WASHINGTON COURTS

**October 23, 2015**

**TO:** JISC Data Dissemination Committee

**FROM:** Stephanie Happold, AOC Data Dissemination Administrator

**RE:** Does RCW 13.50.260(7) bar Washington State Patrol access to sealed juvenile offender case information with their JIS LINK account?

## Background and Recommendation

The Washington State Patrol (WSP) identification, child abuse, and criminal history section[1] is the repository for criminal history record information and the primary source for felony conviction histories for filings, plea agreements, and sentencing on felony cases in the state. RCW 10.98.030. The section also provides other criminal justice agencies criminal history record information pertaining to any person of whom the section has a record. RCW 43.43.705. Courts and other criminal justice agencies are required to furnish disposition data to this WSP section pursuant to RCW 43.43.745.[2] RCW 10.97.045. The Washington State Courts satisfy this requirement with a data feed of statewide court information that the Administrative Office of the Courts (AOC) transmits to WSP. Additionally, some courts also provide paperwork to local law enforcement who then forward it on to WSP; or the courts and the clerk's offices send the paperwork directly to WSP. The WSP also has JIS LINK accounts that provide view-only access to court data.

During this last Legislative session, Substitute Senate Bill 5564 was passed requiring the WSP-maintained Washington State Identification System (WASIS) to provide

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[1] RCW 43.43.700: There is hereby established within the Washington state patrol a section on identification and criminal history hereafter referred to as the section. In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.
The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

[2] RCW 43.43.745(3): Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

criminal justice agencies access to sealed juvenile records information. E2SSB 5564, Chapter 265, Laws of 2015, Section 3, RCW 13.50.260(8)(d), July 24, 2015. WSP soon discovered problems implementing this law because some courts dismiss and seal the cases during the same proceeding. The dismissal comes to WSP via the AOC data feed seven days after the event because of the WSP built-in delay to ensure the fingerprint arrest information is in the WASIS prior to the disposition. Because of this delay, WSP is getting seal information from the courts before the disposition transfer report and it is unknown which event to seal in WASIS. Currently, WSP is working with local court staff and prosecuting attorney's offices to obtain the information. However, this is cumbersome and a drain on local resources. To resolve this, WSP submitted the attached request to the JISC Data Dissemination Committee (DDC) asking for access to sealed juvenile criminal case information in JIS so as to match the sealed information with the disposition data in WASIS. During the September 10, 2015, DDC meeting, members questioned if such access could be allowed per RCW 13.50.260(7)[3] that states "[i]nspection 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 provided in RCW 13.50.010(8) and RCW 13.50.080(13)."

It is AOC's position that RCW 13.50.260(7) does not apply to providing sealed juvenile case information to WSP so it can satisfy its obligations under RCW 13.50.260(8)(d). RCW 13.50.260(7) addresses inspection of the court records and files. The Merriam-Webster dictionary defines inspection as the "act of looking at something closely in order to learn more about it, to find problems, etc." See http://www.merriam-webster.com/dictionary/ inspection, reviewed October 16, 2015. This statute prohibits access to a requestor who simply wishes to view the sealed court file. WSP does not wish to have access to the sealed juvenile data in order to simply review it; but rather, to obtain all the information about the case in order to correctly update WASIS and to pass on the correct information to other law enforcement agencies as it is statutorily required to do under RCW 13.50.260(8)(d).

Court Rule GR 31(f)(3) also supports WSP access as it allows criminal justice agencies to request court records not publically accessible if they identify the desired records and provide the proposed use for the court record. GR 31(f)(3)(B). Access is then governed by a dissemination contact. GR 31(f)(3)(C). WSP has requested and identified the needed court records and the obligatory requirement for obtaining this information. If a JIS LINK role can be created to provide this requested access, the agreement between AOC and WSP would include the provisions laid out in GR 31(f)(3)(C).

**Conclusion**

As the WSP request for access to sealed juvenile case information is not for simply inspecting the court file as stated in RCW 13.50.260(7), the statute does not prevent the

[3] Originally RCW 13.50.050(15); later codified during the 2014 Legislative Session into RCW 13.50.260(7).

access. The information WSP is requesting would supplement the data already received by both the courts and the AOC that is required under RCW 43.43.745 and RCW 10.97.045 and ensure the accuracy of the data in WASIS.[4] Additionally, GR 31(f)(3) allows for the access as WSP has identified the needed records and the intended use, and would be governed by an agreement as detailed in GR 31(f)(3)(C).

[4] AOC Staff does not assert that the JIS LINK access should be given in order to satisfy RCW 10.97.045 and RCW 43.43.745 requirements as those obligations are already being satisfied by the AOC data feed and by any additional data the individual courts are providing WSP. However, the supplemental information will help WSP satisfy its own statutory requirements as well as lighten the workload of individual courts and prosecuting attorney's offices that are currently working with WSP to compensate for the seven day delay of disposition data being transferred.