

**WASHINGTON STATE
PARTNERSHIP COUNCIL ON
JUVENILE JUSTICE**

WA-PCJJ

Juvenile Record Sealing Workgroup

**Meeting Summary
Friday, April 26, 2024
2-3 PM | Via Teams**

Welcome & Opening

Attendees: Heidi Sadri, Jimmy Hung, Jack Murphy, Kimberly Russell, Brad Benfield, Kevin Cottingham, Karen Pillar, Izzy Eads, Kathy Martin, Alejandro Sanchez, Katie Hurley, Giannina Ferrara, George Yeannakis, Dave Reynolds

Purpose: The purpose of this opt-in meeting is to decide our recommendations for access to sealed juvenile court records.

What is a sealed juvenile court record?

Overview of sealing eligibility and purpose as grounding for the discussion:

- Existing criteria for determining eligibility for record sealing
- These criteria reflect:
 - o Accountability and fulfillment of obligations
 - o The individual is safe and reliable in community
- Record sealing eligibility is the “test” for determining that a person is deserving of moving on into adulthood as if their juvenile offense never occurred. Decisions, behaviors, judgements should not be shaped based on the knowledge of that record.
- When we seal someone’s record, we tell them that we are invested in their ability to move into the world with open doors, and that the offense will be hidden and treated like it never occurred.

Current Access to Sealed Records

In prior meetings, the group decided on a recommendation to make juvenile court records confidential. However, the current access to sealed/confidential/nonpublic records is still very broad and challenges the purpose of record sealing.

- Via the Judicial Access Browser System (JABS): Approximately 160 users can see the existence of a sealed record. Those users are prosecutors, private firms under contract with municipalities for contract prosecutorial services (also under contract with AOC, audited annually), Washington State Patrol, and some court staff.
- Via Washington State Patrol (WSP): Approximately 1,200 in-state criminal justice agencies and approximately 500 in-state law enforcement agencies can access sealed records by querying WSP for a criminal justice or firearm-related purpose.
- Out-of-state criminal justice agencies can access sealed records by querying WSP, but only for a firearm-related purpose.

About criminal justice agencies, law enforcement agencies, and criminal justice purposes:

- See here for the complete [lists of Criminal Justice Agencies and Law Enforcement Agencies](#).
- Law Enforcement Agencies include:
 - o Police, sheriffs, WSP, and law enforcement arms of WA agencies including Parks & Recreation, Liquor & Cannabis Board, Lottery Commission, and Gambling Commission; and federal entities including the EPA, ATF, CBP, ICE, US CIS, US Forest Service, USDA, DOD, DOS, DEA, National Parks, BIA, Fish & Wildlife, FBI, FDA, Secret Service, US Marshals, military, and VA.
- Criminal Justice Agencies include:
 - o Prosecutors, city attorneys, corrections/jails/detention, 911 dispatchers, courts, WA Department of Licensing, housing authorities, AGs, Division of Child Support, DCYF, coroners/MEs, Dept. of L&I, probation, tribal family services, and several federal entities (army, BOP, detention, DHHS, DOT, HUD, federal judges, SSA, US Attorneys, US Dept. of Commerce, US District Courts, and USPS).
- A query to WSP by an in-state Law Enforcement Agency or Criminal Justice Agency will return a sealed juvenile record if the purpose of the query is criminal justice or firearm-related. See pg. 8-10 of the [WSP ACCESS Manual Chapter 5 Section 1](#) for purpose code definitions and uses.
- Examples of criminal justice purposes include:
 - o Investigation; traffic stops; employment with Criminal Justice Agencies or Law Enforcement Agencies; vendors, contractors, and volunteers for criminal justice agencies; visitors at confinement facilities or military facilities.

Proposals & Discussion

The group considered proposals to address three separate goals. We will strive for full consensus through discussion. If we are unable to get to full consensus, we will accept a strong majority as the group's recommendation and will ask anyone who cannot support that recommendation to separately write up their concerns and alternative proposal to be included in the report.

In-state law enforcement agencies (narrowed from criminal justice agencies) may access a sealed juvenile court record via WSP only for the purpose of a firearm-related background check.

- This approach aligns in-state law enforcement access with out-of-state criminal justice agency access and maintains compliance with the federal Bipartisan Safer Communities Act.
- Technical assistance provider Juvenile Law Center examined how other comparable states handle exceptions for access to sealed records. The other states that handle record sealing well have no exceptions for access to sealed records – law enforcement, criminal justice agencies, etc. cannot access sealed records in those other states.
- WSP disagrees with this proposal and requested WASPC's input. WASPC will likely have concerns because this would impact the ability to consider sealed juvenile records in investigations and research. Heidi is meeting with WASPC during the week of 4/29.
- Question: Do law enforcement regularly access sealed records via WSP while conducting investigations?
 - o Answer: They do access RAPsheets during investigations, and those RAPsheets would include sealed records and indicates that the record has a juvenile seal.

- Law enforcement may consider having access to sealed juvenile records a tool for officer safety. However, this information may make both parties less safe if it causes the officer to see a sealed record without context and approach a person in a way that would escalate a situation.
- This is in conflict with what people are told when their record is sealed – that it will be treated like it does not exist. If there is an exception for the crucial situations when someone is interacting with law enforcement or under investigation, that undermines the purpose of sealing.
- Question: Are other states that don't have exceptions for access to sealed records still doing firearms background checks that are in compliance with federal laws?
 - o Answer: States are working to get in compliance with the Bipartisan Safer Communities Act with respect to sharing juvenile records information in the context of firearms background checks. Washington is currently going far beyond the federal requirements about what we disclose about juvenile records. The BSCA only requires us to share a yes/no about whether there is a disqualifying offense, and only if the person seeking the firearm is under 25.
- Discussion about federal entities and sealed records:
 - o There are often issues where a person with a sealed juvenile record will apply for a military job, answer truthfully that they have a record, and then need to go through the unsealing process to show the contents of the sealed record. The military will not proceed with enlistment until they have can access details. They go to juvenile court administrators, but they cannot release that information. We need some way to provide the person with the sealed record access to that record themselves. Other agencies outside of the state have a hard time understanding and recognizing our sealed records.
 - o Those federal entities like the military or boarder security being able to see a sealed record have that access via WSP because they are criminal justice agencies and the searches they run are for criminal justice purposes. This proposal would change that level of access.
 - o Another tool we have to address this issue is including language in statute that says a sealed record should be considered to be expunged. Federal entities will recognize this language.
 - o Currently, prosecutor's offices and JCAs are writing individual letters for people with sealed records to communicate to a potential employer what it means to have a sealed record. This is an equity issue because it relies on people reaching out to ask for these letters after being rejected from a job/apartment.
 - o Individuals can petition a court for access to inspect their record. This does not unseal.
- This proposal originally was that in-state *criminal justice agencies* should be able to access sealed records via WSP for firearms-related background checks. Based on group discussion, this proposal was revised to say that only *law enforcement agencies* (narrower than all in-state criminal justice agencies) should have that access. That revision is captured in the slides and in the proposal as written above. The group discussed and confirmed that any entity tasked with running a firearms-related background check is a law enforcement agency.
- Question: Are we making recommendations to change which offenses are eligible for sealing?
 - o Answer: No.
- Concern about there being an exception for firearms. There should be no exception.

- Response: The purpose for the exception is to maintain compliance with the Bipartisan Safer Communities Act.
- The group agreed that we will offer this as our near-consensus recommendation, with WSP (and WASPC anticipated) unable to support. WSP and WASPC are asked to capture their concerns and offer an alternative proposal.

With respect to sealed records, JABS should be a tool exclusively for unsealing/sealing nullification.

- Only staff who are involved in sealing nullification should have access to view the existence of a sealed record, not its contents. We should also affirm that JABS should not be a background check tool.
- Question: This is largely what is already in place. What would be different?
 - Discussion: Current access goes beyond just prosecutors' offices. Some court staff have access that allows them to see sealed records. If those court staff become aware of a sealed record, the judge may also become aware even though they shouldn't be, and that could impact decisions.
- This access should be limited to only prosecutors, whose offices are responsible for unsealing/sealing nullifications.
- Group agreement.

Individuals should have access to their own sealed records.

- This is responsive to feedback from lived experts prior to and throughout this project. The need for this access also came up in earlier discussion.
- Individuals can already ask the court to inspect their own record. Does that work well for people? What about advocates supporting people with record sealing?
 - People can get their record through this approach and give it to their attorney.
 - Usually when young people go to legal aid for help, they want the attorney to take on the process. A young person should be able to sign the petition and give their attorney access. Unsure how much or how well this is happening currently.
- Will explore further whether we need a recommendation here.

Next Meeting: May 21 at 3 PM