

A radical reach for secrecy in Washington courts

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The Harvey Felder era ends on a high note

In an open justice system — the kind Washington is supposed to have — privacy can't be everything. Citizens must have a broad window on what's happening in the courts they own. But an obscure state judicial subcommittee wants the Washington Supreme Court to turn that broad window into a narrow peephole. It is proposing a radical expansion of secrecy in General Rule 15, a set of guidelines for deciding when court documents should be sealed.

In almost every way, the proposed amendments err on the side of hiding records. Corporations would find it easier to make lawsuits vanish. Paper trails created in the investigative phase of litigation would be easier to vaporize. Third parties "with an interest in nondisclosure" would be invited to argue for secrecy.

Most dangerous, perhaps, is the push to hide criminal records. Many juvenile convictions — revealing a teenager's penchant for theft, for example — would be sealed almost automatically. Worse, criminal proceedings against adults would be erased from dockets unless they resulted in conviction. Plea bargains, botched prosecutions and charges dismissed on technical grounds would be invisible.

This might sound humane, but it's a frontal assault on accountability — for individuals, prosecutors, defenders, judges and the justice system as a whole.

Take an extreme case — George Zimmerman's shooting of Trayvon Martin in 2012. Imagine that it happened in Washington and never caught the eye of reporters.

Under the amendments to Rule 15, his acquittal would remove from the online index anything but his name and the fact that he was acquitted. The details would be opaque. Someone searching for cases of interracial violence — or overzealous prosecution — would never figure out what the Zimmerman case was all about. As far as the public is concerned, a final verdict is often far less important than what led up to it.

The impulse to protect the reputation of juveniles is understandable. But some juveniles are genuine bad actors — and their neighbors and potential victims are the ones in need of protection. It's already all but impossible to identify dangerous juvenile offenders through court indexes.

Criminals aren't the only issue. Without the ability to ferret out the details of cases, it would be much harder to assess whether police agencies are tolerating crime or

profiling suspects; whether prosecutors are pursuing political agendas or protecting buddies; whether court-appointed defenders are competent; whether corporations are buying off plaintiffs at the expense of public safety.

It's a brutal reality, but privacy must sometimes be sacrificed for the sake of an honest court system. Citizens should be trusted to make their own judgments about how cases are handled and whether verdicts are just. Guardians of court records should also be guardians of the public's stake in open government.

Read more here: <http://www.thenewstribune.com/2014/05/14/3194453/a-radical-reach-for-secrecy-in.html?sp=/99/447/#storylink=cpy>