<u>Response to DMCJA Comments to proposed GR 15 amendments</u>

1. Court file and Court record have 2 different meanings. A court file is made up of individual court records. Sections (b) (1) & (2) were not included in DD Committee proposed amendments. This is existing GR 15 language.
2. Attorneys are included in the term "public" unless otherwise excepted by GR 15. Sections (b) (5) was not included in DD Committee proposed amendments, other than a numbering change. This is existing GR 15 language.
3. (b) (7) was included in GR 15 in 2006 concurrently with the drafting of GR 22. Sections (b) (7) was not included in DD Committee proposed amendments, other than a numbering change. This is existing GR 15 language.
4. The existing rule is clear as to who can request a hearing to seal or redact in a civil case. Sections (c) (1) was not included in DD Committee proposed amendments. This is existing GR 15 language

5.& 6. Juvenile Offender cases are not criminal cases. See State v. Schaaf, 109 Wn.2d 1, (1987); State v. Rice, 98 Wn.2d 384 (1982). Sections (c) (1) was not included in DD Committee proposed amendments. This is existing GR 15 language.

7.& 9. There isa a typo in (c) (2). The words *concerns* should be shown with a Strikethrough. I agree that the following language should be added at the end of (c) (2): *, or denial of a motion to seal or redact.*

8. The DD proposed language should be used

10. The DD proposed language should be used. It reflects caselaw.
11. DD proposed language should be used.
12. Proposed DD language is now *consider and apply*. *Consider* was used by the Supreme Court in State v. Sublett, 176 Wn.2d 58 (2012).
13 Good cause for sealing or redaction, of course.
14, Non parties with an interest in nondisclosure should be obvious. Notice is required throughout GR 15.
15. Privacy or safety concerns identified under (c) (4) cannot create an entitlement to sealing. The Ishikawa factors must first be applied. The McEnry and Waldon cases, cited by DMCJA are applicable here.
16. The provision on restitution still applies if restitution has been paid. It's common for a plea bargain in cause A to include payment of restitution in causes B & C as a sentence condition in cause A, and an agreement to dismiss causes B & C.
17. DD Committee proposed language should be used
18. Superior Court Judges commonly encounter court records filed by a party that contain unredacted personal identifiers in family law cases.
19. The term *court file* is properly used, as differentiated from a court record.
20. There is no need to seal an adoption file or a juvenile dependency, truancy. ARY, or CHINS file, as those types of cases are already not open to the public. (c) (5) applies in all other types of cases.
21. The DD Committee did not address the prospective/retrospective issue. Existing caselaw would apply as of the date of court action, without respect to GR 15.

22. SEE GR 15 (i) (5) (A), which controls the issue of retention schedules.
23. SEE State v. Rice, 98 Wn.2d 384.
24. GR 15 proposed amendments are written so that a request for access to a sealed record for which the time on the sealing order has expired will trigger unsealing, without further order of the court. The shortcomings of existing systems is accounted for. County Clerks are OK with the proposed language.
25. The DD Committee did not see a conflict with decisions ion Rousey and Hundtofte. DD is aware that the Supreme court accepted review in Hundofte and a decision is Pending.
26.Use of the terms court index or indices is a reference to AOC maintained data. Court record and court file have different meanings, as defined in (b). Use of initials . is not addressed by GR 15. It implicates CR 10, CRLJ 10, and CrR 2.1 and CrRLJ 2.1, instead.
28. The Ishikawa standards have been in place for over 30 years and are unlikely to Change.
29. (8) (B) should read the motion to seal *or redact*
30.& 32 The proponent can choose not to file the original unredacted document. If the choice is not to file, the proponent has elected not to make a record for appeal. The procedure in (c) (8) is that adopted in the McEnroe case
31. Section (c) (2) applies in RE specific written findings.
33.The DD suggested language should be used This is the King County procedure.
34. (c) (9) requires that the order sealing and findings remain accessible to the public.
35-38. The terms court record and Court file are used properly. They have different meanings , s defined in (b).
39 The requirement that the order and findings shall be accessible to the public is existing GR 15 language, not part of the proposed amendment.
40. The DD review and discussion on (c) (9) was completed.
41-45. Section (c) (10) was not part of the proposed amendments from DD, except for the exception for juvenile offenses. The DMCJA comments refer to existing GR 15 language.
46. The comment referred to is essential to prevent any misunderstanding over whether The proposed GR 15 amendments address whether the Ishikawa factors apply to sealing juvenile offender records under RCW 13.50.050.
47. The cited statutory language is a basis for current AOC policy in re access to sealed juvenile offender court records.
48. The DD proposed language should be used.
49. The term court records is properly utilized in (f) (1).
50. The proponent of sealing always has the burden of proof. (f) (1) contains the language of the Richardson case., cited in the comment.
51. DD review in RE the Bennett case was completed.
52. The term court record is used properly in (f) (2).
53. A new case management system would use this procedure. No order is needed if the time period has expired.
54. Except for the reference to redaction, this is the existing GR 15 language. No conflict. with GR 22 exists.
55. The term court record is properly used. . Except for the reference to redaction, this is

the existing GR 15 language.

56. The same standard applies to both criminal and civil cases, as provided in (f) (1)..

57.& 58 No CRLJ 26j exists.

59. This is the existing GR 15 language not part of the proposed amendments

60.Truancy, ARY, CHINS, and Dependency court records are not open to the public-case type 7. This is the existing GR 15 language not part of the proposed amendments.

62. This is the existing GR 15 language not part of the proposed amendments. No further Amendment is required.

63-65. This is the existing GR 15 language not part of the proposed amendments. No further amendment is required. The term court record is properly used in (g).

66. The term court record is properly used in (i) (1).

67. This is the existing GR 15 language not part of the proposed amendments.

68. The terms court file and records are properly used in (i) (3). This is the existing GR 15 language, not part of the proposed amendments.

69. This is the existing GR 15 language, not part of the proposed amendments.

70. the public access requirement for orders and findings sealing is consistent with (c) (9). This is the existing GR 15 language, not part of the proposed amendments.

71. This is the existing GR 15 language, not part of the proposed amendments. Yes. As I recall from 2006 amendments this addresses state auditor requirements.

72. (i) (4) (C) is consistent with (c) (9).

73. This is the existing GR 15 language, not part of the proposed amendments. The term court records is properly used in (i) (5) (A).

74. This is the existing GR 15 language, not part of the proposed amendments. The Courts of Limited Jurisdiction retention schedule approved by JISC is an example.

75. A Court would not order destruction of exhibits during the appeal period. SEE RCW 36.23.070.