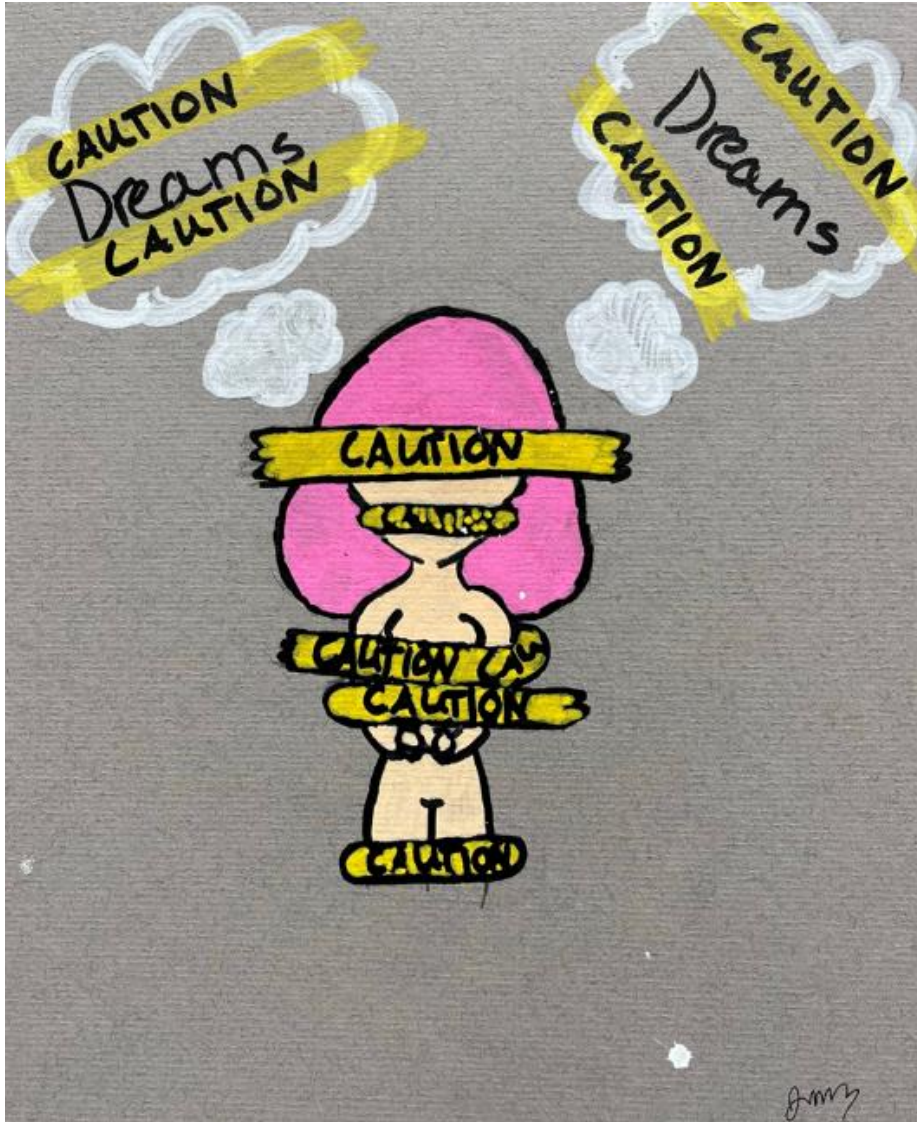
¹⁰⁷ Firearms – Unlawful Possession and Restoration of Rights – Various Provisions, SHB 1562, 68th Leg. (2023)

¹⁰⁸ RCW 13.04.240

¹⁰⁹ Sealed Juvenile Records – Use for Firearm Background Checks, ESHB 1600, 68th Leg. (2023)

Don't Hold Me Back

By Mariah, 17



Artist's Statement:
*Don't Hold me back
With something
You know nothing about.*

CONCLUSION

We have a collective interest in safeguarding future opportunities for youth who come into contact with the juvenile legal system. The current failure to protect juvenile records in Washington reflects a departure from the foundational principles of juvenile justice and rehabilitation. While the juvenile legal system was originally intended to shield children and youth from irreversible stigmatization, the erosion of protections has led to devastating and lifelong barriers for Washington's youth.

Current practices contradict the rehabilitative goals of juvenile justice and perpetuate systemic inequities associated with system involvement. It is imperative that Washington reevaluates its approach to handling juvenile records and aligns itself with national standards so that rehabilitated youth have a fair chance at moving forward in life. Implementing the recommendations offered in this report would achieve a monumental recommitment to opportunity for youth in our state.

APPENDICES

Appendix A: Excerpt from RCW 13.50.260

Sealing hearings—Sealing of records.

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of supervising the juvenile. The juvenile respondent's presence is not required at any administrative sealing hearing.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is at the time of commission of the offense:

(i) A most serious offense, as defined in RCW [9.94A.030](#);

(ii) A sex offense under chapter [9A.44](#) RCW; or

(iii) A drug offense, as defined in RCW [9.94A.030](#).

(d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent is no longer on supervision for the case being considered for sealing and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage. In determining whether the respondent is on supervision or owes restitution, the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

(e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B) provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.

(ii) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

(iii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage, and request an administrative sealing hearing. Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.

(iv) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW [13.40.127](#), the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW [13.40.100](#) or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW [13.40.070](#), the person who is the subject of the information or complaint may file a motion with the court to have the court

vacate its order and findings, if any; resolve the status of any debts owing; and, subject to RCW [13.50.050\(13\)](#), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW [13.50.050\(13\)](#).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW [9A.44.130](#) or has been relieved of the duty to register under RCW [9A.44.143](#) if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

(vi) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW [9A.44.130](#) or has been relieved of the duty to register under RCW [9A.44.143](#) if the person was convicted of a sex offense; and

(v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title [48](#) RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW [13.40.127](#)(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW [13.50.050](#)(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW [13.50.010](#)(8) and [13.50.050](#)(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

- (b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.
- (c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.
- (d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.
- (e) The Washington state patrol shall ensure that the Washington state identification system provides non-Washington criminal justice agencies access to sealed juvenile records only for the purposes of processing and purchasing firearms, concealed pistol licenses, or alien firearms licenses, or releasing of firearms from evidence.
- (f) Non-Washington criminal justice agencies that access sealed juvenile records pursuant to this subsection shall not knowingly disseminate the accessed records or any information derived therefrom to any third party. Dissemination of such records or such information shall subject the disseminating agency to the jurisdiction of the courts of Washington and a civil penalty of not more than \$1,000 per violation.
- (9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.
- (10) County clerks may interact or correspond with the respondent, his or her parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.
- (11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.
- (12) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties, other than criminal justice agencies, about the existence or nonexistence of confidential or sealed records concerning an individual.

Appendix B: Criminal Justice and Law Enforcement Agencies & ACCESS

A Central Computerized Enforcement Service System (ACCESS) is a communications system managed by the Washington State Patrol (WSP) that “extracts data from multiple repositories including the Washington Crime Information Center (WACIC), Washington State Identification System (WASIS), the National Crime Information Center (NCIC), the Department of Licensing (DOL), the Department of Corrections Offender File (DOC), The International Justice & Public Safety Network (Nlets), and PARKS.”¹¹⁰ Information can be obtained from ACCESS by criminal justice agencies for criminal justice purposes.

Agencies requesting terminals for ACCESS connectivity go through an application process that considers their statutory authority, reason for access, and verification of system security. Each terminal that connects to ACCESS has its own unique Originating Agency Identifier (ORI) from the FBI. ORIs reflect the agency designation (i.e. court, communications center, police department, prosecutor’s office, etc.) and level of government.

Below is a summary of the in-state criminal justice and law enforcement agencies that use ACCESS.

Approach

The complete list of 2023 active in-state ORIs was downloaded from the Washington State Patrol website.¹¹¹ Many agencies have multiple ACCESS terminals and therefore multiple ORIs. For example, there are over 100 ORIs for variations of “Washington State Department of Corrections Headquarters,” 31 ORIs for Clark County Regional Communications Center, etc. The data are not conducive to systematically identifying and removing duplicative ORIs from within the same agency or division, so the below summaries count all ORIs.

Each criminal justice agency ORI was assigned a Type and Level of Government using ORI coding information from the Washington State Patrol ACCESS Manual,¹¹² NCIC Operating Manual,¹¹³ and a US Department of Justice ORI application guide.¹¹⁴

A “Tribal” Level of Government was created manually, and agencies were manually counted as Tribal as appropriate.

¹¹⁰ Washington State Patrol. (2023). *ACCESS Operations Manual: Chapter 01 - Introduction*.

https://www.wsp.wa.gov/secured/access/docs/operations_manual/01_intro.pdf, 4.

¹¹¹ Washington State Patrol. (2023). *WA ORIs Master List – 2023*.

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.wsp.wa.gov%2Fsecured%2Faccess%2Fdocs%2Fexcel%2F2023%2FWashingtonActiveORIsMasterList.xlsx&wdOrigin=BROWSELINK>.

¹¹² Washington State Patrol, *ACCESS Operations Manual: Chapter 01 - Introduction*.

¹¹³ Utah Department of Public Safety. (2022). *NCIC Operating Manual: ORI File*. <https://ucjis-tac.utah.gov/wp-content/uploads/sites/38/2023/01/ORI-File.pdf>.

¹¹⁴ US Department of Justice. *Applying for an Originating Agency Identifier (ORI): Law Enforcement-Criminal Justice Agencies (LE-CJA) & Non-Law Enforcement Criminal Justice Agencies (NLE-CJA)*.

<https://www.justice.gov/tribal/page/file/1247571/dl>.

Law Enforcement Agency ORIs were manually sorted into the following categories: Fire, Military, Misc. Federal, Misc. WA, Police Department, Sheriff's Office, Task Force, Tribal Law Enforcement, Washington State Patrol (WSP), US Department of Justice (DOJ), US Department of Homeland Security (DHS), and US Department of the Interior (DOI). It is important to note that ORIs are generally assigned to specific divisions within agencies not entire agencies. For example, the ORIs assigned to the US Fish & Wildlife Service are assigned to specific Law Enforcement Divisions within the US Fish & Wildlife Service. However, the data do not display division-level detail consistently for each ORI.

In-State Law Enforcement Agency ORIs by Category and Level of Government

	City	County	State	Tribal	Federal	All
Fire	3	4	1			8
Military					20	20
Misc. Federal*					26	26
Misc. WA**			7			7
Police Department	218	1	9			228
Sheriff's Office		56				56
Task Force	1	9	3			13
Tribal Law Enforcement				45		45
WSP			23			23
DOJ (Drug Enforcement Administration; Federal Bureau of Investigation; US Marshals Service; Bureau of Alcohol, Tobacco, Firearms and Explosives)					22	22
DHS (Immigration and Customs Enforcement, Customs and Border Protection, Citizenship and Immigration Services, Secret Service)					106	106
DOI (Bureau of Indian Affairs, Fish & Wildlife, National Park Service)					24	24
All	222	70	43	45	198	578

*Misc. federal here includes divisions of the Department of Veterans Affairs, Department of Agriculture, Department of State, Postal Service, Federal Reserve Bank, Environmental Protection Agency, and others.

**Misc. WA here includes divisions of the Washington State Gambling Commission, Liquor & Cannabis Board, Parks & Recreation, Lottery Commission, and Fish & Wildlife.

In-State Criminal Justice Agency ORIs by Type and Level of Government¹¹⁵

	City	County	State	Tribal	Federal	Non-government	All
Authorized governmental agencies (DCYF and tribal family services)			9	5		1	15
Civil courts for use in DV and stalking cases				15			15
Coroners and medical examiners offices		6					6
Correctional institutions	34	664	662	4	9		1373
Criminal courts and magistrates' offices	368	203	150	26	9		756
Dispatch and 911 communication centers	4	1721			19		1744
Governmental child support enforcement			6				6
Governmental social services agencies with child protection duties			10	4	4		18
Medical examiners offices that are criminal justice in function			6				6
Misc. criminal justice*		2	97		19		118
Nongovernmental railroad and private campus police departments						6	6
Pretrial Services	2	50			11		63
Probation and parole offices	26	171	60	9	28		294
Prosecuting attorneys' offices	229	468	42	14	7		760
All	663	3285	1042	77	106	7	5180

*Misc. criminal justice agencies here include crime labs, inspectors general, fraud investigations units, and others.

¹¹⁵ 18 ORIs belonging to public housing authority agencies have been manually removed from this dataset. Public housing agencies are considered noncriminal justice agencies and should not be counted among criminal justice agencies. Washington State Patrol, personal communication, September 2024.