ATTENDEES:

WORKING GROUP MEMBERS
Audrey Weiss, WG Leader, District Attorney's Office, 1st Judicial District
Chris Andrist, Colorado Bureau of Investigation
Janet Drake, Attorney General's Office
Maureen Cain, Office of Colorado State Public Defender
Elaine Cissne, Colorado Bureau of Investigation
David Quirova, Office of the State Court Administrator, Judicial Branch
Jack Regenbogen, Colorado Center on Law & Policy
Ean Seeing, Governor's Office

STAFF
Stephané Waisanen, Division of Criminal Justice

ABSENT

GUESTS

Issue/Topic	Discussion
Introductions, Previous Minutes Approval & Agenda Review Audrey Weiss, Working Group Leader	Audrey Weiss, WG Leader called the meeting to order and asked members to introduce themselves. Audrey asked if there were additions or corrections to the December meeting minutes. Following a simple correction, a motion was offered and a seconded to approve the corrected minutes; members unanimously approved the minutes. Audrey provided a brief overview of the agenda and mentioned that Meilani Santillán, Code for America would present information by phone about her organization.

Issue/Topic **Sealing Processes**	Discussion
Data Mapping & Network Architecture Review Chris Andrist	Chris distributed a data map/network architecture handout representing how law enforcement, the Colorado Bureau of Investigation, and Judicial interact. Chris described the Process Control Number (PCN) used to track arrests and the members offered points on this topic: - A Live Scan machine assigns a PCN to a set of fingerprints, which is used for tracking purposes across the entities who attach information to and/or search records related to an arrest. - For summonses, the court orders an individual to complete a fingerprint scan, which is submitted to CBI with the assigned PCN as a court-ordered scan. This process is routine for felony summons cases. - The PCN could be used as the "record key" to match cases for sealing. - The majority of law enforcement agencies use Live Scan. On occasion, fingerprints are forwarded by mail, forwarded from DUI checkpoints, or forwarded from those who are hospitalized. For these, CBI assigns a barcode/PCN to these fingerprints.
CBI Records Sealing Video Ean Seeb	Ean shared a video forwarded by Ted DeRosa that roughly illustrates the major points in the process to seal a record: - Judicial submits a sealing request to CBI - CBI determines the fee status of the request (payment received or not) and, if payment is outstanding, individuals are contacted for payment - CBI confirms the related case number with Judicial and resolves any questions or discrepancies regarding the case for sealing - CBI proceeds to seal the case, determining whether sealing applies to one or more arrests. The sealed arrest record is logged in CCIC (Colorado Crime Information Center) The process to seal and notify is only slightly different for summons cases than for the sealing of an arrest record, involving the CBI messaging system.

| Issue/Topic
Sealing Processes
All | Chris and members discussed challenges in the design of an automated sealing/ expungement process:

- A new fee confirmation process will be needed.

- There may be a one-time increase in necessary funds, if there is retroactive sealing involving a large number of old records, depending on the number of records that become eligible. The savings from automation could pay for this initial increase in processing volume.

- Will limits be set on the age of records eligible for sealing? CBI maintains records to 1967. Older records will be a challenge. Would automatic sealing be retroactive and to what point in time?

- There will be a need for quality assurance reviews of the case/sealing information to resolve errors, glitches, or instances of identity theft.

- The automatic sealing process must identify the relevant arrest records (documented at CBI) and the relevant misdemeanor cases (documented by Judicial).

- Colorado has multiple court data systems - Denver County and municipal courts are on different systems.

- possible human data entry error

- how case exceptions would be handled

- the role of the state police in the record confirmation process

- the assignment of responsibility/accountability to determine and confirm eligibility requirements case/record details

- handling instances of mistaken sealing or failure to seal eligible records

- the necessity and processes to unseal a sealed record (in cases where a subsequent drug case occurs)

The system could be programmed/designed with automated error detection and checks to confirm record eligibility and other case details and/or to flag records with discrepancies for staff to review/confirm.

Audrey outlined three process "flows" to identify the cases eligible for sealing:

• CBI identifying applicable cases and transferring these to Judicial for review and confirmation before sealing.

• Judicial identifying cases and submitting these to CBI for sealing.

• Judicial identifying applicable cases, providing a sealing "candidate list" to CBI, CBI verifying eligibility and returning a list of eligible cases to Judicial to confirm in order to complete the sealing process.

NOTE. Following the conversation with Code for America summarized below, the group continued a freeform discussion of various aspects of case/disposition matching and the potential pitfalls of an automated sealing system and, to a lesser extent, various aspects of sealing eligibility. |

Issue/Topic	Discussion
Code for America Meilani Santillián, Associate Program Director, Criminal Justice, Code for America (by phone)	Meilani Santillián gave on overview of the work by Code for America (CFA; codeforamerica.org) specific to "case clearance" (sealing, expungement). They are interested in offering assistance nationally based on their experience with implementation of case clearance systems/processes in California, as well as the related policy issues. In response to a description of the challenges discussed by the Working Group, Meilani offered how the work might be undertaken. The technical assistance by CFA may focus on one or all of these aspects: mapping the current technology in use and identifying gaps, outlining internal/agency business processes, identifying connections with law enforcement systems, identifying the interface with external/public access to record systems for background checks, providing system programming and/or translating and reviewing underlying policy issues. *Meilani emphasized the difference between <u>automatic</u> (a policy process) and <u>automated</u> (an electronic process) sealing processes and how sealing objectives might be accomplished via a mix of those two approaches.* Meilani described how Code for America (CFA) worked with the District Attorneys in California where local control of the sealing process was deemed essential. CFA designed code to help identify eligible records. The eligible cases are provided to DAs for confirmation and then are forwarded to the agency managing the background check system. Members and Meilani discussed the sealing efforts in Pennsylvania and Utah and that CFA is tracking the sealing developments in Pennsylvania, but not working with them directly. CFA is advising on implementation in Utah to identify cases for clearance: initially, how to code algorithms to identify the simple cases and, subsequently, to assist with code to identify more complex eligibility circumstances. CFA can assist with coding/algorithms to implement a process or simply offer advice and guidance on implementation. Meilani responded to a request to describe how CFA initiates an technical assistance agreement/partnership: - Thus far, CFA projects to pilot technology with state partners has been free of charge (see, codeforamerica.org/how). CFA is supported by a variety of philanthropic partners (codeforamerica.org/our-supporters). - CFA can assist with policy analysis (determining policy and data availability), with policy implementation planning, and/or with final implementation. - As mentioned, the interventions by CFA, thus far, have all been free of charge as a part of their "pilot period" to gather information from a variety of states on state policy, different policy implementations, and on similarities and differences across state data and processes with the goal eventually to promote and implement such systems nationwide.

Issue/Topic	
Code for America Meilani Santillián, Associate Program Director, Criminal Justice, Code for America (by phone; continued)	- Any future partnership is evaluated on a case-by-case basis to determine whether the state process will inform the CFA goals and, relatedly, whether CFA will impose or waive assistance fees. - The CFA priority is to engage with states exploring comprehensive "case clearance" policies, but not where the focus is a single crime class (for example, only drug cases). Although the CFA priority does not correspond with the current mandate to the CCJJ (Drug Offense Task Force and Diversion Working Group), there might be future endeavors in Colorado that address sealing more broadly. Chris mentioned that CBI could not contract with Code for America (CFA) because there is an existing CBI contract with Computer Projects of Illinois (CPI), but maybe CPI could consult with CFA on technical issues. Chris briefly described the system and sealing process in Pennsylvania designed by Unisys and whether there might be processes there to emulate. Audrey asked whether CPI might provide estimated costs associated with automating the sealing process, once the scope of the Colorado project is defined. Ean mentioned that CFA might be willing to assist with that definition phase. The group felt it would be important to provide the general parameters of the sealing process and the ballpark costs for an automated sealing process in the recommendation to the Drug Offense TF and CCJJ.

Issue/Topic	Discussion
Equal Protection Concerns Ean Seeb & Janet Drake	At the last meeting, Janet and Ean agreed to explore whether there are equal protection concerns related to the creation of different sealing processes for different convictions. Janet reported that preliminary research done in her office found that different sealing processes (paper vs. electronic) for different prior convictions would not result in a violation of equal protection. Ean's research yielded the same conclusion.

Issue/Topic	Discussion
Next Steps & Adjourn Audrey Weiss	Members discussed the recommendation development timeline and worried that the work would be too late for the current legislative session. Any recommendations would first require approval by the Drug Offense Task Force and, subsequently, by the full Commission. With time for preliminary and final presentations and addressing any requests for revisions, the approval process could continue into May and June. The final report by the Commission to the General Assembly does not occur until June; therefore,

Issue/Topic	the recommendations would not be considered in the current legislative session anyway.
Next Steps & Adjourn Audrey Weiss (continued) **ACTIONS** Chris: Info from Pennsylvania State Police and Computer Projects of Illinois (CPI) David: Info on Municipals, City & County of Denver on different court systems Audrey: Draft a recommendation outline	Audrey recapped the elements of work generated by the group she felt must be completed for inclusion in a recommendation: - identifying the applicable drug offenses - delineating the eligibility provisions of automatic sealing for the applicable drug offenses - proposing an automated sealing process - estimating costs of the sealing process (especially, if proposing automation) - defining the implementation timeline (with or without automation) - identifying necessary statutory revisions The group will discuss the following at the February meeting: • Chris will gather more information from the Pennsylvania state police about cases with subsequent convictions. He will ask whether Computer Projects of Illinois (CPI) has experience with automating sealing processes. • David will gather additional background on the use by Denver and municipalities of different court data systems. • Audrey will draft a preliminary recommendation outline. • Identify any other elements necessary to address the SB19-008 mandate. Audrey thanked the Working Group for their contributions and adjourned the meeting.

Next Meetings

Thursday, February 13, 2020

Sealing Working Group	**Drug Offense Task Force**
12:30 pm – 3:00 pm	3:00 pm - 4:00 pm
1st Floor CATPA Meeting Room	2nd Floor Meeting Room
710 Kipling, Lakewood, CO	710 Kipling St., Lakewood, CO 80215