

**WASHINGTON STATE
PARTNERSHIP COUNCIL ON
JUVENILE JUSTICE**

WA-PCJJ

Record Sealing Workgroup

Meeting Summary

Tuesday, January 16, 2024

3:00-4:30 PM | Via Teams

Welcome

Workgroup Co-Leads Jimmy Hung and Heidi Sadri welcomed the group and attendees shared introductions via chat.

Attendees: Heidi Sadri, Jimmy Hung, Andrew Keats, Brad Benfield, Riya Saha Shah, Alejandro Sanchez, Prachi Davi, Giannina Ferrara, Julissa Sanchez, Kim Ambrose, Norrie Gregoire, Dave Reynolds, Izzy Eads, Roxana Gomez, Frank Thomas, Karen Pillar, Katie Hurley, Dr. Ben Danielson, George Yeannakis, Xaxira Velasco Ponce de León, Stephanie Budrus, Sen. Noel Frame

November meeting recap:

- Established shared norms for engagement
- Reviewed project scope
- Presentation from Juvenile Law Center
- Discussed recent efforts to approach confidentiality
- Discussed other agencies and groups to collaborate with: Department of Licensing, Administrative Office of the Courts systems experts, court clerks

Juvenile Law Center Presentation: WA Juvenile Records Statutory Analysis

Andrew Keats of Juvenile Law Center (JLC) provided a presentation of JLC's analysis and comparison of proposed and passed legislation in WA since 2019 (date of [last scorecard](#)).

- See meeting attachments for JLC presentation slides.

Issue Mapping, Record Sealing & Confidentiality

See meeting attachments for slides described below:

- Inventory of the impact of juvenile records and the record-keeping systems and agencies related to those spheres of impact
 - Juvenile records impact individuals' ability to move through the world. This includes records that are public, records that are sealed but leaked, or sealed but stored somewhere that can't/doesn't respond to them being sealed.
 - Records are distributed and kept by many agencies. Those agencies have different practices for sharing records, may not be notified when a record is sealed, may not have a meaningful way to handle that a record is sealed, have different interpretations of how to balance statutes and rules that govern their responsibilities against the intent of record sealing.

- Review record sealing statute and barriers to realizing the purpose of record sealing
- Relationship between confidentiality and sealing (hypothetical)
 - From the moment a record exists, access is very narrow
 - When sealed, access becomes narrower by way of entities holding the confidential record (1) being notified it was sealed, and (2) having a meaningful way to treat it as a sealed record, as if it never existed

Group discussion (combined discussion that followed the above agenda items):

- Discussion about the evolution of legislative proposals, what were the priorities and the pushbacks
- Sanctions
 - It was important to impacted youth that there could be a mechanism of accountability for sealed records being leaked
 - State agencies had pushback on this, but it does have bipartisan support
- Expungement
 - Vagueness and shifting about what we mean by “expungement”
 - Given where we are as a state with sharing of records across agencies, weak (or no) confidentiality, difficult to meaningfully expunge once a record is out; this is what led to the consideration of strong confidentiality + strong sealing
 - What is the pushback to expungement? Especially given recent changes to how juvenile records/points may be used in future charges and sentencing (see [2023 HB 1324](#) – juvenile adjudications may not be used to calculate an adult offender score, with some exceptions)
 - Concern about expungement raised elsewhere: People may have a sealed juvenile record come up in a federal background check and then have to get it unsealed to show feds what the adjudication was, but if that record were expunged there would be nothing to show
 - Concern about expungement raised elsewhere: DCYF had concerns about continuity of care and cost to DCYF to go through and delete expunged records; DCYF was willing to collaborate to overcome those concerns
 - Personal experience with going through an agency background check and being able to find partial incomplete records, and that significantly delaying the process
 - Sometimes lack of access to records is a hindrance; there are circumstances where people need or want to be able to talk about their juvenile court history, and it should be up to those people if and when they want it accessed; individuals should have agency over their own records being shared (like medical records)
- Mindfulness about making concessions when we are not the people most impacted, and those people are not present
- Confidentiality
 - There is an interest in transparency, public should be able to scrutinize prosecution/court
 - There are not good examples of media exposing wrongdoing or unfairness in court; rather, the media is misrepresenting what is happening in court and vilify children, particularly BIPOC children
 - 2023 bill would still allow people to listen to and attend court

- Central to protecting records, once records are out there is no way to bring them back
- Consider having confidentiality of juvenile court records should mirror dependency records
- Who should get to access confidential records? For what purposes?
 - It's important to consider what are the legitimate reasons why someone may need to consider a juvenile record. Applications will ask for history but may not really need it for a good reason.
 - It's not all or nothing – could make some offenses confidential and others not
 - Future considerations – AI and data scouring technology mean that any publicly available data will become more and more available online
 - For what purpose? At what point in the process? If the goal is youth accessing support in the community during an ongoing case, does that community support need to know? Compare to dependency process where community entity does often know that there is a dependency going on. We want community support providers to be able to serve youth best.
- Arrest records are a separate issue and are not confidential, applications ask about arrests and the records will remain available; other states have made arrest records confidential/sealed/expunged
 - All arrests result in fingerprinting, WSP and other entities submit those to FBI, which stores those arrest records indefinitely; sealing/expunging can't get rid of those arrest records. Issue with expunging is that there may be a record of the arrest but no way to show what the outcome was and prove that the record was expunged.
 - CA has done some work on this: [California Will Allow People to Clear Criminal Records After Serving Time - The New York Times \(nytimes.com\)](https://www.nytimes.com/2018/03/26/us/politics/california-will-allow-people-to-clear-criminal-records-after-serving-time.html)
 - State data originating agency (in this case, WSP) can tell FBI that information is sealed and FBI is supposed to respect sealing orders that come from states. Even if FBI holds data, but the state owns the records.
- Adjacent issue and priority would be to get employers, certification programs, etc. to stop asking about arrests, records; eliminate the practice of discrimination based on arrest/record.

Next steps

- We are in alignment about the value of confidentiality. Next is technical details of putting confidentiality into practice.
 - Heidi will connect with AOC regarding their systems and FBI contacts regarding how they handle arrest and other data.
- There is general alignment around a confidentiality + record sealing recommendation; next step is to pursue details about both.
- Consider extending future meetings to 2 hours to allow for discussion of details; will calendar this change

Next Meeting: March 19 at 3 PM