

Colorado Commission on Criminal and Juvenile Justice

Drug Offense Task Force

Sealing Working Group

Minutes

October 10, 2019 12:00PM-3:00PM

1st floor CATPA Room, 710 Kipling, Lakewood

ATTENDEES:

WORKING GROUP MEMBERS

Audrey Weiss, Lead, District Attorney's Office, 1st Judicial District

Chris Andrist, Colorado Bureau of Investigation

Maureen Cain, Office of Colorado State Public Defender

Elaine Cissne, Colorado Bureau of Investigation

Janet Drake, Attorney General's Office

David Quirova, State Judicial Branch

Jack Regenbogen, Colorado Center on Law & Policy

Ean Seeb, Governor's Office (Special Advisor on Cannabis)

STAFF

Stephané Waisanen, Division of Criminal Justice

<p>Issue/Topic Discussion: Statutory Mandate & Overall Discussion (continued)</p> <p>ACTION WG should examine the operating systems in Judicial and CBI to create a compatible platform</p> <p>ACTION David will ask about the algorithm used by IT at Judicial</p>	<p>finds the information to determine whether an individual has met the waiting period requirement. It also searches subsequent arrests and court filings to ensure the case is still eligible. From there, the case is sealed.</p> <p>The funding in Pennsylvania was provided to Information Technology departments to assist with developing an algorithm for the process. The Working Group needs to examine the operating systems that CBI and Judicial currently use in order to create a platform that would be compatible.</p> <p>Elaine mentioned CBI’s court disposition-arrest matching system. The courts and CBI match cases electronically so that the arrest database has disposition information.</p> <p>David Quirova stated that an electronic transfer occurs when a case is transferred to the court system from CBI with the SID (State Identification Number) and associated fingerprints, and later the disposition is entered. David will talk with folks from Judicial’s Information Technology Department to learn if there is an algorithm process.</p> <p>Are records sealed in the prosecuting attorney’s office or in the police departments? How does that work in other jurisdictions? Is a list sent out monthly?</p> <p>Jack mentioned that the courts in Pennsylvania send out a list monthly. They generate an initial list and it is sent to a central repository that is equivalent to CBI. The state police have thirty days to review and validate. This is equivalent to Colorado’s disposition-matching system.</p> <p>Regarding older cases, once they are sealed, do the defendants know that their cases have been sealed?</p> <p>Jack stated that this has been a problem in Pennsylvania. They have a confidential website that lets individuals know if they have a clean slate. A lot of information in the CBI system is relatively old and the information is not getting back to the individual. It has been proposed that other data sources should be utilized that are more current, such as DMV or voter registration records. This may require legislative changes to allow data sharing between those agencies.</p> <p>Ean stated that one of the biggest challenges is figuring out a date or date range regarding the implementation of automatic sealing. Equal protection must be afforded to everyone.</p> <p>Jack mentioned that, in terms of challenges, the automatic record sealing legislation that was previously drafted only applies to electronic records. CBI moved to an electronic system back in the early 2000s. There are still many paper files that date back to the 1950s and there is no way to automatically seal them.</p>
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<p>Issue/Topic Discussion: Statutory Mandate & Overall Discussion (continued)</p>	<p>Additionally, another issue is a practice that is now prohibited under H.B. 19-1275 (<i>Increased eligibility for criminal record sealing</i>). Certain district attorney’s offices sometimes reach plea agreements that require the defendant to waive their sealing rights. If an algorithm query is performed, records that would be eligible based on how much time had elapsed and whether the individual reoffended would not indicate whether there was a plea deal.</p> <p>Another issue is that CBI generates the initial list of eligible cases. In many of these cases, there are missing dispositions and these cases would be excluded, resulting in the removal of a large number of eligible cases.</p> <p>Ean mentioned that, in some counties, marijuana possession is referred to as a controlled substance. The group would need to look at the details of the arrest to understand what the substance was.</p> <p>Audrey wanted the group to think about suggestions for automatic sealing as it pertains to various types of drug cases.</p>
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Next Meeting

Thursday, November 7, 2019 12:30PM – 3:00PM
 2nd floor CICJIS Conference Room, 700 Kipling, Lakewood