
APPENDIX A

THE KING COUNTY SYSTEMS

THE CHILD WELFARE/DEPENDENCY SYSTEM

The **Children's Administration** is one division of the **Washington State Department of Social and Health Services**. Children's Administration is divided into six regions of **Child and Family Field Services (DCFS)**. Each region is divided into area offices, of which there is a total of forty-four. The second structure important to the dependency system is the **King County Juvenile Court** in which dependency petitions are filed and proceedings are held.

The relevant programming falls under the Children's Administration structure and consists of: 1) **Child Protective Services Program (CPS)**; 2) **Child Welfare Services Program (CWS)**; 3) **Family Reconciliation Services Program (FRS)**. CPS provides intake, screening, and investigation of reports of suspected child abuse and neglect. CWS provides placement prevention and permanency planning services for children and families who may need help due to serious chronic problems – i.e. dependency. FRS provides services on a voluntary basis devoted to maintaining the family as a unit and preventing out of home placement of adolescents – i.e. **At-Risk Youth (ARY)** and **Children in Need of Services (CHINS)**.

The relevant participants include those working within the Children's Administration: the **Assistant Secretary, DCFS Regional Administrators, Area Administrators, Social Work Supervisors, and Line Staff**. Line staff work as **CPS investigators** and **ongoing workers** who investigate and carry the case through the initial hearings, and **Child Welfare workers** to whom cases are transferred once dependency is established. Child Welfare workers carry the case for the rest of its life. Other participants include the **Attorney General's Office**, which represents the Department of Social and Health Services in dependency proceedings. The **Public Defender's Office** and its contracted agencies provide representation to parents in dependency proceedings and to children who are 12 or older. **Guardians ad Litem** can be appointed to represent the interests of youth younger than 12 during dependency proceedings. These attorneys also work on the **ARY, CHINS, and Truancy** cases. Finally, there are participants working in the Juvenile Court including **Judges, Program Directors, and Program Staff**.

THE JUVENILE JUSTICE SYSTEM

King County Juvenile Court is home to the **Juvenile Probation Department**, which includes a **Detention Screening Unit**, an **Intake Unit**, a **Diagnostic Unit**, a **Sex Offender Unit**, and a **Drug Court Unit**. The court also is home to the **ARY, CHINS, and Truancy** cases. **Juvenile Detention** is a division within the **Department of Adult and Juvenile Detention**. The **Juvenile Rehabilitation Administration**, another division of the Washington State Department of Social and Health Services, provides custody, supervision, and treatment of juveniles who are committed to their custody based on a felony conviction.

The relevant participants include attorneys, such as **Prosecuting Attorneys** and **Public Defenders**. Public Defenders represent offenders, truants as of the first contempt hearing, and youth involved with ARY and CHINS prior to the first factfinding hearing. Central to the process are those working at the court: **Judges, the Director of Juvenile Court Services, Juvenile Detention Workers, and Juvenile Probation Counselors (JPC)**. The JPC will conduct information gathering on the juvenile, taking over for detention workers after the youth's first appearance in court. There are also the court personnel who work with the ARY and CHINS cases,

including the **Program Manager** and **Case Managers**. Case Managers help families involved in the court process identify and link to community-based service providers.

OTHER ENTITIES

The **King County Department of Community and Health Services** works closely with the juvenile justice system to coordinate community-based services to serve these youth and their families. The department includes four divisions: the **Community Services Division, Mental Health, Chemical Abuse and Dependency Services Division (MHCADSD), Developmental Disabilities Division**, and the **Office of the Public Defender**. The Community Services Division contracts with many youth serving providers that offer juvenile justice prevention/intervention programs. MHCADSD is responsible for administration of the publicly funded mental health system and substance abuse treatment system. Among the services it funds are specialized programs for treatment of multi-system involved youth.

Other entities involved in the child's life and treatment are **schools, physicians and hospitals, mental health providers and evaluators, and substance abuse treatment providers**.

APPENDIX B

INTERVIEW FINDINGS

WHAT INFORMATION NEEDS TO BE SHARED

- What DCFS workers report they need to know about youth being served by juvenile justice and child welfare:
 - Court information: charges, court dates, court orders, predicted outcome of the case, actions taken by detention to locate parent or responsible adult for release
 - Histories: criminal, social, probation, mental health, substance abuse
 - Known conditions: mental health, behavioral, substance abuse, developmental delays or disabilities, STDs, safety concerns, level of supervision required, medical alerts, and current medications
 - Services being provided by juvenile justice
 - Records of juveniles coming out of JRA
- What juvenile justice workers reported they need to know about youth being served by juvenile justice and child welfare:
 - General history: CPS referrals and the circumstances surrounding these referrals, placement history, general family history and reason for dependency or placement
 - Current information: current placement, current DCFS worker name and contact information, level of family involvement
 - Known conditions: behavioral, mental health, learning disabilities, medical alerts
 - Services being provided and what services the juvenile is eligible for
- What a community-based provider needs to know about youth being served by child welfare and juvenile justice
 - Other systems involved with the child
 - Treatment history
 - Child and family needs

HOW INFORMATION IS CURRENTLY ACCESSED OR SHARED

- Defender attorneys reported that they have access to electronic court records. Defenders also have access to CPS records through the state database.
- Delinquency and Dependency Defenders working with the same client share information very informally. They are often from the same office and will just share information by talking with one another.
- Dependency Defenders obtain information from social workers through both formal and informal processes. When a defender first gets assigned to a case, she sends out a discovery request. This is generally an ongoing discovery request, which should result in periodic updates. Otherwise, the defender has to track down the worker by phone or by email.
- The Attorney General's Office has access to the Department of Social and Health Services files on a child, which consists of the narrative, the service episode record, health information, educational information, and information regarding whatever causes the family to come to the attention of the department, including the initial CPS referral. Generally the Social Worker will print out the information and create a copy of the child's record for the attorney. There is a protocol for what information the department needs to provide the Assistant Attorney General when a case is initially being filed. For further information, it falls upon the individual attorney to seek out the Social Worker.
- The Assistant Attorney General will usually only find out that a dependent has been charged with an offense through informal means. The foster parent usually reports to the Social Worker, but the worker only provides reports to the attorney for scheduled hearings, which can be six months apart.
- A Prosecuting Attorney will find out that that a juvenile is a dependent either through intake, if the juvenile self-reports, or when it is apparent from the details of the police report. They have access to state databases in order to locate a juvenile and to track their criminal history.
- A Juvenile Probation Counselor finds out that a juvenile is a dependent when the juvenile self-reports in intake or screening. If the youth has had a dependency filed, it can be discovered from the court's own internal computer system. It is part of the prescreening or assessment to search the court files and to ask the juvenile. If the JPC needs information from DCFS, they obtain it informally, by calling the social worker.
- DCFS workers needing information from juvenile justice workers generally call for information.
- Court Case Managers and DCFS working on ARY and CHINS cases get their information through an informal process based on relationships.
- Community based providers receive referrals through many sources. These sources will often identify that the youth has been involved with the child welfare or juvenile justice system. In the case of juvenile offenders, community based providers are often contacted by the family, which is told about the provider by their defender. It was reported that when a family contacts DCHS providers, it is up to the provider to ask the family if they are involved with child welfare. MHCADSD has a system for cross-referencing mental health records with juvenile detention.

WHAT'S WORKING AND WHY

- The MHCADSD Interagency Staffing Team (IST) consists of representatives from schools, child welfare, and mental health. There is an IST coordinator who guides the team meetings and ensures that releases are signed so that principal parties can communicate with one another.
 - Participants credit the success of the IST Team with the fact that there is one person managing confidentiality and information sharing issues. It was also stated that the IST works well because it does not involve lawyers.
- In the Drug Court model, there is a dedicated prosecutor, dedicated defense attorney, and a dedicated judge. These participants work with probation officers and treatment providers to support the defendant/client in achieving treatment goals in order to avoid incarceration.
 - The success of the Drug Court program was credited to the commitment of dedicated staff, and the agreement on a common goal. Since defense attorneys are working to avoid incarceration, they can fulfill their ethical duties while supporting treatment goals.
- DCHS identified its Cross-Agency System Training as a successful endeavor. In these trainings, representatives from the various systems are brought together and each makes a presentation about what services are available, how to make referrals, and how to advocate for clients across the system. Participants include representatives from Mental Health, Drug and Alcohol, Child Welfare, Juvenile Justice, education, families and parents.
 - This program is considered a success because it provides an opportunity to inform participants about services and programs that were unknown to them, which has been identified as the first step in relationship building.
- MHCADSD has justice system liaisons that serve as point of contact for King County Juvenil Court and Juvenile Detention. Mental Health providers are required to have policies and procedures for connecting eligible youth referred by liaisons to outpatient mental health services.
- A new collaboration between the offender and ARY system was identified as successful. There is now one person who checks each filing in offender court to see if there are ARY/CHINS petitions filed on the same juvenile.
 - This has worked well, and has been free of legal constraints because everyone involved is part of the court system.
- Finally, participants identified certain relationships as productive and positive, supportive of information sharing. It was reported that DCFS workers and Court Program Caseworkers work well together, without legal or other barriers impeding their communications. In addition, the relationship and the communication between the juvenile court and JRA has been identified as successful.
 - DCFS and Court Case Managers work well together because they have clearly defined roles. Case Managers have defined their role as providing a service for the DCFS workers rather than doing their job for them.

WHERE IMPROVEMENT IS NEEDED

The findings from the interviews are supplemented by the work done by Lee Selah at DSHS.

- DCFS workers need to be alerted when a CHINS or a dependent youth enters detention.
- DCFS workers need access to records of juveniles coming out of JRA. There is no formalized system for sharing this information. The DCFS worker has to locate the person having the information, which is sometimes hard to do, and then reaching that person presents another challenge.
- The computerized system of court records does not inform probation when a juvenile is on a Becca, CHINS, ARY, Truancy, or on parole. Therefore, if a judge orders probation after the juvenile has been in an institution, there may be both a parole and a probation officer tripping over one another.
- The computerized system of court records does not note that a family has had DSHS involvement unless a dependency was filed. There is no record of when a family was simply referred out for services.
- JPCs would like to be informed of the outcomes of CPS referrals. This impacts their ability to provide good information to the court or to the supervision JPC.
- Defender attorneys need a way of effectively communicating between their dependency and delinquency units.
- Defender attorneys need to be alerted when a juvenile moves. At this point, the defenders often find out about a move through an email from the child herself.
- Assistant Attorneys General find that there are difficulties in getting health care or mental health information, sometimes even after there has been a court order. In fact, there are certain entities that simply refuse to give information – e.g. those connected with the federal government, including veteran’s hospitals and agencies funded by federal research money.
- Assistant Attorneys General report that only sometimes will the dependency attorney get notification that a dependent child has been detained. The JPC will usually only contact the attorney if the juvenile is in detention and they want DCFS to place the youth. The Prosecuting Attorneys also do not notify the dependency attorney that charges are being filed against a dependent child.
- JRA workers need training about what Children’s Administration is doing, as there are misconceptions about each other’s roles and resources.
- DCHS does not have a formalized system for connecting juveniles with programs. There are community providers that can serve kids, but the court is unaware of what services are available and what quality of services is available. Thus, community-based providers are not getting referrals from the court into their programs.
- Community-based providers report that they are not getting the right information at the right time to make the right placement into service. They experience problems getting information from the courts and the schools.

IDEAS FOR IMPROVEMENT

- Centralized information – utilizing a central database or a central entity for housing and/or disseminating information.
- Having just one judge hearing the dependency and the offender case of a child – scheduling hearings at the same time.
 - It was noted that still having two defender attorneys, one for dependency and one for the offense, was the best idea. It was recognized that each attorney is specifically trained to deal with distinct issues, and their expertise should be utilized.
- Creation of a team/wraparound model, including more face-to-face meetings.
- Continued training about what other agencies and entities do.
- Aggregating all confidentiality and allowing more open sharing, with some limitations: what is relevant, what is necessary, and what is pertinent. This would be allowable under §13.50.100.
- Revise § 13.50.100 to more strongly express support for information sharing.
- Obtain a legal opinion from the Attorney General clarifying the complex law.
- The DSHS Secretary could specifically direct that information-sharing take place.

WHERE DO PARTICIPANTS GET INFORMATION ON LEGAL GUIDELINES?

- Child Welfare workers look to supervisors or the Attorney General's Office.
- Schools direct their inquiries to their General Counsel's Office.
- JRA has developed policies based on state and federal laws, and workers refer to those. Otherwise, they consult a records release person located at each area office.
- DCHS/MHCADSD gets information from their own HIPAA Implementation Committee. The committee refers to the department's legal counsel when necessary.

LEGAL GUIDELINES IDENTIFIED BY PARTICIPANTS

- Federal Regulations: HIPAA and FERPA
- State laws of confidentiality for treatment providers
- Attorney Rules of Professional Conduct
- RCW § 13.50.100
- Civil rules regarding discovery and attorney work product

PARTICIPANT VIEWS OF LEGAL GUIDELINES

- CWS workers report that they are required to obtain permission from the youth and the family in order to get information from entities such as Probation or treatment providers. In this context, they view HIPAA as an absolute barrier to getting the information they want and need about parents, who will not necessarily sign releases.
- CWS workers have a fear of legal consequences because they know that there are guidelines for sharing information, but they are not familiar with what they say.
- Those working in the court system feel that schools are terrified of FERPA and that health care providers are terrified of HIPAA, so they make it hard to get information.
- JRA reports that they are aware that they can share information with those in the continuum of care, namely the juvenile court, DCFS, and community agencies. It is when outside sources request records that it becomes complicated.
- DCHS administrators are well versed on the HIPAA guidelines, and state that HIPAA is very clear about the fact that you need to be able to carry out your business. Therefore, DCHS administrators feel comfortable sharing information for treatment, payment or health care operations. However, these administrators also readily admit that the federal guidelines are very hard to read, and that a lot of time is spent interpreting them.
- DCHS administrators report that the fear of consequences for violating HIPAA is strong among service providers, given that the federal rules provide for both civil monetary penalties and criminal penalties for violations.
- Attorneys state that there is little to no caselaw regarding improper disclosure at the state level, but they too are aware that mental health and health care providers are strongly motivated by the fear of being sued. Yet, even with the reasonable clause built into HIPAA, people feel that they don't have enough protection if they make a mistake.

HOW PARTICIPANTS DEAL WITH LEGAL BARRIERS

The main tactic is to obtain releases. Once that is done, participants feel comfortable pursuing and disclosing information. However, when the relevant players know each other and trust each other, many participants feel comfortable sharing information with others in the continuum of care.

- DCFS workers and probation officers state that they get releases of information from the clients. Where a juvenile or a family is resistant, the worker believes that he or she can usually talk the juvenile into signing the release.
- Attorneys also rely on releases being signed. If their client is at a facility that requires confidentiality, the attorney will usually find out where the juvenile is, and will then contact the facility stating that IF the named juvenile is there, would they please obtain a signature on the release form so that the attorney can speak to the juvenile.
- DCFS workers rely on the same technique as the attorneys above.
- When HIPAA is a problem, workers often rely on verbal statements made outside of what the records show.

- JPCs and Case Managers report that they are willing to share information with DCFS workers with whom they have a good working relationship.

OTHER BARRIERS TO COLLABORATION

- Incongruous Goals
 - A concern of juvenile justice workers is that DCFS sees detention as a reasonable placement when those in the juvenile justice system are working to get the juveniles out of detention as soon as possible.
 - DCFS workers see their ultimate goal as being very different from that of the child's attorney. Workers feel that they are working in the best interest of the child, while the attorney is focused on legal rights.
 - Defenders have great concern that information about a juvenile offender could reemerge if the juvenile becomes an adult involved with the criminal system. Therefore, attorneys can be reluctant to share certain sensitive information.
- Lack of Knowledge and Trust of Other Entities
 - A juvenile justice worker stated that sometimes information is not shared with DCFS because they fear that if they share information about the treatment/service plan coming out of juvenile justice, the DCFS worker will stop doing his or her job. It was also reported that there can be a lack of trust that the DCFS worker will take action based on the information, or there can be a fear that the worker will treat the child differently based on alleged behavior. Finally, it is reported that there is some belief that DCFS is waiting to see what the court will do until they take action.
- Lack of Knowledge of the Rules
- Several participants expressed the opinion that a team model would not work in the courtroom because the courtroom is by nature adversarial.
- Several participants reported that it is a challenge to have so many rotating players rather than dedicated staff.

APPENDIX C

WASHINGTON STATE STATUTES REFLECTING LEGISLATIVE INTENT

- Chapter 13.06 Juvenile Offenders – Consolidated Juvenile Services Programs
 - “It is the intention of the legislature...to encourage the community to efficiently and effectively provide community services to juvenile offenders through consolidation of service delivery systems.” §13.06.010
- Family Reconciliation Act
 - “The legislature intends to give tools to parents, courts and law enforcement to keep families together and reunite them whenever possible.” §13.32A.010
- Juvenile Court Act
 - “The department of social and health services serves parents and children with multiple needs, which cannot be resolved in isolation. Further, the complexity of service delivery systems is a barrier for families in crisis when a child is removed or a parent is removed from the home. The department must undertake efforts to streamline the delivery of service.” Finding 2001 C 256 § 1
- Juvenile Court Act
 - “The right of a child to basic nurturing includes the right to a safe, stable, and permanent home and a speedy resolution of any proceeding under this chapter.” §13.34.020
- Juvenile Justice Act
 - “It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for and responding to the needs of youthful offenders ...be established....[T]he legislature declares the following to be equally important purposes of this chapter... (f) provide necessary treatment, supervision, and custody for juvenile offenders;... (i) develop effective standards and goals for the operation, funding and evaluation of all components of the juvenile justice system and related services at the state and local levels;... (k) encourage the parents, guardian or custodian of the juvenile to actively participate in the juvenile justice process.” §13.40.010
- Child Welfare Services
 - “The purpose of this chapter is to safeguard, protect, and contribute to the welfare of the children of the state, through a comprehensive and coordinated program of public child welfare services providing for: Social services and facilities for children who require guidance, care, control, protection, treatment or rehabilitation; ... [and] cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities in behalf of children....” §74.13.010

- Mental Health Service for Minors
 - “It is the purpose to assure that minors in need of mental health care and treatment receive an appropriate continuum of culturally relevant care and treatment. To facilitate the continuum of care and treatment to minors in out of home placements, all divisions of the department that provide mental health service to minor shall jointly plan and deliver those services.” §71.34.010

APPENDIX D

STATUTES AND REGULATIONS AFFECTING INFORMATION SHARING

WASHINGTON STATE STATUTES

- Washington State Criminal Records Privacy Act, § 10.97.130, states that information identifying the child victim of sexual assault may be released to law enforcement, those involved in the court proceedings, or agencies providing services.
- The Family Reconciliation Act, §13.32.A.042; §13.32A.044, state that the department may involve multidisciplinary teams for determining services, and gives the teams authority to evaluate the child and family as long as the proper releases have been signed.
- Juvenile Court Act, §13.34.025, states that the department must: “(1) coordinate and integrate services to children and families’ multiple needs...[and] (3) access training for department staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.”
- Juvenile Court Act, §13.34.105, requires agencies, hospitals, school organizations, division or department of the state, doctor, nurse, or other health care providers, psychologists, psychiatrists, police departments, or mental health clinics to allow court appointed guardian ad litem to inspect and copy any records relating to the child or children involved in the case without consent.
- Juvenile Court Act, § 13.34.350, requires DSHS, “[I]n order to facilitate communication of information needed to serve the best interest of any child who is the subject of a dependency case filed under this chapter,” establish and use guidelines “for the facilitation of communication of relevant information among divisions, providers, the courts, the family, caregivers, caseworkers, and others.”
- Juvenile Justice Act, §13.40.480, requires schools, to the extent permitted by FERPA, to “make all student records and information necessary for risk assessment, security classification, and placement available to court personnel and the department within three working days of a request under this section.”
- Keeping and Release of Records by Juvenile Justice or Care Agencies, §13.50.050, deals with records relating to the commission of juvenile offenses. This section allows for such records retained or produced by any juvenile justice or care agency to be released to other participants in those systems only when an investigation or case involving the juvenile in question is being pursued by the other system. Furthermore, law enforcement and prosecuting attorneys MAY release information to a school pertaining to the offense. This section also allows for the central record-keeping system to be computerized.
- Keeping and Release of Records by Juvenile Justice or Care Agencies, §13.50.100, is the most pertinent statute and relates to records not relating to the commission of juvenile offenses. It states: “Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the

juvenile.” Furthermore, records covered under this section and maintained by the juvenile courts relating to the official actions of the agency may be entered in the statewide judicial information system. The section then states: “However, truancy records associated with a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, shall be removed from the judicial information system when the juvenile is no longer subject to the compulsory attendance laws in chapter 28A.225 RCW.”

- Common School Provisions, § 28A.600.475, allows school districts to participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by FERPA. In addition, when directed by court order or pursuant to any lawfully issued subpoena, a school district shall make student records and information available to law enforcement officials, probation officers, court personnel, and others legally entitled.
- Uniform Health Care Information Act, §70.02.020, directs that health care providers and those who assist them cannot disclose health care information about a patient to any other person without patient’s written authorization. However, a health care provider MAY disclose health care information without authorization to the extent a recipient NEEDS TO KNOW the information, if the disclosure is to any person that the health care provider reasonably believes will help to avoid or minimize an imminent danger to the health or safety of the patient or any other individual, or to an official of a penal or other custodial institution in which the person is detained.
- Mental Illness, § 71.05.390, states: “The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential. Information and records MAY be disclosed only: (1) In communications between qualified professionals in the provision of services or appropriate referrals, or in the course of guardianship proceedings. There must be consent of the patient unless the information is disclosed by a professional person employed by a facility to another professional person... who has medical responsibility for the patient’s care OR who is employed by a state or local correctional facility where the person is confined...(3) When the patient, or his parents have designated someone to whom information or records can be released.”
- Mental Health Services for Minors, §71.34.200, states: “The fact of admission and all information obtained through treatment under this chapter is confidential. Confidential information may be disclosed only: (1) In communications between mental health professionals to meet the requirements of this chapter, in the provision of services to the minor, or in making appropriate referrals; (2) In the course of guardianship or dependency proceedings; (3) To persons with medical responsibility for the minor's care; (4) To the minor, the minor's parent, and the minor's attorney, subject to RCW § 13.50.100; (5) When the minor or the minor's parent designates in writing the persons to whom information or records may be released....The fact of admission and all information obtained pursuant to this chapter are not admissible as evidence in any legal proceeding outside this chapter, except guardianship or dependency, without the written consent of the minor or parent.”
- Mental Health Services for Minors, §71.34.210, states: “The records and files maintained in any court proceeding under this chapter are confidential and available only to the minor, the minor’s parent, and the minor’s attorney. In addition, the court may order the subsequent release or use of these records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality will be maintained.”

- Public Assistance – Child Welfare Services, §74.13.036 states: “The department of social and health services shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and childcare systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that Chapters 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state. (2) The department shall develop a plan and procedures, in cooperation with the statewide advisory committee, to insure the full implementation of the provisions of chapter 13.32A RCW. Such plan and procedures shall include but are not limited to: (a) Procedures defining and delineating the role of the department and juvenile court with regard to the execution of the child in need of services... (d) Procedures for the continued education of all individuals in the criminal juvenile justice and child care systems who are affected by chapter 13.32A RCW, as well as members of the legislative and executive branches of government. (3) In addition to its other oversight duties, the department shall: ... (c) Educate affected entities within the juvenile justice and child care systems, local government, and the legislative branch regarding the implementation of chapters 13.32A and 13.34 RCW.”
- Public Assistance – Child Welfare Services, § 74.13.042, “If the department is denied lawful access to records or information, or requested records or information is not provided in a timely manner, the department may petition the court for an order compelling disclosure... (3) The court shall grant the petition upon a showing that there is reason to believe that the record or information sought is necessary for the health, safety, or welfare of the child who is currently receiving child welfare services.”

WASHINGTON ADMINISTRATIVE CODE

- WAC 388-25-0395 states: “The department must comply with the requirements of chapter 13.50 RCW for management of juvenile records.”
- WAC 388-25-0400 reiterates the language found in 13.50, that “the department may release records to... [o]ther participants in the juvenile justice or care system only when an investigation or case involving the juvenile is being pursued by the other participants or when that participant is assigned the responsibility of supervising the juvenile.”

FEDERAL CODES AND REGULATIONS

- Confidentiality of Alcohol and Drug Abuse Patient Records, Title 42, Chapter I
 - “If a minor patient acting alone has the legal capacity under the applicable State law to apply for and obtain alcohol or drug treatment, any written consent for disclosure authorized under subpart C of these regulations may be given only by the minor patient. Where State law requires consent of a parent, guardian, or other person for a minor to obtain alcohol or drug abuse treatment, any written consent for disclosure authorized under subpart C of these regulations must be given by both the minor and his or her parent, guardian, or other person authorized under State law to act in the minor’s behalf.” 42 CFR 2.14(b)
 - “If a disclosure permitted under these regulations is prohibited under State law, neither these regulations nor the authorizing statutes may be construed to authorize any violation of that State law. However, no State law may either authorize or compel any disclosure prohibited by these regulations.” 42 CFR 2.20

- Public Health Services Act, Title 42, Chapter 6A
 - Records of the identity, diagnosis, prognosis, or treatment of any patient maintained in connection with substance abuse education, prevention, training, treatment, rehabilitation, or research which is conducted, regulated, or directly or indirectly assisted by any department or agency of the U.S. shall be confidential. 42 USC 290dd-2(a)
 - Permitted disclosures include: when there is consent of the patient; to medical personnel when there is an emergency; to qualified personnel for the purpose of research; if authorized by an appropriate order of a court upon a showing of good cause. 42 USC 290dd-2(b)
 - Except as authorized by a court order, records cannot be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient. 42 USC 290dd-2(c)

- Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR 160, 164
 - The standards, requirements, and implementation specifications adopted under this subchapter apply to: health plans, health care clearinghouses, and health care providers who transmit any health information in electronic form. 45 CFR 160.102
 - A standard adopted under this subchapter that is in conflict with State law preempts the provision of State law. 45 CFR 160.203
 - A covered entity may not use or disclose protected health information, except as permitted or required by specified subparts. 45 CFR 164.502(a)
 - A covered entity is PERMITTED to use or disclose protected health information to the individual and for treatment, payment, or health care operations with consent of the patient. 45 CFR 164.502(a)(1)(i) & (ii)
 - A covered entity must make reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use or disclosure request. 45 CFR 164.502(b)
 - If a parent, guardian, or other person acting in loco parentis has authority to act on behalf of an individual who is an unemancipated minor in making decisions related to health care, a covered entity must treat such person as a personal representative of the unemancipated minor. However, a minor may consent when no other consent is required by law regardless of whether the consent of another has been obtained and the minor has not requested that person be treated as the personal representative or if the minor can legally obtain health care services without the consent of a parent/guardian and the minor, the courts or another person authorized consents to the services or a parent/guardian assents to an agreement of confidentiality between provider and minor. 45 CFR 164.502(g)(3)(i)(A)-(C)
 - A covered entity must designate a privacy official who is responsible for the development and implementation of the policies and procedures of the entity. 45 CFR 164.530

- Family Educational Rights and Privacy Act (FERPA), 20 USC §1232g
 - Generally FERPA provides that student records are to be kept confidential, with access to third parties only with parental consent. 20 USC 1232g
 - Allows for the disclosure of a student record to state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State Statute adopted before after Nov. 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to serve, prior to adjudication, the student whose records are released; and the authorities certify in writing to the educational system that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student. 20 USC § 1232g(b)(1)(E)

- Child Abuse Prevention and Treatment Act (CAPTA), Title 42, Chapter 67
 - Provides for grants to states for: “supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;” or “supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.” 42 USC 5106a(a)(13)-(14)
 - Permits agencies to disclose records to Federal, state, or local government entities, or any agent of such entities...that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect. 42 USC 5106a(b)(2)(A)(viii)(II) and 42 USC 5106a(b)(2)(A)(ix)
 - Permits agencies to disclose records to a court when the court needs the information to decide an issue. 42 USC 5106a(b)(2)(A)(viii)(V)
 - Allows states to statutorily define groups or individuals who can receive child welfare records for a legitimate state purpose. 42 USC 5106a(b)(2)(A)(viii)(VI).

- Title IV of the Social Security Act, Title 42, Chapter 7
 - Allows child welfare records to be disclosed when disclosure is for purposes directly connected with administering Title IV-E and IV-B. 42 USC § 671(a)(8)(A)

- Juvenile Justice and Delinquency Prevention Act (JJDP A), Title 42, Chapter 72
 - State plans must “provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court.” 42 USC 5633 (26)

- Allows disclosure when the juvenile or legal representative consents. 42 USCS 5676
- Allows disclosure when it helps carry out the purposes of the Act, such as preventing juvenile delinquency. 42 USC 5676

UNITED STATES CONSTITUTION

- Fourth Amendment
 - The most relevant issue regarding the Fourth Amendment involves the confidentiality of juvenile records. One recent federal case, *Gonzalez v. Spencer*, 336 F.3d 832 (9th Cir., 2003), considered whether a private attorney was entitled to juvenile records to assist in his representation of the county's interests in civil rights litigation. It was held that pursuant to California law, the attorney had to get the juvenile court's permission before inspecting the individual's file. The relevance of this case is simply to point out that it is constitutionally permissible for state law to put the responsibility in the hands of the court to determine when access to private records is reasonable. This kind of flexibility and leadership by the court can be valuable in creating an effective information-sharing system.
- Fifth Amendment
 - In the case of *In re Gault*, 387 U.S. 1 (1967), the Supreme Court directly confronted the applicability of the privilege against self-incrimination in juvenile proceedings. The Court determined that juveniles shall be afforded the privilege. The scope of this privilege has been at issue in numerous federal and state cases as new situations arise. However, despite the fact that the exercise of this privilege has clear implications for information sharing and confidentiality, there is not further guidance in the constitutional context. A more in-depth review of caselaw and secondary sources may help to define the parameters of what is considered "incriminating" and may suggest certain strategies for increasing communication while protecting constitutional rights.
- Sixth Amendment
 - The right to be represented by counsel has likewise been held applicable to juvenile delinquency proceedings in a number of cases, including the landmark case of *In re Gault*. However, the Sixth Amendment has not been applied in its entirety to juvenile delinquency proceedings, as determined by the Supreme Court in *McKeiver v. Pennsylvania*, 403 U.S. 528 (1976). In *McKeiver*, the Court determined that there is no right to a jury trial in juvenile court. While this does not directly affect information sharing and confidentiality, it does highlight that there is still a distinction between how constitutional rights are applied to criminal defendants and juvenile offenders. This distinction ultimately allows for some flexibility in interpreting constitutional mandates.

RULES OF PROFESSIONAL CONDUCT FOR ATTORNEYS

- Rule 1.3 states: "A lawyer shall act with reasonable diligence and promptness in representing a client."

- Rule 1.6 requires that a lawyer not reveal confidences or secrets relating to representation of a client without consent.
- Rule 2.1 requires a lawyer to exercise independent professional judgment and render candid advice. In doing so, a lawyer may refer may look beyond simply law and consider moral, economic, social and political factors that may be relevant.
- Rule 1.13 addresses the lawyer's responsibility when representing a client under a disability, which can include minority. Generally, the attorney is to maintain a normal client-lawyer relationship with the client. If the attorney believes that the client cannot adequately act in his own best interest, the lawyer may seek the appointment of a guardian or take other protective action.

APPENDIX E

WASHINGTON STATE AND KING COUNTY AGENCY INFORMATION SHARING POLICIES

WASHINGTON STATE AGENCY POLICIES

- Juvenile Rehabilitation Administration, Administrative Policy, JRA Bulletin 29 – Confidentiality and Release of Juvenile Records and Operations Records
 - Purpose is to establish guidelines regarding the confidentiality and proper release of juvenile records and operations records. § 29-100
 - “JRA Case File” means the official client record containing commitment, diagnostic, health, case management, and treatment records. §29-300
 - “JRA Records Manager” is the person in JRA central office designated to coordinate JRA’s release, retention, sealing, and destruction of records.
 - “Juvenile Justice or Care Agency” is an entity as defined in RCW § 13.50.010, which includes: police, diversion units, courts, prosecuting attorney, defense attorney, detention center, AG, Legislative Children’s Oversight Committee, Office of Family and children’s Ombudsman, Department of Social and Health Services and its contracting agencies, schools, persons or public or private agencies having youth committed to their custody, and any placement oversight committee created under RCW 72.05.415. § 29-300
 - “Juvenile Records” are any form of documentation produced, maintained, or controlled for or by JRA containing client identifying information. This includes the JRA case file, Client Activity Tracking System information, correspondence, e-mail, personal notes, photographs, and videos. This term is considered to be equivalent to and interchangeable with the term “client record” as used in the DSHS Administrative Policies 5.01, 5.02, and 5.03.
 - “Records coordinator” is a person designated in JRA central office, institutions, and regions to be responsible for coordinating record requests and monitoring compliance with the facility or office records schedule. § 29-300.
 - “JRA has the authority to share juvenile and operations records and information within its continuum of care to address rehabilitative, security, or custody needs. The JRA continuum of care includes, but is not limited to, organizations, entities, and individuals who provide care, treatment, and/or other services to a youth as a result of or in connection with a youth’s JRA commitment/supervision.” § 29-400.
 - “Release of juvenile records should be limited to only those records that will assist the organization, entity, or individual in carrying out its responsibility. ...Records release or sharing between programs operated by JRA or contracted

by JRA to provide diagnostic, residential, or parole services does not require this review“§ 29-400.

- “JRA, for the purposes of HIPAA, is considered a health plan.” § 29-400
- “Youth may authorize release of information about themselves through the use of the JRA Consent for Release to Parent/Guardian/Involved Individual Form, DSHS Authorization form, or the DSHS Request for Records form.
 - “Youth will be asked to sign the JRA consent form during the diagnostic process. This consent will be reviewed with each youth every 90 days and at the time of the initial parole meeting with their parole counselor. This form is to be used to allow the sharing of information with other people outside the JRA continuum of care that the case manager and youth have identified as individuals involved in the youth’s ongoing treatment, care, and/or supervision.” § 29-400
- “Juvenile records must be released regardless of confidentiality restrictions when ordered by a court pursuant to a valid court order signed by a judge. A court order supersedes all other authorization requirements.” § 29-400
- “A youth’s defense attorney may access the youth’s juvenile record as outlined in 29-400(II)(3)(E). With written request and verification of representation, JRA must provide attorneys who represent youth on other matters access to the youth’s juvenile record with the following exceptions: 1) information that is likely to cause psychological or physical harm to the youth or youth’s family; 2) records identifying victims or witnesses to the youth’s offense; 3) client identifying information about other youth or their families; 4) records identifying persons or organizations who have reported suspected child abuse or neglect; 5) records regarding health care unless the youth gives specific written consent including: mental health records, drug/alcohol records, STD records, HIV/AIDS records, birth control/abortion services records, other medical records.” § 29-400
- “Upon request, JRA may provide juvenile justice or care agencies a youth’s juvenile records without consent of the youth when: 1) the agency is pursuing an investigation or case involving the youth; or 2) the agency is assigned responsibility for supervising the youth.
- “The following records may only be released with specific consent from the youth (in some situations parental consent is also required): 1) mental health records for youth 13 years of age or older. Parental consent is required to release these records of the youth is under age 13; 2) drug and alcohol assessment and treatment records for youth 13 years of age and older. Parental consent is required to release these records if the youth is under age 13; 3) STD records for youths 14 years of age or older. Parental consent is required to release these records if the youth is under age 14; 4) birth control/abortion services records; 5) other medical records.”
- “JRA may release those records necessary to complete reports of abuse, neglect, or alleged new crimes as outlines in JRA Bulletin 34, Reporting of Youth Abuse and Neglect.”

- “Before release of records to a juvenile justice or care agency, the Division Director, Superintendent, Regional Administrator, or designee must consider the purpose for which the agency needs the records. Release of juvenile records should be limited to only those records that will assist the agency in carrying out its responsibility
- “No Wrong Door” Start-Up Plans
 - “The primary goal of this project is to coordinate service delivery for youth on parole with JRA Region 4 who are also dependent or placed out of their homes by DCFS. If representatives from both agencies can be successfully brought together to develop a coordinated plan, it is believed youth, their families and caregivers, will be better served.”
 - “Accomplishing the following tasks will operationalize this goal and concept:
 - Youth will be identified in the diagnostic process. The diagnostic coordinator begins the process by notifying the assigned parole counselor, JRA mental health coordinator and secretarial staff a shared client has been committed. The secretary sends a letter to the DCFS social worker identifying the assigned parole counselor and the JRA residential program, where the youth has been placed. Included with the letter will be a copy of the commitment order, JRA admission summary, and the diagnostic placement ROA. The secretary then adds the case to the regional shared client database. A second letter is sent to the DCFS social worker 6 weeks prior to the anticipated release of the youth from residential custody notifying of the pending release. After sending the letter, the parole counselor engages the DCFS social worker in planning for the youth. The DCFS social worker will be invited by the JRA parole counselor to all subsequent intake, phase reviews or other meetings regarding the youth’s programming.
 - Multidisciplinary teams (MDT) will be formed to guide the planning process for all JRA/DCFS shared youth. It will be the assigned JRA parole counselor’s responsibility to schedule the team meeting and invite the team members. Team members should include but not be limited to, invested family and community members, the JRA case manager, JRA Program Manager, the DCFS social worker, case managers from other involved DSHS Divisions, contracted treatment providers, and any JRA coordinators who specialize in an area of need for the particular youth
 - Release of confidential information should not pose an issue. Information shared among participating agencies will conform to JRA and CA policies. Clients will be asked to sign form (DSDS 14-012) Release of Confidentiality.
 - The shared youth will be identified as part of the JRA diagnostic process. Two JRA staff have been identified for training in the registry process. The registry will be used to identify clients who are clients of DSHS agencies in addition to JRA and CA”

- Interagency Agreement Between Region 4 DSHS Division of Children and Family Services and King County Superior Court Regarding Services to Youth
 - “This working agreement establishes a protocol and procedures for King county Superior Court, Juvenile Court Services (KCSC) referrals of youth with Child Protective (CPS), Child Welfare (CWS), or Family Reconciliation (FRS) service needs to the Region Four DSHS Division of Children & Family Services (DCFS). The purpose of this agreement is to provide the best possible services to clients requiring assistance from both organizations. To accomplish this goal, it is imperative that staff from both agencies work closely and cooperatively in serving shared clients. Towards this goal, each agency shall share pertinent and relevant information about the youth retained or kept by each agency pursuant to RCW 13.50.050 and 13.50.100”
 - “For a detained youth who is not a dependent nor subject to a CHINS petition, but may require DCFS services:
 - If a judicial officer is contemplating releasing a youth to DSHS, KCSC shall immediately contact DCFS intake....KCSC will provide the DCFS with pertinent and relevant information about the youth, including assessments, reports and evaluations, pursuant to chapter 13.50 RCW. This information should be sent directly to the assigned DCFS worker. Information should not be sent to DCFS intake unless requested.
 - KCSC will follow up with DCFS social worker regarding the assessment of services needed for the youth and family.”
 - “For a detained youth who is dependency or subject to a CHINS petition, and may require DCFS services:
 - When KCSC is aware that a youth is dependent or subject to a CHINS petition, KCSC will notify the assigned DCFS social worker within 24 hours that the youth is detained, the JPC or casemanager name, when the court hearing will be held, and when the youth will be released. KCSC will keep the DCFS social worker informed of the conditions of release and of any pre-release service needs, such as medical care.
 - KCSC will immediately send copies of any court orders to the assigned social worker.
 - KCSC will provide the DCFS with pertinent and relevant information about the youth including assessments, reports and evaluations pursuant to chapter 13.50 RCW. This information should be sent directly to the assigned DCFS social worker.
 - DCFS will report runaway youth that are in DCFS care and/or custody to law enforcement and document in the Children’s Administration management information system (CAMIS).”
 - “Non-detained youth who are neither dependent nor subject to a CHINS petition, but active with probation or an ARY case manager and in need of services from DCFS:

- KCSC will provide the DCFS with pertinent and relevant information about the youth including assessments, reports and evaluations pursuant to chapter 13.50 RCW. This information should be sent directly to the assigned DCFS social worker. Information should not be sent to DCFS intake unless requested. KCSC will follow up with the DCFS social worker regarding assessment of services to youth and family.”
- “Non-detained youth who are dependent or subject to a CHINS petition, active with probation and in need of additional services from or coordination of services with DCFS:
 - KCSC will contact the assigned DCFS social worker to discuss the case and any service needs.
 - KCSC will provide the DCFS with pertinent and relevant information about the youth including assessments, reports and evaluations pursuant to chapter 13.50 RCW. This information should be sent directly to the assigned DCFS social worker. Information should not be sent to DCRS intake unless requested.
 - DCFS social worker will discuss the case with the JPC.
 - The social worker will provide appropriate follow-up information to the JPC about the youth’s case.”
- “Each agency shall designate administrative personnel to address problems that have not been resolved at the staff or supervisory levels.”
- KCSC & DCFS staff:
 - Shall work cooperatively in coordinating services to youth and families served by both organizations
 - Shall resolve problems and disagreements at the lowest administrative level possible