WASHINGTON COURTS

March 6, 2020

TO: Ramsey Radwan

FROM: Kevin Cottingham, AOC Data Dissemination Administrator

RE: What data does Washington State Patrol's Identification & Criminal History Section receive from AOC under RCW 13.50.260(8), and was that statute intended to apply only prospectively?

Whatcom County Clerk, Juvenile Court Administrator and Superior Court Administrator Dave Reynolds presented materials at the February 28 Data Dissemination Committee regarding sealed juvenile cases. Of concern are how applications provide access to such cases, and in particular, how much information the Washington State Patrol receives. RCW 13.50.260(8)(d) states that "The Washington state patrol shall ensure that the Washington state identification system provides criminal justice agencies access to sealed juvenile records information," and according to Mr. Reynolds, numerous state and federal agencies are receiving these records, often with a deleterious effect. Mr. Reynolds believes that RCW 13.50.260(8)(d) was intended to be interpreted as only applying to juvenile cases filed after the effective date of the statute, but a review of the legislative history reveals an intent to the contrary by the legislature. As such, the Administrative Office of the Courts has never provided Washington State Patrol's Identification & Criminal History Section (WASIS) with anything more than the statute requires.

The Data Feed, Currently

The Washington State Patrol and the Administrative Office of the Courts have an agreement, DSA16352, allowing WSP access to a Business Intelligence Tool (BIT) report containing information on sealed juvenile cases. GR 31(f)(3)(B) states that criminal justice agencies may have access to records not publicly accessible if they "identify the court records requested," so to maintain compliance with this provision of the rule, AOC designed a report that requires WSP to state the court and case number for the record they are searching.

These case numbers can be obtained through several means. Alongside granting access to the BOXI report, the DDC approved giving WASIS (JIS-Link site name WSP$) level 25 access to JIS-Link and JABS, a level normally reserved for prosecutors. Under RCW 13.50.260(8)(c), AOC must grant prosecutors access to information regarding the existence of sealed juvenile cases, so this level of JIS-Link access is being used to satisfy WSP's statutory obligations as well. Juvenile case

numbers can also be sent via the “WSP-Dispo” exchange, which sends information on disposed criminal cases with a Process Control Number (PCN) attached on a daily basis to WSP. Finally, per RCW 10.97.045, courts are required to send disposition information for criminal proceedings “to the agency initiating the criminal history record for that charge and to the identification section of the Washington state patrol” for any felony or gross misdemeanor.

WSP-Dispo is likely the general source of the case numbers for this report. In an article on the effects of this exchange, WSP’s communications director is mentioned to have stated that juveniles who were arrested but not fingerprinted are not within their database.[1] Since the PCN number is attached to records at the time of fingerprinting, it seems likely that WASIS is using the case numbers obtained via this exchange.

The sealed juvenile case BIT report supplies the fields below, listed alongside their description from the report’s documentation:

Person Name	The first name is determined to be the “true” name of the person and all subsequent names are “alias” names. These names become the family of names used to determine the case history for a person.
Name Indicator	Indicates a name as “true”, column is blank, or alias, column contains “AKA”
Name Code	Indicates the unique identifier for the “true” name only.
Cases	Indicates the total number of cases for the name family as shown on DCH. All cases may not appear on the report as this report only list the **juvenile offender cases** that have been sealed.
Alias	The number of alias names included in the family of names.
N	Indicates if the case is filed under the “true” name, column is blank, or of the case is filed under an alias name, column is “Y”.
Case Number	The case number associated to the sealed action.
Crt	The court the case was filed and subsequently sealed.
Violation Date	The date the violation occurred.
Violation Title	The violation description based on the charging document.
DV	Indicates if the violation is domestic violence related.
JG	Indicates the judgment or finding on the violation.
JG Date	Indicates date the judgment or finding was found on the violation.
CD	Indicates the case disposition for the case.
CD Date	Indicates the date the case disposition was found for the case.
Date Sealed	Indicates the date the order to seal the case was filed or recorded.
Sentence Date	Indicates the date the sentence was entered for the case.
Sentence Description Text	Indicates the sentencing text entered for the case.

[1] Tori Marlan, *Their Juvenile Records Were Sealed. Decades Later, They’ve Reappeared*, THE APPEAL (Sept. 24, 2019), https://theappeal.org/washington-juvenile-records-sealed-reappear/

The WSP$ site has 11 active users as of March 4, 2020, and all have access to the sealed juvenile case report. As of 5:28 P.M. on March 4, the report had been run 641 times since the beginning of the calendar year, on nearly every single business day of the year so far.

Prospective vs. Retrospective Application of RCW 13.50.260(8)(d)

One question posed at the DDC meeting regards the application of RCW 13.50.260(8)(d). The current sealed case report used by WSP in obtaining such cases applies to all sealed cases in JIS—a user need only type in a court ID and case number, and will receive the case. Mr. Reynolds believes that AOC and the Data Dissemination Committee should have interpreted the provision as only applying to cases filed after the effective date of the statute.

When discerning the meaning of a statute, the "fundamental objective is to ascertain and carry out the Legislature's intent, and if the statute's meaning is plain on its face, then the [reader] must give effect to that plain meaning as an expression of legislative intent."[2]

The full text of the provision is this: "The Washington state patrol shall ensure that the Washington state identification system provides criminal justice agencies access to sealed juvenile records information." Directives regarding the application of the provision are not contained elsewhere in the statute, and the provision itself, frustratingly, does not mention the Administrative Office of the Courts at all. Discussion from the Data Dissemination Committee yields no results regarding their understanding of the statute or their intent regarding the specifics of the BIT report.

Because the plain meaning of the statute provides no guidance, legislative history may be examined,[3] which here provides a fairly decisive answer. The provision became law as part of the YEAR Act, 2015 Senate Bill 5564. A recent article about the act described the provision granting WSP access to sealed juvenile cases as part of an "11th hour" amendment to the act, and the legislative history supports this. The provision in question enters the act as part of Section 3 of the Second Substitute Bill. At the time, this was clearly intended to apply only to juvenile cases filed after the effective date of the bill; Section 37 of the Second Substitute Bill clearly states this.

The Second Substitute Bill was not passed, however—it went through further changes before the legislature passed the bill. Once passed onto the House, the House immediately removed the provision limiting its effect to cases filed after the effective date. Notes on the public testimony make it clear that this was deliberate. In the House Bill Report accompanying the change that removed what had been Section 37, that section is spelled out as having been eliminated, and law enforcement testimony is provided: "The concern among law enforcement has been access to the sealing of

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[2] *State, Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wash. 2d 1, 9–10, 43 P.3d 4, 9 (2002)
[3] *Id*.

juvenile records. Based on the current language and the proposed language, we no longer have a concern about the bill."[4]

Because the provision limiting effects to cases filed later was deliberately removed, the intent of the statute must be read as applying to all sealed juvenile cases whether filed before or after the effective date of SB 5564. AOC's current BIT report properly allows access to all such cases, and should only be changed per a statute explicitly authorizing such a change.

[4] STATE OF WA., H. COMM. ON EARLY LEARN'G & HUMAN SERVS., H. BILL REP. E2SSB 5564, at 7, available at https://app.leg.wa.gov/committeeschedules/Home/Documents/17241