WASHINGTON COURTS

April 25, 2014

TO: JISC Data Dissemination Committee

FROM: Stephanie Happold, AOC Data Dissemination Administrator

RE: Research Access to Sealed Juvenile Case Information

Issue

Washington State Center for Court Research (WSCCR) is requesting that limited access to sealed juvenile case information be allowed for researchers.

Background

The JIS Committee (JISC) authorized the Data Dissemination Committee (DDC) to act on its behalf in reviewing and acting on requests for access to JIS by non-court users.[1] The DD Policy sets forth criteria which this Committee may use in deciding these requests:

- The extent to which access will result in efficiencies in the operation of a court or courts.
- The extent to which access will enable the fulfillment of a legislative mandate.
- The extent to which access will result in efficiencies in other parts of the criminal justice system.
- The risks created by permitting such access.[2]

Court Rule GR 15 sets forth the procedure for sealing and redacting court records, and defines sealing as protecting "from examination by the public or unauthorized court personnel." GR 15(b)(4). The GR 15 language that addresses the sealing and inspection of juvenile records is similar to language found in RCW 13.50.050. *See* GR 15 (c)(1) and (e)(4).

RCW 13.50.050(11) allows for a person subject to a filed juvenile information or complaint to file a motion with the court to vacate its order and seal the official juvenile court file, the social file, and the records of the court and of any other agency in the case after considering different factors. RCW 13.50.050 (11)-(12). If the Court grants the motion to seal, the proceedings in the case shall be treated as "if they never occurred" and agencies shall reply to any inquiry that the records are confidential "and

[1] JISC Bylaws, Article 7, Secs. 1 and 2.
[2] DD Policy, Sec. IX.C.

no information can be given about the existence or nonexistence of records concerning an individual." RCW 13.50.050(14)(a). Inspection of the sealed juvenile offense records may only be permitted by a court order resulting from a motion made by the person subject to the information or complaint, except as allowed in RCW 13.50.010(8) and RCW 13.50.050(23). RCW 13.50.050(15). RCW 13.50.010(8) allows for the inspection of, and the release of information to, individuals or agencies engaged in legitimate research for educational, scientific, or public purposes. In order to view juvenile justice or care agency records for research purposes, the researcher must present a notarized statement to the court stating that the names of juveniles and parents will remain confidential. RCW 13.50.010(8). By reading RCW 13.50.050(15) and RCW 13.50.010(8) together, one concludes that the court may allow agencies and individuals engaged in legitimate research access to sealed juvenile offense records after being presented with a notarized statement that the names of the juveniles and parents will remain confidential.

SSB1651[3], which becomes effective June 12, 2014, allows for the sealing of juvenile offense records unless the court receives an objection to the sealing or the court notes a compelling reason not to seal. The bill moved RCW 13.50.050(15) into a new section, but kept the language that points to RCW 13.50.010(8) allowing researchers access to the case files.

It is AOC Staff's and WSCCR's position that this language allows for researchers engaged in legitimate research for educational, scientific, or public purposes, access to juvenile sealed cases if the court grants permission and if the researcher provides a notarized statement that the juvenile's and the parents' names shall remain confidential. AOC Staff and WSCCR also believe the language goes further and covers records maintained by the AOC, as the agency often provides records on behalf of the court. An example is in current RCW 13.50.010(8), which states that the court shall release records to the Caseload Forecast Council (CFC) for its research and data-gathering functions. The AOC provides this information to the CFC on behalf of the courts. The same interpretation can be used for the RCW 13.50.010(8) provision stating the court may grant access to juvenile case files to individuals and agencies engaged in legitimate research. By allowing AOC to grant access, it will reduce the time courts spend on researchers' requests for sealed juvenile data because the AOC will continue to be the central contact.

An important clarification AOC Staff would like to make to the Committee, is that the data to be provided to the researchers by AOC would be different than the WSCCR research copy[4]. Access to WSCCR research copy is restricted only to WSCCR who shall "maintain the confidentiality of all confidential records and shall preserve the anonymity of all persons identified in the research copy." RCW 13.50.010(11). The

[3] A copy of SSB 1651, RCW 13.50.010 and RCW 13.50.050 are attached to this memo.
[4] RCW 13.50.010(11) provides that WSCCR may have a copy of all juvenile records in the JIS, including any records destroyed or removed from the JIS.

language in this statute is straightforward: no one but WSCCR may access the WSCCR research copy of JIS juvenile records. Therefore, the researchers must contact AOC Data Dissemination for permission to access the sealed juvenile records contained in JIS.

Recommendation

With the passage of SSB1651, researchers engaged in the legitimate study of juveniles for educational, scientific, or public purposes still need access to the juvenile records. As many of these records may potentially be sealed under the new law, AOC Staff and WSCCR believe allowing researchers to come to AOC for information per RCW 13.50.050(15) and RCW 13.50.010(8), will allow valuable and often legislatively mandated research to continue. Therefore, AOC Staff and WSCCR recommend allowing AOC, at its discretion, to grant access to sealed juvenile offense records to researchers engaged in legitimate studies of juveniles, and require the researchers to provide notarized statements that the juvenile's and the parents' names shall remain confidential as the courts are allowed to under RCW 13.50.050(15) and RCW 13.50.010(8).